



**BERKELEY CITY COUNCIL AGENDA COMMITTEE
SPECIAL MEETING**

BERKELEY CITY COUNCIL SPECIAL MEETING

MONDAY, JANUARY 14, 2019

2:30 P.M.

2180 Milvia Street, 6th Floor – Redwood Room

Committee Members:

Mayor Arreguin, Councilmember Sophie Hahn, and Vacant
(Alternate: Councilmember Ben Bartlett)

AGENDA

1. Roll Call
2. Public Comment
3. Approval of Minutes: January 7, 2019
4. Review and Approve draft agendas:
 - a. 1/29/19 – 6:00 p.m. Regular City Council Meeting
 1. Selection of item for the Berkeley Considers online engagement portal
 - b. Adjournments in memory of –
5. Council Items:
 - a. Council Worksessions
 - b. Council Referrals to Agenda Committee
 - c. Land Use Calendar
6. Adjournment – next meeting Monday, February 4, 2019

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

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

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

The City Clerk shall bring any reports submitted as Time Critical to the meeting of the Agenda Committee. If the Agenda Committee finds the matter to meet the definition of Time Critical, the Agenda Committee may place the matter on the Agenda on either the Consent or Action Calendar.

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

This is a meeting of the Berkeley City Council Agenda Committee. Since a quorum of the Berkeley City Council may actually be present to discuss matters with the Council Agenda Committee, this meeting is being noticed as a special meeting of the Berkeley City Council as well as a Council Agenda Committee meeting.

Written communications addressed to the Agenda Committee and submitted to the City Clerk Department by 5:00 p.m. the Friday before the Committee meeting, will be distributed to the Committee prior to the meeting. After the deadline for submission, residents must provide 10 copies of written communications to the City Clerk at the time of the meeting.

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, 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 981-6418 (V) or 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 special meeting of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on January 10, 2019.

Mark Numainville, City Clerk

**BERKELEY CITY COUNCIL AGENDA COMMITTEE
SPECIAL MEETING DRAFT MINUTES**

BERKELEY CITY COUNCIL SPECIAL MEETING DRAFT MINUTES

MONDAY, JANUARY 7, 2019

2:30 P.M.

2180 Milvia Street, 6th Floor – Redwood Room

Committee Members:

Mayor Arreguin, Councilmember Sophie Hahn, and Vacant
(Alternate: Councilmember Ben Bartlett)

1. Roll Call: 2:30 p.m. Present – Bartlett, Hahn, Arreguin.
2. Public Comment – 1 speaker
3. M/S/C (Hahn/Bartlett) to approve the Minutes of Nov. 26, 2018. All Ayes.
4. Review and Approve draft agendas:
 - a. M/S/C (Hahn/Bartlett) to approve the agenda of the 1/22/19 – 6:00 p.m. Regular City Council Meeting with the revisions noted below.
 - Teleconference Location added to agenda
 - Ceremonial Item – Recognition of Mahealani Uchiyama
 - Item 18 Green New Deal (Arreguin) – Councilmembers Davila, Harrison, and Robinson added as co-sponsors
 - Item 19 Support SB 18 (Arreguin) – Councilmembers Wengraf, Droste, and Hahn added as co-sponsors
 - Item 24 Single Used Disposable Foodware (Hahn) – Revised item submitted
 - Item 25 Lead Paint (CEAC) Item held over to March 26, 2019 for staff companion report
 - Item 26a and 26b Weapons Contracting (Peace & Justice) – Item held over to February 19, 2019

Policy Committee Track Items

- Item 28 Council Committee Appointments and Region Body Appointments (Arreguin) – Placed on January 22 agenda on Consent Calendar
- Item 29 RFP for Development of West Berkley Service Center Site (Arreguin) – Referred to the Land Use, Housing & Economic Development Committee; Councilmember Bartlett added as a co-sponsor
- Item 30 Reaffirming Support of Roe v. Wade (Wengraf) - Placed on January 22 agenda on Consent Calendar; Councilmembers Hahn, Droste, and Kesarwani added as co-sponsors

Order of Items on Action Calendar:

Item 24 Single Use Disposable Foodware

Item 20 Boycotting Amazon

Item 21a/b Green Stormwater

Item 22a/b Single Use Foodware

Item 23 Cannabis Retail

Item 27a/b Allocation of Sugar-Sweetened Beverage Tax

1. Selection of item for the Berkeley Considers online engagement portal
 - Selected Item 29 - RFP for Development of West Berkeley Service Center Site

b. Adjournments in memory of – None

5. Council Items:

a. Council Worksessions

- UC Berkeley Student Housing moved to unscheduled list
- Qualified Enterprise Zones added to unscheduled list
- Pedestrian Master Plan Update scheduled for February 5, 2019

b. Council Referrals to Agenda Committee

- M/S/C (Arreguin/Hahn) to determine that no further action is required on referred item #1 Significant Community benefits and that the issues is incorporated into the Development Agreement process. All Ayes.

- Item #6 Pedestrian Master Plan scheduled for February 5, 2019.

c. Land Use Calendar – received and filed.

d. Discussion and Feedback from Councilmembers on the Guidelines for Developing & Writing Agenda Items (draft guidelines in agenda packet)

M/S/C (Hahn/Bartlett) to submit an item to the full Council to add the guidelines, as revised, to the Rules of Procedure as an addendum. All Ayes.

6. Adjournment

M/S/C (Hahn/Bartlett) to adjourn the meeting. All Ayes.

Adjourned at 3:38 p.m.



Mark Numainville, City Clerk

DRAFT AGENDA**BERKELEY CITY COUNCIL MEETING**

**Tuesday, January 29, 2019
6:00 PM**

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

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

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, 981-6900.

The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. 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:

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

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

Public Comment on Non-Agenda Matters: *Persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.*

Consent Calendar

The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar”, or move “Consent Calendar” items to “Action.” Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.

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

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

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

Consent Calendar

- 1. Authorize Participation in State of California No Place Like Home Competitive Funding and Commit Mental Health Services for Future Tenants of the Proposed Berkeley Way Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing and directing the City Manager to submit applications to the State of California’s No Place Like Home (NPLH) housing program’s competitive application and enter into the program’s required agreements, and committing to providing mental health services for residents of the funded units for at least 20 years.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, 981-5400
- 2. Authorizing Acceptance of Mental Health Services Oversight and Accountability Commission Mental Health Triage Children’s Grant**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to enter into a grant agreement with the Mental Health Services Oversight and Accountability Commission (MHSOAC) and any amendments in the amount of \$216,099 and authorize the use of Medi-Cal and Early Periodic Screening, Detection and Treatment (EPSDT) matching funds of \$145,996 to staff crisis services at Berkeley High School for the period 2/1/2019 through 1/30/2022.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, 981-5400

Consent Calendar

- 3. Memorandum of Understanding with Alameda County Behavioral Health Care Services to Fund Construction Costs for Wellness Center**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to adopt a Memorandum of Understanding (MOU) between the City of Berkeley and Alameda County Behavioral Health Care Services (ACBHCS) for the term February 1, 2019 through June 30, 2020 for an expenditure of up to \$750,000 to fund the constructions costs of a Mental Health Wellness Center (Wellness Center) located in the City of Berkeley.
Financial Implications: See report
Contact: Kelly Wallace, Housing and Community Services, 981-5400
- 4. Contract No. 6096F Amendment: IBM Hardware and Software Lease**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 6096F with ESI Group for leasing, maintenance, technical support, and consulting services for International Business Machines (IBM) hardware lease and software maintenance and support, increasing the current contract by \$352,000, for a total not to exceed \$2,034,769 from June 2, 2003 through June 30, 2021.
Financial Implications: See report
Contact: Savita Chaudhary, Information Technology, 981-6500
- 5. Contract: Pacific Trenchless, Inc. for Sanitary Sewer Rehabilitation and Replacement at Various Locations**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Sanitary Sewer Project, located on Bancroft Way, Allston Way, Byron Street, West Street, Masonic Avenue, Santa Fe Avenue, Fifth Street, and Le Conte Avenue; accepting the bid of the lowest responsive and responsible bidder, Pacific Trenchless, Inc. (Pacific Trenchless); and authorizing the City Manager to execute a contract and any amendments, extensions, or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$2,434,400.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, 981-6300

Consent Calendar

6. **Contract: B-Bros Construction Inc. for Adult Mental Health Services Center Renovation Project at 2640 Martin Luther King Jr Way**
From: City Manager
Recommendation: Adopt a Resolution:
1. Approving plans and specifications for the Adult Mental Health Services Center Renovation Project, Specification No.19-11267-C; 2. Accepting the bid of B-Bros Construction Inc. as the lowest responsive and responsible bidder; and
3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, for an amount not to exceed \$4,886,293.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, 981-6300

Council Consent Items

7. **Support for SB 18 (Keep Californians Housed)**
From: Councilmember Droste
Recommendation: That the Berkeley City Council send a letter supporting SB 18, Keep Californians Housed, authored by Senator Nancy Skinner which seeks to stop homelessness before it starts by expanding state funding for rental assistance and providing new funding for legal aid to help residents who are facing eviction stay in their homes.
Financial Implications: None
Contact: Lori Droste, Councilmember, District 8, 981-7180
8. **Support for SB 24 (Public University Student Health Centers)**
From: Councilmember Droste
Recommendation: That the Berkeley City Council send a letter supporting SB 24, which will require student health care centers on California State University and University of California campuses to offer abortion by medication techniques by 2023.
Financial Implications: None
Contact: Lori Droste, Councilmember, District 8, 981-7180
9. **Support for SB 42 (Getting Home Safe Act)**
From: Councilmember Droste
Recommendation: That the Berkeley City Council send a letter supporting SB 42, the Getting Home Safe Act, which would address dangerous, late night releases from county jails.
Financial Implications: None
Contact: Lori Droste, Councilmember, District 8, 981-7180

Council Consent Items

10. Support for AB 68 (Accessory Dwelling Units)

From: Councilmember Droste

Recommendation: That the Berkeley City Council send a letter supporting AB 68, Accessory Dwelling Units, authored by Assemblymember Phil Ting which seeks to streamline Accessory Dwelling Units, also known as granny flats or in-law units, in order to encourage new housing units across the state.

Financial Implications: None

Contact: Lori Droste, Councilmember, District 8, 981-7180

11. Support for AB 69 (Accessory Dwelling Units)

From: Councilmember Droste

Recommendation: That the Berkeley City Council send a letter supporting AB 69, Accessory Dwelling Units, authored by Assemblymember Phil Ting which will create a Small Home Building Standard Code to provide guidelines for the construction of ADUs.

Financial Implications: None

Contact: Lori Droste, Councilmember, District 8, 981-7180

Action Calendar

The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

Action Calendar – Public Hearings

- 12. Implement Residential Preferential Parking (RPP) Program on Sections of Fifth Street and Martin Luther King Jr. Way**
From: City Manager
Recommendation: Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Sections 25J and 25P by adding subsections to implement Residential Preferential Parking (RPP) on portions of two city streets.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, 981-6300
- 13. Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus) (Continued from September 25, 2018. Item contains revised material.)**
From: City Manager
Recommendation: Conduct a public hearing, and upon conclusion, adopt the first reading of Zoning Ordinance amendments that repeal obsolete Density Bonus regulations (Section 23C.12.050: State of California Density Bonus Requirements) and adopt a new, standalone Density Bonus chapter (Chapter 23C.14) that complies with California State Government Code 65915–65918: Density Bonuses and Other Incentives.
Financial Implications: None
Contact: Timothy Burroughs, Planning and Development, 981-7400
- 14. ZAB Appeal: 1155-1173 Hearst Ave**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution to affirm the Zoning Adjustments Board decision to approve Use Permit #ZP2016-0028 to develop two parcels, including the substantial rehabilitation of the existing seven dwelling units and construction of six new, for-sale dwelling units; and dismiss the appeal.
Financial Implications: None
Contact: Timothy Burroughs, Planning and Development, 981-7400

Action Calendar – Public Hearings

15. Cannabis Ordinance Revisions

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt the first reading of five ordinances amending the Berkeley Municipal Code (BMC) which would:

1. Streamline and clarify cannabis business operational standards and development standards, such as quotas and buffers, for all cannabis business types;
2. Revise ordinance language to reflect State regulations;
3. Create a path to allow a new business type (Retail Nursery Microbusinesses); and
4. Protect youth by restricting cannabis advertising within the city.

The ordinances would adopt BMC Chapter 12.21, amend Chapters 12.22, 20.40, 23C.25 and Sub-Title 23E, and remove Chapters 12.23, 12.25 and 12.27.

Financial Implications: See report

Contact: Timothy Burroughs, Planning and Development, 981-7400

Action Calendar – New Business

16a. Council Referral-Proposed Amendments to Berkeley’s Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27

From: Commission on Labor

Recommendation: Adopt first reading of an Ordinance proposing revisions to Berkeley’s Living Wage Ordinance, BMC Chapter 13.27, revising Sections .020, .050, .070, .080 and .090 and adding Sections .045, .110, .120, .130, and .140 to make the application and administration of the LWO consistent with the MWO where appropriate, and modifying Sections .040 and .050 to 1) limit waivers of the LWO for a maximum of one year, and 2) clarifying when employees covered by the LWO are entitled to receive the cash value of the health care benefit.

Financial Implications: None

Contact: Delfina Geiken, Commission Secretary, 981-5400

16b. Companion Report: Council Referral-Proposed Amendments to Berkeley’s Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending BMC Chapter 13.27, which includes both the Commission on Labor’s proposed revisions and additional City Manager revisions to add a definition of “Department” in Section 13.27.020 and to change the annual effective rate of the Living Wage increase from June 30 to July 1 each year in Section 13.27.050.A.

Financial Implications: None

Contact: Kelly Wallace, Housing and Community Services, 981-5400

Action Calendar - Policy Committee Track Items

- 17. Short-Term Referral: Develop Ordinance permitting Cannabis Events and designate Cesar Chavez Park as an Approved Venue**
From: Mayor Arreguin
Recommendation: Short-Term Referral to the City Manager to develop ordinance amendments permitting cannabis events in the City of Berkeley and designating Cesar Chavez Park as an approved location for cannabis events, provided such events are organized and licensed as required by the State of California. The ordinance shall: 1) reference Resolution No. 68,326-N.S., declaring that Berkeley is a sanctuary for adult use cannabis, 2) specify procedures for such events that replicate similar alcohol related event protocols.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, 981-7100
- 18. Adopt a resolution to denounce and oppose white nationalist and neo-Nazi groups including their actions**
From: Councilmember Davila, Councilmember Bartlett
Recommendation: Adopt a resolution denouncing and opposing, in words and actions, white nationalist and neo-Nazi groups including their actions in the City of Berkeley.
Financial Implications: None
Contact: Cheryl Davila, Councilmember, District 2, 981-7120
- 19. Vision Zero: eliminating pedestrian, bicyclist and traffic injuries and fatalities**
From: Councilmembers Droste, Kesarwani, Wengraf and Mayor Arreguin
Recommendation: 1) Create an official Vision Zero Task Force (or Leadership Committee) to lead the planning and implementation effort for Vision Zero. The Task Force should include, at a minimum, representatives from the City Manager's office, Police, Public Works (Transportation and Engineering Divisions), Fire, and Public Health (visionzeronetwork.org).
2) Request that the City Manager hold community events to encourage equitable outcomes, cooperation and collaboration from community stakeholders to set shared goals and focus on coordination and accountability. Representatives from various commissions, including but not limited to Transportation, Disability, Aging, and Health, should be encouraged to attend and provide input.
3) Request that the City Manager hold a worksession where a Vision Zero Action Plan is presented for eliminating fatal and severe traffic injuries. Subsequent to the worksession, request that biannual informational updates on Vision Zero progress are reported to Council. The Action Plan should establish clear strategies, owners of each strategy, interim targets, timelines, & performance measures (visionzeronetwork.org).
Financial Implications: None
Contact: Lori Droste, Councilmember, District 8, 981-7180

Information Reports

20. **City Council Short Term Referral Process – Monthly Update**
From: City Manager
Contact: Mark Numainville, City Clerk, 981-6900
21. **Audit Status Report Response: Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight from June 26, 2018 - December 31, 2018**
From: City Manager
Contact: Dee Williams-Ridley, City Manager, 981-7000
22. **Referral Response: Support for Berkeley Nonprofit Service Providers**
From: City Manager
Contact: Jordan Klein, Economic Development, 981-7530
23. **Referral Response: Establishment of a Festival Grants Program**
From: City Manager
Contact: Jordan Klein, Economic Development, 981-7530
24. **Planning Commission Workplan 2018-2019**
From: Planning Commission
Contact: Alene Pearson, Commission Secretary, 981-7400

Public Comment – Items Not Listed on the Agenda

Adjournment

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

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx> and KPFB Radio 89.3.

Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil> and may be read at reference desks at the following locations:

City Clerk Department
2180 Milvia Street
Tel: 510-981-6900
TDD: 510-981-6903
Fax: 510-981-6901
Email: clerk@cityofberkeley.info

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

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 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date.

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Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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Lori Droste  
Berkeley City Councilmember, District 8

Consent Calendar  
January 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste  
Subject: Support for SB 18 (Keep Californians Housed)

**Recommendation:**

That the Berkeley City Council send a letter supporting SB 18, Keep Californians Housed, authored by Senator Nancy Skinner which seeks to stop homelessness before it starts by expanding state funding for rental assistance and providing new funding for legal aid to help residents who are facing eviction stay in their homes.

**Financial Implications:**

None.

**Background:**

Skyrocketing rents and stagnant wages have severely squeezed many households and have caused over a quarter of all California renters to spend more than half of their income on rent. This has resulted in a wave of homelessness among the working poor of California, with thousands of individuals and families facing first time homelessness. Based on data collected in January 2017, Berkeley was the home to over 1000 homeless individuals (or 1% of the City's total population).

Once evicted, the cycle of homelessness can be difficult and expensive to break. Losing one's home can set off a chain reaction leading to job loss, negative health impacts and more, which make it even harder to secure new housing. According to a 2009 Los Angeles study by the Economic Roundtable, providing services and emergency response to homeless individuals can cost taxpayers nearly \$35,000 a year. Meanwhile, an upfront investment in keeping families housed could save thousands of state dollars.

SB 18 will help prevent individuals and families from falling into homelessness by providing additional funding to the California Department of Housing and Community Development for rental assistance programs, establishing a new funding sources for legal aid for renters facing eviction, and requiring HCD to post informational material about landlords' obligations to tenants on their website.

**Environmental Sustainability:**

No impact

**Contact Person:**

Councilmember Lori Droste    Council District 8    510-981-7180

**Attachment 1: Draft letter of support**

The Honorable Nancy Skinner  
Member of the Senate  
State Capitol, Room 2059  
Sacramento, CA 95814

Re:    SB 18 (Skinner) – Keep Californians Housed

Dear Senator Skinner:

Berkeley City Council is pleased to support SB 18 – Keep Californians Housed. SB 18 seeks to stop homelessness before it starts by expanding state funding for rental assistance and providing new funding for legal aid to help residents who are facing eviction stay in their homes.

Skyrocketing rents and stagnant wages have severely squeezed many households and have caused over a quarter of all California renters to spend more than half of their income on rent. This has resulted in a wave of homelessness among the working poor of California, with thousands of individuals and families facing first time homelessness. Once evicted, the cycle of homelessness can be difficult and expensive to break. Losing one's home can set off a chain reaction leading to job loss, negative health impacts and more, which make it even harder to secure new housing. According to a 2009 Los Angeles study by the Economic Roundtable, providing services and emergency response to homeless individuals can cost taxpayers nearly \$35,000 a year. Meanwhile, an upfront investment in keeping families housed could save thousands of state dollars.

SB 18 will help prevent individuals and families from falling into homelessness by providing additional funding to the California Department of Housing and Community Development for rental assistance programs, establishing a new funding sources for legal aid for renters facing eviction, and requiring HCD to post informational material about landlords' obligations to tenants on their website.

It is critical that the California Legislature act quickly to curb the housing and homelessness crisis sweeping the state. For these reasons, we strongly support SB 18.

Sincerely,

Berkeley City Council

CC: Assemblymember Buffy Wicks



**Introduced by Senator Skinner**  
**(Coauthors: Senators Beall and Wiener)**  
(Coauthors: Assembly Members Bonta and Wicks)

December 3, 2018

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An act to add Sections 50467 and 50490.6 to, and to add Chapter 4 (commencing with Section 50570) to Part 2 of Division 31 of, the Health and Safety Code, relating to housing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 18, as introduced, Skinner. Keep Californians Housed Act.

Existing law establishes the Department of Housing and Community Development and requires, among other things, that it update and provide a revision of the California Statewide Housing Plan to the Legislature every 4 years, as provided.

This bill, no later than January 1, 2021, would require the department to develop and publish on its Internet Web site, and to annually update, a guide to all state laws pertaining to landlords and the landlord-tenant relationship. The bill would also require the department to survey each city in this state to determine which cities, if any, provide resources or programs to inform landlords of their legal rights and obligations and to post on its Internet Web site a list of those cities which, in the judgment of the department, have the most robust resources and programs.

Existing law requires the department to administer, among other housing programs, the California Emergency Solutions and Housing Program. Under that program, the department allocates grants to administrative entities, as defined, to be used for specified eligible activities, including rental assistance and housing relocation and

SB 18

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stabilization services to ensure housing affordability to people experiencing homelessness or at risk of homelessness.

This bill would appropriate an unspecified sum from the General Fund to the department, to be used to provide statewide competitive grants for rental assistance under the California Emergency Solutions and Housing Program, as provided. The bill would also establish the Homelessness Prevention and Legal Aid Fund and require moneys in the fund to be used, upon appropriation, to provide legal aid to tenants facing eviction or displacement in the form of competitive grants awarded by the department, as provided.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Keep Californians Housed Act.
- 3 SEC. 2. The Legislature finds and declares the following:
- 4 (a) California is experiencing a rental housing crisis. According
- 5 to analysis by the National Low Income Housing Coalition,
- 6 California has only 22 affordable and available rental homes for
- 7 every 100 extremely low income households.
- 8 (b) Due in part to lack of supply, California cities have some
- 9 of the highest rents in the nation. San Francisco’s rent is the most
- 10 expensive in the country, averaging \$3,300 per month for a
- 11 one-bedroom unit, and San Jose, Oakland, Los Angeles, and
- 12 Anaheim are all in the top 10 for highest rents in the nation.
- 13 (c) About 29 percent of California renters spend more than
- 14 one-half of their income on rent, which can make it difficult for
- 15 families to afford basic items like food, clothing, transportation,
- 16 and health care. In 2015, more than four in 10 households had
- 17 housing costs that exceeded 30 percent of household income.
- 18 (d) The housing crisis harms families across California and has
- 19 resulted in higher levels of homelessness or displacement of
- 20 previously housed individuals and families. One quarter of the
- 21 nation’s homeless population, and half of the nation’s unsheltered
- 22 homeless, now live in California.
- 23 (e) Providing emergency financial assistance and legal aid to
- 24 keep residents from being evicted will prevent evictions and
- 25 potentially break the cycle of poverty.

1 SEC. 3. Section 50467 is added to the Health and Safety Code,  
2 to read:

3 50467. (a) (1) No later than January 1, 2021, the department  
4 shall develop and publish on its Internet Web site a guide to all  
5 state laws pertaining to landlords and the landlord-tenant  
6 relationship. The department shall update the guide annually  
7 thereafter.

8 (2) In developing the guide required by this subdivision, the  
9 department shall include a template for cities and counties to add  
10 information pertaining to their ordinances regulating the  
11 landlord-tenant relationship. The department shall make the guide,  
12 along with the template required by this paragraph, available to  
13 each city and each county in this state in a form that allows for a  
14 city or county to add information pertaining to its ordinances.

15 (b) The department shall survey each city in this state to  
16 determine which cities, if any, provide resources or programs to  
17 inform landlords of their legal rights and obligations. The  
18 department shall publish on its Internet Web site a list of those  
19 cities which, in the judgment of the department, have the most  
20 robust resources and programs.

21 SEC. 4. Section 50490.6 is added to the Health and Safety  
22 Code, to read:

23 50490.6. (a) In addition to any other moneys made available  
24 for purposes of the program, the sum of \_\_\_\_ dollars (\$\_\_\_\_) is  
25 hereby appropriated, notwithstanding Section 13340 of the  
26 Government Code and without regard to fiscal year, from the  
27 General Fund to the department to be used as provided in this  
28 section.

29 (b) The department shall distribute funds made available  
30 pursuant to subdivision (a) to administrative entities in the form  
31 of grants awarded on a competitive basis. In administering this  
32 competitive grant program, the department shall award funds to  
33 administrative entities based on demonstrated need and ensure  
34 geographic diversity in the distribution of grant funds. Grants  
35 awarded to administrative entities pursuant to this section shall  
36 supplement, and shall not supplant, moneys otherwise allocated  
37 to them pursuant to subdivision (a) of Section 50490.2.

38 (c) An administrative entity that receives a grant pursuant to  
39 this section shall use the funds awarded pursuant to this section

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1 exclusively for those eligible activities described in paragraph (1)  
2 of subdivision (a) of Section 50490.4.

3 SEC. 5. Chapter 4 (commencing with Section 50570) is added  
4 to Part 2 of Division 31 of the Health and Safety Code, to read:

5

6 CHAPTER 4. HOMELESSNESS PREVENTION AND LEGAL AID

7

8 50570. (a) There is hereby created in the State Treasury the  
9 Homelessness Prevention and Legal Aid Fund.

10 (b) Upon appropriation by the Legislature, all moneys in the  
11 fund shall be used for the purpose of providing legal aid to tenants  
12 facing eviction, including by means of an unlawful detainer action  
13 pursuant to Chapter 4 (commencing with Section 1159) of Title 3  
14 of Part 3 of the Code of Civil Procedure, or displacement.

15 (c) The department shall distribute funds made available for  
16 purposes of this chapter in the form of grants awarded on a  
17 competitive basis, including grants to cities and counties to  
18 establish their own tenant legal aid programs, as provided by law.

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Lori Droste  
Berkeley City Councilmember, District 8

Consent Calendar  
January 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste, Councilmember Susan Wengraf  
Subject: Support for SB 24 (Public University Student Health Centers)

**Recommendation:**

That the Berkeley City Council send a letter supporting SB 24, which will require student health care centers on California State University and University of California campuses to offer abortion by medication techniques by 2023.

**Financial Implications:**

None.

**Background:**

Currently, none of the student health centers at California's public universities provide medication abortion services. The College Student Right to Access Act would require all on-campus student health centers at public universities to offer medication abortion for students by January 1, 2023.

This bill will create a special fund, administered by the California Commission on the Status of Women and Girls, to provide grants of \$200,000 to each on-campus student health center for the training and equipment to prepare them to provide abortion by medication techniques.

This bill will require public university student health centers to participate in an extensive evaluation and participate in efforts to ensure their centers receive the third-party reimbursements already available for medication abortion.

All students, particularly those at campuses located in rural areas, should be able to access abortion by medication and care if they so wish. Abortion by medication techniques are extremely safe, highly effective, and cost effective. They are an essential part of comprehensive sexual and reproductive health care, and should be accessible at on-campus student health centers.

**Environmental Sustainability:**

No impact.

**Contact Person:**

Councilmember Lori Droste    Council District 8    510-981-7180

**Attachment 1: Draft letter of support**

The Honorable Connie Leyva  
State Capitol, Room 4061  
Sacramento, CA 95814

Re: SB 24 (Leyva) - Public University Student Health Centers

Dear Senator Leyva,

Berkeley City Council writes in full support for SB 24. SB 24 would enable students at a California State University and a University of California to access abortion by medication at campus health clinics, including at UC Berkeley.

The cost and travel time associated with seeking abortion by medication can be a challenge for students, especially those on rural campuses. This bill would ensure greater access to those services and care. Abortion by medication is an essential part of reproductive care, and should be made available to students at these public institutions.

Respectfully,  
Berkeley City Council

CC: Senator Nancy Skinner  
Assemblymember Buffy Wicks

**SENATE BILL**

**No. 24**

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**Introduced by Senator Leyva**

(Principal coauthor: Assembly Member Carrillo)

**(Coauthors: Senators Atkins, Beall, Dodd, Hill, Jackson, Skinner,  
Stern, Umberg, and Wiener)**

December 3, 2018

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An act to add Chapter 5.5 (commencing with Section 99250) to Part 65 of Division 14 of Title 3 of the Education Code, relating to public health, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 24, as introduced, Leyva. Public health: public university student health centers: abortion by medication techniques.

Existing law establishes the University of California, under the administration of the Regents of the University of California, and the California State University, under the administration of the Trustees of the California State University, as 2 of the segments of public postsecondary education in this state.

This bill would express findings and declarations of the Legislature relating to the availability of abortion by medication techniques at on-campus student health centers at public postsecondary educational institutions in the state.

The bill would require, on and after January 1, 2023, each student health care services clinic on a California State University or University of California campus to offer abortion by medication techniques, as specified. The bill would require the Commission on the Status of Women and Girls to administer the College Student Health Center Sexual and Reproductive Health Preparation Fund, which the bill would establish. The bill would continuously appropriate the moneys in that fund to the commission for grants to these student health care clinics

for specified activities in preparation for providing abortion by medication techniques, thereby making an appropriation. The bill would provide that its requirements would be implemented only if, and to the extent that, a total of at least \$10,290,000 in private moneys is made available to the fund in a timely manner on or after January 1, 2020.

The bill would require the commission to submit a report to the Legislature, on or before December 31, 2021, and on or before December 31 of every year thereafter, until December 31, 2026, that includes, but is not necessarily limited to, specified information relating to abortion by medication techniques at these student health clinics.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Abortion care is a constitutional right and an integral part
- 4 of comprehensive sexual and reproductive health care.
- 5 (b) More than 400,000 students classified as female are educated
- 6 at California’s public university campuses, and it is central to the
- 7 mission of California’s public university student health centers to
- 8 minimize the negative impact of health concerns on students’
- 9 studies and to facilitate retention and graduation.
- 10 (c) The state has an interest in ensuring that every pregnant
- 11 person in California who wants to have an abortion can obtain
- 12 access to that care as easily and as early in pregnancy as possible.
- 13 When pregnant young people decide that abortion is the best option
- 14 for them, having early, accessible care can help them stay on track
- 15 to achieve their educational and other aspirational life plans.
- 16 (d) All California public university campuses have on-campus
- 17 student health centers, but none of these health centers currently
- 18 provide abortion by medication techniques. Abortion by medication
- 19 techniques is extremely safe, highly effective, and cost effective.
- 20 Abortion by medication techniques is an essential part of
- 21 comprehensive sexual and reproductive health care, and should
- 22 be accessible at on-campus student health centers.
- 23 (e) Staff at on-campus student health centers include health
- 24 professionals who are licensed to provide abortion by medication
- 25 techniques. Under current California law, all residency programs



1 in obstetrics and gynecology include training in abortion.  
 2 Physicians, nurse practitioners, physician assistants, and certified  
 3 nurse-midwives are legally authorized to perform abortions by  
 4 medication techniques. Any clinician legally authorized to provide  
 5 abortion, but not currently trained to provide abortion by  
 6 medication techniques, can be trained inexpensively to do so, and  
 7 such training falls within the requirements of continuing education  
 8 for medical providers.

9 (f) The National Academies of Sciences, Engineering, and  
 10 Medicine have found that prescribing abortion by medication  
 11 techniques is no different from prescribing other medications, and  
 12 have also found that the risks of providing abortion by medication  
 13 techniques, including via telehealth, are low and similar to the  
 14 risks of serious adverse effects of taking commonly used  
 15 prescription and over-the-counter medications.

16 (g) Students seeking early pregnancy termination, especially  
 17 those enrolled at institutions outside of major urban centers, face  
 18 prohibitively expensive travel, often without reliable means of  
 19 transportation, to a clinic that may require hours of travel from  
 20 their campus, out of their city, county, or even geographic region.  
 21 These financial and time burdens negatively impact academic  
 22 performance and mental health.

23 (h) California law recognizes abortion as a basic health service  
 24 that must be covered by Medi-Cal and by private, managed care  
 25 insurance plans regulated by the state.

26 (i) It is the intent of the Legislature that public university student  
 27 health centers make abortion by medication techniques as  
 28 accessible and cost-effective for students as possible, and thus  
 29 public university student health centers should treat abortion by  
 30 medication techniques as a basic health service.

31 SEC. 2. Chapter 5.5 (commencing with Section 99250) is added  
 32 to Part 65 of Division 14 of Title 3 of the Education Code, to read:

33  
 34 CHAPTER 5.5. STUDENT HEALTH CARE SERVICES

35  
 36 99250. For the purposes of this chapter, the following  
 37 definitions apply:

38 (a) "Commission" means the Commission on the Status of  
 39 Women and Girls established by Section 8241 of the Government  
 40 Code.

SB 24

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1 (b) “Fund” means the College Student Health Center Sexual  
2 and Reproductive Health Preparation Fund established by Section  
3 99251.

4 (c) “Grantee” means any qualifying student health center at a  
5 public college or university.

6 (d) “Medication abortion readiness” includes, but is not limited  
7 to, assessment of each individual clinic to determine facility and  
8 training needs before beginning to provide abortion by medication  
9 techniques, purchasing equipment, making facility improvements,  
10 establishing clinical protocols, creating patient educational  
11 materials, and training staff. “Medication abortion readiness” does  
12 not include the provision of abortion by medication techniques.

13 (e) “Public university student health center” means a clinic  
14 providing primary health care services to students that is located  
15 on the campus of a university within the University of California  
16 or California State University systems.

17 99251. (a) On and after January 1, 2023, each public university  
18 student health center shall offer abortion by medication techniques  
19 onsite. This service may be performed by providers on staff at the  
20 student health center or by providers associated with a contracted  
21 external agency.

22 (b) (1) The commission shall administer the College Student  
23 Health Center Sexual and Reproductive Health Preparation Fund,  
24 which is established by this chapter for the purposes of providing  
25 private moneys in the form of grants to public university student  
26 health centers for medication abortion readiness. Notwithstanding  
27 any other law, the commission is authorized to receive moneys  
28 from nonstate entities, including, but not necessarily limited to,  
29 private sector entities and local and federal government agencies,  
30 and deposit these moneys in the fund.

31 (2) Notwithstanding Section 13340 of the Government Code,  
32 the moneys in the fund are continuously appropriated to the  
33 commission for allocation for purposes of this subdivision.

34 (3) The commission shall utilize fund moneys to do all of the  
35 following:

36 (A) Provide a grant of two hundred thousand dollars (\$200,000)  
37 to each public university student health center to pay for the cost,  
38 both direct and indirect, of medication abortion readiness.  
39 Allowable expenses under these grants include, but are not limited  
40 to, all of the following:

- 1 (i) Purchase of equipment used in the provision of abortion by  
2 medication techniques.
- 3 (ii) Facility and security upgrades.
- 4 (iii) Costs associated with enabling the campus health center to  
5 deliver telehealth services.
- 6 (iv) Costs associated with training staff in the provision of  
7 abortion by medication techniques.
- 8 (v) Staff cost reimbursement and clinical revenue offset while  
9 staff are in trainings.
- 10 (B) Provide a grant of two hundred thousand dollars (\$200,000)  
11 to both the University of California and the California State  
12 University, to pay for the cost, both direct and indirect, of the  
13 following, for each university system:
  - 14 (i) Providing 24-hour, backup medical support by telephone to  
15 patients who have obtained abortion by medication techniques at  
16 a public university student health center.
  - 17 (ii) One-time fees associated with establishing a corporate  
18 account to provide telehealth services.
  - 19 (iii) Billing specialist consultation.
- 20 (C) Paying itself for the costs, both direct and indirect, associated  
21 with administration of the fund, including the costs of hiring staff  
22 and the costs of reporting to the Legislature, not to exceed three  
23 million ninety thousand dollars (\$3,090,000).
- 24 (D) Maintaining a system of financial reporting on all aspects  
25 of the fund.
- 26 (4) Each public university student health center grantee shall,  
27 as a condition of receiving a grant award from the fund, participate  
28 in an evaluation of its medication abortion readiness and its  
29 provision of abortion by medication techniques.
- 30 (5) The requirements of this chapter shall be implemented only  
31 if, and to the extent that, a total of at least ten million two hundred  
32 ninety thousand dollars (\$10,290,000) in private funds is made  
33 available to the fund in a timely manner on or after January 1,  
34 2020.
- 35 (6) Nothing in this chapter shall be interpreted as requiring a  
36 public university to utilize General Fund moneys or student fees  
37 for medication abortion readiness before January 1, 2023.
- 38 (c) The commission, working with the public university student  
39 health centers, shall assist and advise on potential pathways for  
40 their student health centers to access public and private payers to

1 provide funding for ongoing costs of providing abortion by  
2 medication techniques.

3 (d) (1) On or before December 31, 2021, and on or before  
4 December 31 of each year thereafter until December 31, 2026, the  
5 commission shall submit a report to the Legislature that includes,  
6 but is not necessarily limited to, all of the following information  
7 for each reporting period, separately for the University of California  
8 and the California State University:

9 (A) The number of student health centers that provide abortion  
10 by medication techniques.

11 (B) The number of abortions by medication techniques  
12 performed at student health centers, disaggregated, to the extent  
13 possible, by student health center.

14 (C) The total amount of funds granted by the commission to the  
15 university and the university's student health centers that is  
16 expended on medication abortion readiness, and, separately, the  
17 total amount of any other funds expended on medication abortion  
18 readiness and the source of those funds, disaggregated by function  
19 and, to the extent possible, disaggregated by student health center.

20 (D) The total amount of funds expended on the provision of  
21 abortion by medication techniques and the source of those funds,  
22 disaggregated by function and, to the extent possible, disaggregated  
23 by student health center.

24 (2) The report required in paragraph (1), and any associated  
25 data collection, shall be conducted in accordance with state and  
26 federal privacy law, including, but not necessarily limited to, the  
27 state Confidentiality of Medical Information Act (Part 2.6  
28 (commencing with Section 56) of Division 1 of the Civil Code),  
29 the federal Family Educational Rights and Privacy Act of 1974  
30 (20 U.S.C. Sec. 1232g), and the federal Health Insurance Portability  
31 and Accountability Act of 1996 (Public Law 104-191).

32 (3) The requirement for submitting reports under paragraph (1)  
33 shall become inoperative on January 1, 2027, pursuant to Section  
34 10231.5 of the Government Code.

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Lori Droste  
Berkeley City Councilmember, District 8

Consent Calendar  
January 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste  
Subject: Support for SB 42 (Getting Home Safe Act)

**Recommendation:**

That the Berkeley City Council send a letter supporting SB 42, the Getting Home Safe Act, which would address dangerous, late night releases from county jails.

**Financial Implications:**

None.

**Background:**

This bill would not permit county jails to involuntarily hold someone beyond their release time, but would require that those scheduled to be released after business hours or sunset (whichever is later) be given the option to remain in the facility until the following day. If they decline, they must be provided a safe place to wait for pickup and/or free transportation to a location of their choice within the county or a 100-mile radius.

SB 42 would also create a Late Night Release Prevention Task Force to oversee implementation and progress of this Act. The bill would also ensure that people released from jail would have access to a phone charger and allowed three calls.

Senator Skinner proposed SB 42 in response to the tragic death of one of her constituents, Jessica St. Louis, who was released from Alameda County's Santa Rita Jail at 1:25 in the morning on July 28th, 2018.

Jessica St. Louis was released from Santa Rita Jail with nothing more than a BART card—even though the nearest BART station was over a mile away and wouldn't open for over four hours. At the time of her release Jessica did not have a working cell phone to contact friends or family in order to secure a safe place to go after her release. Just before sunrise, Jessica was found lifeless in front of the Dublin/Pleasanton BART station.

**Environmental Sustainability:**

No impact.

**Contact Person:**

Councilmember Lori Droste    Council District 8    510-981-7180

**Attachment 1: Draft letter of support**

The Honorable Nancy Skinner  
Member of the Senate  
State Capitol, Room 2059  
Sacramento, CA 95814

Re:    SB 42 (Skinner) – The Getting Home Safe Act

Dear Senator Skinner,

Berkeley City Council writes in full support for SB 42. SB 42 seeks to address dangerous, late night releases from county jails.

Specifically, SB 42 would require that people scheduled to be released from jail after business hours or sunset (whichever is later) be given the option to remain in the facility until the following day. If they decline, they must be provided a safe place to wait for pickup and/or free transportation to a location of their choice within the county or a 100-mile radius. It would also require the creation of a Task Force to oversee the implementation of this Act, and require that people released from jail have access to phone chargers and the ability to make three calls prior to leaving to assist them in coordinating their release.

It's important to ensure that people who complete their jail sentences can return home safely and easily. SB 42 would address many of the logistical challenges that make traveling home difficult.

Respectfully,  
Berkeley City Council

CC: Senator Nancy Skinner  
Assemblymember Buffy Wicks

**Introduced by Senator Skinner**

December 3, 2018

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An act to amend and repeal Section 4024 of, and to add Sections 4024.5 and 4024.6 to, the Penal Code, relating to jails.

LEGISLATIVE COUNSEL'S DIGEST

SB 42, as introduced, Skinner. The Getting Home Safe Act.

Existing law authorizes a county sheriff to discharge a person from a county jail at any time on the last day that the person may be confined that the sheriff considers to be in the best interests of that person. Existing law additionally authorizes a sheriff to offer a voluntary program to a person, upon completion of a sentence served or a release ordered by the court to be effected the same day, that would allow the person to stay in jail for up to 16 additional hours or until normal business hours, whichever is shorter, in order to offer the person the ability to be discharged to a treatment center or during daytime hours, as specified. Existing law authorizes the person to revoke his or her consent and be discharged as soon as possible and practicable. Existing law requires a sheriff offering this program to, whenever possible, allow the person to make a telephone call to arrange for transportation or to notify his or her bail agent, as specified.

This bill would make these provisions inoperative on June 1, 2020, and would repeal it as of January 1, 2021.

The bill, beginning June 1, 2020, would instead require the sheriff to make the release standards, release processes, and release schedules of a county jail available to the public and to incarcerated persons, as specified. The bill would provide a person with the right to request that, upon his or her release from a county jail, he or she be assisted in entering a drug or alcohol rehabilitation program, and would require

the county jail to provide or arrange transportation directly from jail to a rehabilitation program or hospital free of charge immediately upon release from jail. The bill would also require a person scheduled to be released from jail between the hours of 8 a.m. and 5 p.m. or sundown, whichever is later, to be released during that time. The bill would require the sheriff to offer a person scheduled to be released from jail between the hours of 5 p.m. or sundown, whichever is later, and 8 a.m. the option to voluntarily stay in jail for up to 16 additional hours or until normal business hours, as specified. The bill would require the person, if he or she declines this option, to be provided the opportunity to choose from specified alternatives, such as free transportation to a location of the person's choosing within the county or within a 100-mile radius, whichever is further. The bill would also require a person who is released from jail after being incarcerated for more than 30 days to be provided with at least 3 days' supply of any necessary medication. Because this bill would impose new duties on sheriffs and county jails, it would impose a state-mandated local program. The bill would authorize a violation of the rights described in these provisions to be submitted to the Board of State and Community Corrections, Ombudsman. The bill would require the board to convene a stakeholder group that includes women and girls who have been incarcerated to aid in developing protocols for receiving and responding to reports of violations of these provisions.

The bill would also require the Board of State and Community Corrections to establish the Late-Night Release Prevention Task Force. The bill would require the task force to be composed of relevant stakeholders, including women and children who have been incarcerated, and would require the task force, among other duties, to submit a report on January 1, 2022, to the relevant policy and budget committees of the Legislature about the progress made by the task force in implementing these provisions and make suggestions for any additional legislation necessary to prevent dangerous late-night releases at county jails throughout California.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.



Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Women of color are more commonly criminalized for
- 4 noncriminal behavior than other demographic groups and are
- 5 treated like perpetrators when they call for help or are suffering a
- 6 crisis.
- 7 (2) The overrepresentation of women of color in our county
- 8 jails is evidence of these injustices and the disregard with which
- 9 they are discharged from county jails only worsens the harm they
- 10 experience as a result.
- 11 (3) Despite legislation passed and signed in 2014 that allowed
- 12 county jails to voluntarily participate in a program that would
- 13 reduce the number of late-night releases throughout California,
- 14 few jails have changed their release policy and, instead, jails
- 15 continue to regularly release jailed persons during late-night hours.
- 16 (4) The lack of free phone services available to people during
- 17 detention and the inability to charge personal cell phones upon
- 18 release exacerbates the danger of late-night releases.
- 19 (5) This practice is especially dangerous for women, including
- 20 transgender women, who become targets for physical abuse, sexual
- 21 abuse, and sex trafficking from predators who are familiar with
- 22 county jail late-night release practices.
- 23 (6) The release of people from a county jail during late-night
- 24 hours is not only dangerous for the person being released but also
- 25 for the public health and safety of the community at large.
- 26 (7) Persons who suffer from mental illness or substance
- 27 addiction are far less likely to be able to access immediate
- 28 treatment services following a late-night release from county jail.
- 29 (8) Intentional or not, these release policies are cruel and fail
- 30 to acknowledge the often significant lived trauma that people,
- 31 especially women, who are involved in the criminal justice system
- 32 have experienced.
- 33 (9) There is no recidivism prevention or public safety purpose
- 34 of county jail late-night release policies that would substantiate
- 35 the need for counties to maintain them. In fact, the lack of access

1 to essential reentry, family reunification, and transportation services  
2 means these late-night release policies work contrary to  
3 crime-prevention goals.

4 (10) Throughout California, women impacted by these late-night  
5 release policies have been thwarted in their efforts to end this  
6 practice, indicating that a statewide solution is needed.

7 (b) It is the intent of the Legislature to ensure that people are  
8 released with expediency from county jails with conditions that  
9 protect their health and maximize the likelihood of their success  
10 in preventing rearrest by establishing a statewide release standard  
11 for county jails to follow.

12 SEC. 2. Section 4024 of the Penal Code is amended to read:

13 4024. (a) The sheriff may discharge any prisoner from the  
14 county jail at such time on the last day such prisoner may be  
15 confined as the sheriff shall consider to be in the best interests of  
16 the prisoner.

17 (b) (1) Upon completion of a sentence served by a prisoner or  
18 the release of a prisoner ordered by the court to be effected the  
19 same day, including prisoners who are released on their own  
20 recognizance, have their charges dismissed by the court, are  
21 acquitted by a jury, are cited and released on a misdemeanor  
22 charge, have posted bail, or have the charges against them dropped  
23 by the prosecutor, the sheriff may offer a voluntary program to the  
24 prisoner that would allow that prisoner to stay in the custody  
25 facility for up to 16 additional hours or until normal business hours,  
26 whichever is shorter, in order to offer the prisoner the ability to be  
27 discharged to a treatment center or during daytime hours. The  
28 prisoner may revoke his or her consent and be discharged as soon  
29 as possible and practicable.

30 (2) This subdivision does not prevent the early release of  
31 prisoners as otherwise allowed by law or allow jails to retain  
32 prisoners any longer than otherwise required by law without the  
33 prisoner's express written consent.

34 (3) Offering this voluntary program is an act of discretion within  
35 the meaning of Section 820.2 of the Government Code.

36 (4) If a prisoner has posted bail and elects to participate in this  
37 program, he or she shall notify the bail agent as soon as possible  
38 and practicable of his or her decision to participate.

39 (5) A sheriff offering this program shall, whenever possible,  
40 allow the prisoner volunteering to participate in the program to

1 make a telephone call to either arrange for transportation, or to  
2 notify the bail agent pursuant to paragraph (4), or both.

3 (c) *This section shall become inoperative on June 1, 2020, and*  
4 *as of January 1, 2021, is repealed.*

5 SEC. 3. Section 4024.5 is added to the Penal Code, to read:

6 4024.5. (a) This section shall be known as the Getting Home  
7 Safe Act.

8 (b) The rights established in this section apply to any person  
9 being released from a county jail, including, but not limited to, a  
10 person who has completed a sentence served, been ordered by the  
11 court to be released, been released on his or her own recognizance,  
12 been released because his or her charges have been dismissed by  
13 the court, is acquitted by a jury, is cited and released on a  
14 misdemeanor charge, has posted bail, has complied with pretrial  
15 release conditions, or has had the charges dropped against him or  
16 her by the prosecutor.

17 (c) (1) A county sheriff shall make the release standards, release  
18 processes, and release schedules of a county jail available to the  
19 public and shall post them online to the sheriff’s Internet Web site.  
20 The sheriff shall also make the release standards, release processes,  
21 and release schedules of a county jail available to a person when  
22 he or she is booked into a county jail and while he or she is  
23 incarcerated in a county jail.

24 (2) The release standards shall include the list of rights  
25 enumerated in this section and the timeframe for the expedient  
26 release of a person following the determination to release that  
27 person by a judge, jury, or appropriate county staff member.

28 (d) (1) A person shall have the right to request that, upon his  
29 or her release from a county jail, he or she be assisted in entering  
30 a drug or alcohol rehabilitation program. The person shall be  
31 allowed to make this request upon, or subsequent to, being booked  
32 into a county jail.

33 (2) If the person chooses to enter a drug or alcohol rehabilitation  
34 program upon release from jail, the county jail shall provide or  
35 arrange transportation directly to a rehabilitation program or  
36 hospital free of charge immediately upon release.

37 (e) A person incarcerated in or recently released from a county  
38 jail shall have access to up to three free telephone calls from a  
39 telephone in the county jail to plan for a safe and successful release

1 and shall also have access to a free cell phone charging station  
2 upon release from jail to charge his or her personal cell phone.

3 (f) (1) A sheriff shall offer a person scheduled to be released  
4 from jail between the hours of 5 p.m. or sundown, whichever is  
5 later, and 8 a.m. the option to voluntarily stay in jail for up to 16  
6 additional hours or until normal business hours, whichever is  
7 shorter, in order to offer the person the ability to be discharged  
8 during daytime hours.

9 (2) A person shall provide his or her written consent before  
10 choosing to stay voluntarily in jail as described in paragraph (1).  
11 However, a person may revoke his or her written consent at any  
12 time and be discharged from jail as soon as possible and  
13 practicable.

14 (g) A person scheduled to be released from county jail between  
15 the hours of 8 a.m. and 5 p.m. or sundown, whichever is later, shall  
16 be released during that time. If the person is scheduled to be  
17 released from jail between the hours of 5 p.m. or sundown,  
18 whichever is later, and 8 a.m., and he or she has declined the option  
19 described in subdivision (f), he or she shall be provided the  
20 opportunity to choose from both of the following alternatives:

21 (1) A safe place to wait for a person he or she knows to pick  
22 him or her up with adequate and sufficient ability to charge his or  
23 her own personal cell phone and access to a free public telephone.

24 (2) Free transportation to a location of the person's choosing  
25 within the county or within a 100-mile radius, whichever is further.

26 (h) A person who is released from jail after being incarcerated  
27 for more than 30 days shall receive at least three days' supply of  
28 any necessary medication.

29 (i) This section does not prevent the early release of a person  
30 as otherwise allowed by law or allow a county jail to retain a person  
31 any longer than otherwise required or allowed by law without the  
32 person's express written consent.

33 (j) (1) A violation of the rights established by this act may be  
34 submitted to the Board of State and Community Corrections,  
35 Ombudsman.

36 (2) (A) For purposes of developing protocols for receiving and  
37 responding to reports of violations of the rights established by this  
38 act, the board shall convene a stakeholder group that includes  
39 women and girls who have been incarcerated to aid in this effort.

1 (B) For purposes of this paragraph, “woman” means an  
2 individual who self-identifies her gender as a woman, without  
3 regard to her designated sex at birth.

4 (k) This section shall become operative on June 1, 2020.

5 SEC. 4. Section 4024.6 is added to the Penal Code, to read:

6 4024.6. (a) (1) The Board of State and Community Corrections  
7 shall establish the Late-Night Release Prevention Task Force.

8 (2) The task force shall be composed of relevant stakeholders,  
9 including women and children who have been incarcerated.

10 (b) The task force shall do both of the following:

11 (1) Prepare any and all materials related to the implementation  
12 of the Getting Home Safe Act.

13 (2) Develop recommended requirements for county jails to  
14 maintain records that adequately document the implementation of  
15 the Getting Home Safe Act, including how these records will be  
16 maintained and made available to the public.

17 (c) (1) The task force shall submit a report on January 1, 2022,  
18 to the relevant policy and budget committees of the Legislature  
19 about the progress made by the task force in implementing this  
20 section and make suggestions for any additional legislation  
21 necessary to prevent dangerous late-night releases at county jails  
22 throughout California.

23 (2) The requirement for submitting a report imposed under  
24 paragraph (1) is inoperative on January 1, 2026, pursuant to Section  
25 10231.5 of the Government Code.

26 (d) For purposes of this section, “woman” means an individual  
27 who self-identifies her gender as a woman, without regard to her  
28 designated sex at birth.

29 SEC. 5. If the Commission on State Mandates determines that  
30 this act contains costs mandated by the state, reimbursement to  
31 local agencies and school districts for those costs shall be made  
32 pursuant to Part 7 (commencing with Section 17500) of Division  
33 4 of Title 2 of the Government Code.

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Lori Droste  
Berkeley City Councilmember, District 8

Consent Calendar

January 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste  
Subject: Support for AB 68 (Accessory Dwelling Units)

**Recommendation:**

That the Berkeley City Council send a letter supporting AB 68, Accessory Dwelling Units, authored by Assemblymember Phil Ting which seeks to streamline Accessory Dwelling Units, also known as granny flats or in-law units, in order to encourage new housing units across the state.

**Financial Implications:**

None.

**Background:**

Over the past several years, the City of Berkeley has taken several steps to streamline the process of building ADUs.

AB 68 would further streamline the ADU building process by:

- Requiring permits to be issued in 60 days, rather than the 120 days in existing law;
- Prohibiting a local ordinance that applies lot coverage, lot size, or floor area ratio requirements to ADUs;
- Eliminating the requirement that off-street parking spaces be replaced if a garage is converted to an ADU;
- Specifying that local agencies requiring Owner-Occupancy for the primary unit must exempt trust and non-profit "owners" providing for lower income, senior, or disabled residents;
- Prohibiting local agencies from requiring that existing zoning nonconforming conditions be corrected as part of the ministerial approval process; and
- Prohibiting ministerially-approved ADUs from being used as short-term rentals.
- Allowing ministerial approval for:
  - Both a JADU and an ADU within an existing space
  - An ADU that is new construction of up to 800 sq. ft. and no taller than 16 ft.
  - ADUs in multi-family building areas not currently used as livable space

ADUs, also referred to as secondary units, in-law suites, or granny flats, are smaller, independent units on the same lot as a single or multi family home. Studies show that ADUs cost less to both build and rent, making them an affordable and eco-friendly source of new housing. For example, utilities cost less for those living in ADUs due to greater energy efficiency. ADUs utilize existing space on lots and maximize land use to minimize impacts on growing communities. The smaller size of ADUs allows them to be built faster and be on the market sooner. Residents will have greater choice in where they want to live as ADUs present more affordable options in neighborhoods.

Recent state efforts to incentivize the construction of ADUs have resulted in more communities and families building ADUs as a cost efficient way to address the affordable housing crisis. By further streamlining the construction process, this legislation will help add thousands of new units to California's housing stock.

**Environmental Sustainability:** No impact

**Contact Person:**

Councilmember Lori Droste    Council District 8    510-981-7180

**Attachment 1: Draft Letter of Support**

December 20, 2018

The Honorable Assemblymember Phil Ting  
California State Assembly  
State Capitol  
P.O. Box 942849  
Sacramento, CA 94249

RE: Assembly Bill 68 (Ting) – Accessory Dwelling Units - Streamlining - SUPPORT

Dear Assemblymember Ting,

Berkeley City Council is pleased to support AB 68, which will help address California's housing crisis by easing barriers to the construction of accessory dwelling units (ADUs). Over the past several years, the City of Berkeley has taken several steps to streamline the process of building ADUs and this bill further those goals.

ADUs, also referred to as secondary units, in-law suites, or granny flats, are smaller, independent units on the same lot as a single or multi family home. Studies show that ADUs cost less to both build and rent, making them an affordable and eco-friendly source of new housing. For example, utilities cost less for those living in ADUs due to greater energy efficiency. ADUs utilize existing space on lots and maximize land use to minimize impacts on



growing communities. The smaller size of ADUs allows them to be built faster and be on the market sooner. Residents will have greater choice in where they want to live as ADUs present more affordable options in neighborhoods.

Recent state efforts to incentivize the construction of ADUs have resulted in more communities and families building ADUs as a cost efficient way to address the affordable housing crisis. By further streamlining the construction process, this legislation will help add thousands of new units to California's housing stock. For these reasons and more, Berkeley City Council is proud to support AB 68.

Sincerely,  
Berkeley City Council

CC: Assemblymember Buffy Wicks  
Senator Nancy Skinner

**ASSEMBLY BILL**

**No. 68**

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**Introduced by Assembly Member Ting**  
**(Coauthor: Assembly Member Gloria)**  
(Coauthors: Senators Skinner and Wiener)

December 3, 2018

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An act to amend Sections 65852.2 and 65852.22 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 68, as introduced, Ting. Land use: accessory dwelling units.

The Planning and Zoning Law authorizes a local agency to provide, by ordinance, for the creation of accessory dwelling units in single-family and multifamily residential zones and sets forth required ordinance standards, including, among others, maximum unit size, parking, and height standards.

This bill would prohibit an ordinance from imposing requirements on minimum lot size, lot coverage, or floor area ratio, and would prohibit an ordinance from establishing size requirements for accessory dwelling units that do not permit at least an 800 square foot unit of at least 16 feet in height to be constructed.

Existing law requires a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit within 120 days of receiving the application.

This bill would instead require a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit permit within 60 days of receipt.

Existing law requires ministerial approval of a permit to create one accessory dwelling unit within a single-family dwelling, subject to specified conditions and requirements.

This bill would require ministerial approval of an application for a permit to create one or more accessory dwelling units or junior accessory dwelling units on a single-family dwelling or multifamily dwelling, subject to specified conditions and requirements.

Existing law authorizes a local agency ordinance for accessory dwelling units to require that a permit applicant be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

This bill would provide that, if a local agency imposes an owner-occupancy restriction, the monitoring for compliance shall not be more frequent than annually and be based on specified published documents. The bill would describe owner-occupant for purposes of that requirement.

Existing law authorizes a local agency to adopt an ordinance providing for the creation of junior accessory dwelling units in single-family residential zones, and requires a local agency to ministerially approve or deny an application for a junior accessory dwelling unit within 120 days of submission of the application.

This bill would instead require a local agency to ministerially approve or deny an application for a junior accessory dwelling unit within 60 days of submission of the application. The bill would require a local agency that has not adopted an ordinance for the creation of junior accessory dwelling units to apply the same standards established by this bill for local agencies with ordinances.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 65852.2 of the Government Code is
- 2 amended to read:
- 3 65852.2. (a) (1) A local agency may, by ordinance, provide
- 4 for the creation of accessory dwelling units in areas zoned to allow

1 single-family or multifamily use. The ordinance shall do all of the  
2 following:

3 (A) Designate areas within the jurisdiction of the local agency  
4 where accessory dwelling units may be permitted. The designation  
5 of areas may be based on criteria that may include, but are not  
6 limited to, the adequacy of water and sewer services and the impact  
7 of accessory dwelling units on traffic flow and public safety.

8 (B) (i) Impose standards on accessory dwelling units that  
9 include, but are not limited to, parking, height, setback, ~~lot~~  
10 ~~coverage~~, landscape, architectural review, maximum size of a unit,  
11 and standards that prevent adverse impacts on any real property  
12 that is listed in the California Register of Historic Places. *These*  
13 *standards shall not include requirements on minimum lot size, lot*  
14 *coverage, or floor area ratio.*

15 (ii) Notwithstanding clause (i), a local agency may reduce or  
16 eliminate parking requirements for any accessory dwelling unit  
17 located within its jurisdiction.

18 (C) Provide that accessory dwelling units do not exceed the  
19 allowable density for the lot upon which the accessory dwelling  
20 unit is located, and that accessory dwelling units are a residential  
21 use that is consistent with the existing general plan and zoning  
22 designation for the lot.

23 (D) Require the accessory dwelling units to comply with all of  
24 the following:

25 (i) The unit may be rented separate from the primary residence,  
26 ~~but~~ *but* may not be sold or otherwise conveyed separate from the  
27 primary residence.

28 (ii) The lot is zoned to allow single-family or multifamily use  
29 and includes a proposed or existing single-family dwelling.

30 (iii) The accessory dwelling unit is ~~either~~ attached or located  
31 within the living area of the proposed or existing primary ~~dwelling~~  
32 *dwelling, attached or located within an accessory structure,* or  
33 detached from the proposed or existing primary dwelling and  
34 located on the same lot as the proposed or existing primary  
35 dwelling.

36 (iv) The total *floor area-of floorspace* of an attached accessory  
37 dwelling unit shall not exceed 50 percent of the proposed or  
38 existing primary dwelling living area or 1,200 square feet.

39 (v) The total *floor area-of floorspace* for a detached accessory  
40 dwelling unit shall not exceed 1,200 square feet.

- 1 (vi) No passageway shall be required in conjunction with the  
 2 construction of an accessory dwelling unit.
- 3 (vii) No setback shall be required for an existing ~~garage living~~  
 4 *area or accessory structure or a structure constructed in the same*  
 5 *location and to the same dimensions as an existing structure* that  
 6 is converted to an accessory dwelling unit or to a portion of an  
 7 accessory dwelling unit, and a setback of no more than ~~five~~ *four*  
 8 feet from the side and rear lot lines shall be required for an  
 9 accessory dwelling unit that is ~~constructed above a garage.~~ *not*  
 10 *converted from an existing structure or a new structure constructed*  
 11 *in the same location and to the same dimensions as an existing*  
 12 *structure.*
- 13 (viii) Local building code requirements that apply to detached  
 14 dwellings, as appropriate.
- 15 (ix) Approval by the local health officer where a private sewage  
 16 disposal system is being used, if required.
- 17 (x) (I) Parking requirements for accessory dwelling units shall  
 18 not exceed one parking space per unit or per bedroom, whichever  
 19 is less. These spaces may be provided as tandem parking on a  
 20 driveway.
- 21 (II) Offstreet parking shall be permitted in setback areas in  
 22 locations determined by the local agency or through tandem  
 23 parking, unless specific findings are made that parking in setback  
 24 areas or tandem parking is not feasible based upon specific site or  
 25 regional topographical or fire and life safety conditions.
- 26 (III) This clause shall not apply to a unit that is described in  
 27 subdivision (d).
- 28 (xi) When a garage, carport, or covered parking structure is  
 29 demolished in conjunction with the construction of an accessory  
 30 dwelling unit or converted to an accessory dwelling unit, ~~and the~~  
 31 ~~local agency requires that those offstreet parking spaces be~~  
 32 ~~replaced, the replacement spaces may be located in any~~  
 33 ~~configuration on the same lot as the accessory dwelling unit,~~  
 34 ~~including, but not limited to, as covered spaces, uncovered spaces,~~  
 35 ~~or tandem spaces, or by the use of mechanical automobile parking~~  
 36 ~~lifts. This clause shall not apply to a unit that is described in~~  
 37 ~~subdivision (d).~~ *shall not require that those offstreet parking spaces*  
 38 *be replaced.*
- 39 (2) The ordinance shall not be considered in the application of  
 40 any local ordinance, policy, or program to limit residential growth.

1 (3) ~~When a local agency receives its first application on or after~~  
2 ~~July 1, 2003, for a permit pursuant to this subdivision, the~~ *A permit*  
3 ~~application shall be considered ministerially without discretionary~~  
4 ~~review or a hearing, notwithstanding Section 65901 or 65906 or~~  
5 ~~any local ordinance regulating the issuance of variances or special~~  
6 ~~use permits, within ~~120~~ 60 days after receiving the application. A~~  
7 ~~local agency may charge a fee to reimburse it for costs that it incurs~~  
8 ~~as a result of amendments to this paragraph enacted during the~~  
9 ~~2001–02 Regular Session of the Legislature, including the costs~~  
10 ~~of adopting or amending any ordinance that provides for the~~  
11 ~~creation of an accessory dwelling unit.~~

12 (4) An existing ordinance governing the creation of an accessory  
13 dwelling unit by a local agency or an accessory dwelling ordinance  
14 adopted by a local agency ~~subsequent to the effective date of the~~  
15 ~~act adding this paragraph~~ *after January 1, 2017*, shall provide an  
16 approval process that includes only ministerial provisions for the  
17 approval of accessory dwelling units and shall not include any  
18 discretionary processes, provisions, or requirements for those units,  
19 except as otherwise provided in this subdivision. ~~In the event that~~  
20 ~~If~~ a local agency has an existing accessory dwelling unit ordinance  
21 that fails to meet *one or more of* the requirements of this  
22 subdivision, that ordinance shall be null and void ~~upon the effective~~  
23 ~~date of the act adding this paragraph~~ *to the extent of such conflict*  
24 *on January 1, 2017*, and that agency shall thereafter apply the  
25 *applicable standards or* standards established in this subdivision  
26 for the approval of accessory dwelling units, unless and until the  
27 agency ~~adopts an~~ *amends its* ordinance ~~that complies to comply~~  
28 with this section.

29 (5) No other local ordinance, policy, or regulation shall be the  
30 basis for the *delay or* denial of a building permit or a use permit  
31 under this subdivision.

32 (6) This subdivision establishes the maximum standards that  
33 local agencies shall use to evaluate a proposed accessory dwelling  
34 unit on a lot zoned for residential use that includes a proposed or  
35 existing single-family dwelling. No additional standards, other  
36 than those provided in this subdivision, shall be ~~utilized~~ *used* or  
37 imposed, except that a local agency may require an applicant for  
38 a permit issued pursuant to this subdivision to be an  
39 owner-occupant or that the property be used for rentals of terms  
40 longer than 30 days. *If an ordinance imposes an owner-occupancy*

1 restriction, this restriction shall not be monitored more frequently  
 2 than annually based on published public documents that evidence  
 3 residency, including, but not limited to, a driver's license, school  
 4 registration, or a voter registration document. For purposes of  
 5 this requirement, an owner-occupant shall include any of the  
 6 following:

7 (A) An owner of the lot who occupies the primary dwelling or  
 8 the accessory dwelling unit.

9 (B) A trust in which ownership of the lot is placed if at least one  
 10 beneficiary of the trust occupies the primary dwelling or the  
 11 accessory dwelling unit.

12 (C) An organization that owns the lot in order to provide  
 13 long-term, deed-restricted affordable housing that is subject to a  
 14 regulatory agreement with a local agency.

15 (7) A local agency may amend its zoning ordinance or general  
 16 plan to incorporate the policies, procedures, or other provisions  
 17 applicable to the creation of an accessory dwelling unit if these  
 18 provisions are consistent with the limitations of this subdivision.

19 (8) An accessory dwelling unit that conforms to this subdivision  
 20 shall be deemed to be an accessory use or an accessory building  
 21 and shall not be considered to exceed the allowable density for the  
 22 lot upon which it is located, and shall be deemed to be a residential  
 23 use that is consistent with the existing general plan and zoning  
 24 designations for the lot. The accessory dwelling unit shall not be  
 25 considered in the application of any local ordinance, policy, or  
 26 program to limit residential growth.

27 (b) When a local agency that has not adopted an ordinance  
 28 governing accessory dwelling units in accordance with subdivision  
 29 (a) receives an application for a permit to create an accessory  
 30 dwelling unit pursuant to this subdivision, the local agency shall  
 31 approve or disapprove the application ministerially without  
 32 discretionary review pursuant to subdivision (a) within ~~120~~ 60  
 33 days after receiving the application.

34 (c) A local agency may establish minimum and maximum unit  
 35 size requirements for both attached and detached accessory  
 36 dwelling units. No minimum or maximum size for an accessory  
 37 dwelling unit, or size based upon a percentage of the proposed or  
 38 existing primary dwelling, shall be established by ordinance for  
 39 either attached or detached dwellings that does not permit at least  
 40 an ~~efficiency unit~~ 800 square feet accessory dwelling unit that is

1 *at least 16 feet in height* to be constructed in compliance with local  
 2 development standards. Accessory dwelling units shall not be  
 3 required to provide fire sprinklers if they are not required for the  
 4 primary residence.

5 (d) Notwithstanding any other law, a local agency, whether or  
 6 not it has adopted an ordinance governing accessory dwelling units  
 7 in accordance with subdivision (a), shall not impose parking  
 8 standards for an accessory dwelling unit in any of the following  
 9 instances:

10 (1) The accessory dwelling unit is located within one-half mile  
 11 of public transit.

12 (2) The accessory dwelling unit is located within an  
 13 architecturally and historically significant historic district.

14 (3) The accessory dwelling unit is part of the proposed or  
 15 existing primary residence or an accessory structure.

16 (4) When on-street parking permits are required but not offered  
 17 to the occupant of the accessory dwelling unit.

18 (5) When there is a car share vehicle located within one block  
 19 of the accessory dwelling unit.

20 (e) *(1)* Notwithstanding subdivisions (a) to (d), inclusive, a  
 21 local agency shall ministerially approve an application for a  
 22 building permit to create within a zone for single-family use one  
 23 accessory dwelling unit per single-family lot if the unit is contained  
 24 within the existing space of a single-family residence or accessory  
 25 structure, including, but not limited to, a studio, pool house, or  
 26 other similar structure, has independent exterior access from the  
 27 existing residence, and the side and rear setbacks are sufficient for  
 28 fire safety. Accessory dwelling units shall not be required to  
 29 provide fire sprinklers if they are not required for the primary  
 30 residence. A city may require owner occupancy for either the  
 31 primary or the accessory dwelling unit created through this process.  
 32 *within a residential or mixed-use zone to create any of the*  
 33 *following:*

34 (A) *One accessory dwelling unit and one junior accessory*  
 35 *dwelling unit per lot with a single-family dwelling if all of the*  
 36 *following apply:*

37 (i) *The accessory dwelling unit or junior accessory dwelling*  
 38 *unit is substantially within the existing space of a single-family*  
 39 *dwelling or accessory structure, including, but not limited to,*



- 1 *reconstruction of an existing space with substantially the same*  
2 *physical dimensions as the existing accessory structure.*
- 3 *(ii) The space has exterior access from the existing single-family*  
4 *dwelling.*
- 5 *(iii) The side and rear setbacks are sufficient for fire and safety.*
- 6 *(iv) The junior accessory dwelling unit complies with the*  
7 *requirements of Section 65852.22.*
- 8 *(B) One detached, new construction, single-story accessory*  
9 *dwelling unit that does not exceed four-foot side and rear yard*  
10 *setbacks for a lot with a single-family dwelling. The accessory*  
11 *dwelling unit may be combined with a junior accessory dwelling*  
12 *unit described in subparagraph (A). A local agency may impose*  
13 *the following conditions on the accessory dwelling unit:*
- 14 *(i) A total floor area limitation of not more than 800 square*  
15 *feet.*
- 16 *(ii) A height limitation of 16 feet.*
- 17 *(C) Multiple accessory dwelling units within the portions of*  
18 *existing multifamily dwelling structures that are not used as livable*  
19 *space, including, but not limited to, storage rooms, boiler rooms,*  
20 *passageways, attics, or garages, if each unit complies with state*  
21 *building standards for dwellings.*
- 22 *(D) Not more than two accessory dwelling units that are located*  
23 *on a lot that has an existing multifamily dwelling, but are detached*  
24 *from that multifamily dwelling and are subject to a height limit of*  
25 *16 feet and four-foot rear yard and side setbacks.*
- 26 *(2) A local agency shall not require, as a condition for*  
27 *ministerial approval, the correction of nonconforming zoning*  
28 *conditions.*
- 29 *(3) The installation of fire sprinklers shall not be required in*  
30 *an accessory dwelling unit if sprinklers are not required for the*  
31 *primary residence.*
- 32 *(4) A local agency may require owner occupancy for either the*  
33 *primary dwelling or the accessory dwelling unit on a single-family*  
34 *lot, subject to the requirements of paragraph (6) of subdivision*  
35 *(a).*
- 36 *(5) A local agency shall require that a rental of the accessory*  
37 *dwelling unit created pursuant to this subdivision be for a term*  
38 *longer than 30 days.*
- 39 *(6) Subparagraphs (C) and (D) of paragraph (1) shall not apply*  
40 *to a local agency that has adopted an ordinance by July 1, 2018,*

1 *providing for the approval of accessory dwelling units in*  
2 *multifamily dwelling structures.*

3 (f) (1) Fees charged for the construction of accessory dwelling  
4 units shall be determined in accordance with Chapter 5  
5 (commencing with Section 66000) and Chapter 7 (commencing  
6 with Section 66012).

7 (2) Accessory dwelling units shall not be considered by a local  
8 agency, special district, or water corporation to be a new residential  
9 use for the purposes of calculating connection fees or capacity  
10 charges for utilities, including water and sewer service.

11 (A) For an accessory dwelling unit described in *subparagraph*  
12 *(A) of paragraph (1) of subdivision (e)*, a local agency, special  
13 district, or water corporation shall not require the applicant to  
14 install a new or separate utility connection directly between the  
15 accessory dwelling unit and the utility or impose a related  
16 connection fee or capacity charge.

17 (B) For an accessory dwelling unit that is not described in  
18 *subparagraph (A) of paragraph (1) of subdivision (e)*, a local  
19 agency, special district, or water corporation may require a new  
20 or separate utility connection directly between the accessory  
21 dwelling unit and the utility. Consistent with Section 66013, the  
22 connection may be subject to a connection fee or capacity charge  
23 that shall be proportionate to the burden of the proposed accessory  
24 dwelling unit, based upon either its size or the number of its  
25 plumbing fixtures, upon the water or sewer system. This fee or  
26 charge shall not exceed the reasonable cost of providing this  
27 service.

28 (g) This section does not limit the authority of local agencies  
29 to adopt less restrictive requirements for the creation of an  
30 accessory dwelling unit.

31 ~~Local agencies~~ *A local agency* shall submit a copy of the  
32 ordinance adopted pursuant to subdivision (a) to the Department  
33 of Housing and Community Development within 60 days after  
34 adoption. The department may review and comment on this  
35 submitted ordinance.

36 (i) As used in this section, the following terms ~~mean~~ *apply*:

37 (1) ~~“Living area” means the interior habitable area of a dwelling~~  
38 ~~unit including basements and attics but does not include a garage~~  
39 ~~or any accessory structure.~~

- 1     ~~(2) “Local agency” means a city, county, or city and county,~~  
 2 ~~whether general law or chartered.~~
- 3     ~~(3) For purposes of this section, “neighborhood” has the same~~  
 4 ~~meaning as set forth in Section 65589.5.~~
- 5     ~~(4)~~
- 6     (1) “Accessory dwelling unit” means an attached or a detached  
 7 residential dwelling unit ~~which~~ *that* provides complete independent  
 8 living facilities for one or more persons. It shall include permanent  
 9 provisions for living, sleeping, eating, cooking, and sanitation on  
 10 the same parcel as the single-family dwelling is situated. An  
 11 accessory dwelling unit also includes the following:
- 12     (A) An efficiency unit, as defined in Section 17958.1 of the  
 13 Health and Safety Code.
- 14     (B) A manufactured home, as defined in Section 18007 of the  
 15 Health and Safety Code.
- 16     (2) *“Accessory structure” means an existing, fixed structure,*  
 17 *including, but not limited to, a garage, studio, pool house, or other*  
 18 *similar structure.*
- 19     (3) *“Living area” means the interior habitable area of a*  
 20 *dwelling unit, including basements and attics but does not include*  
 21 *a garage or any accessory structure.*
- 22     (4) *“Local agency” means a city, county, or city and county,*  
 23 *whether general law or chartered.*
- 24     (5) *“Nonconforming zoning condition” means a physical*  
 25 *improvement on a property that does not conform with current*  
 26 *zoning standards.*
- 27     ~~(5)~~
- 28     (6) “Passageway” means a pathway that is unobstructed clear  
 29 to the sky and extends from a street to one entrance of the accessory  
 30 dwelling unit.
- 31     ~~(6)~~
- 32     (7) “Tandem parking” means that two or more automobiles are  
 33 parked on a driveway or in any other location on a lot, lined up  
 34 behind one another.
- 35     (j) Nothing in this section shall be construed to supersede or in  
 36 any way alter or lessen the effect or application of the California  
 37 Coastal Act of 1976 (Division 20 (commencing with Section  
 38 30000) of the Public Resources Code), except that the local  
 39 government shall not be required to hold public hearings for coastal  
 40 development permit applications for accessory dwelling units.

1 SEC. 2. Section 65852.22 of the Government Code is amended  
2 to read:

3 65852.22. (a) Notwithstanding Section 65852.2, a local agency  
4 may, by ordinance, provide for the creation of junior accessory  
5 dwelling units in single-family residential zones. The ordinance  
6 may require a permit to be obtained for the creation of a junior  
7 accessory dwelling unit, and shall do all of the following:

8 (1) Limit the number of junior accessory dwelling units to one  
9 per residential lot zoned for single-family residences with a  
10 single-family residence already built on the lot.

11 (2) Require owner-occupancy in the single-family residence in  
12 which the junior accessory dwelling unit will be permitted. The  
13 owner may reside in either the remaining portion of the structure  
14 or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another  
15 governmental agency, land trust, or housing organization.

16 (3) Require the recordation of a deed restriction, which shall  
17 run with the land, shall be filed with the permitting agency, and  
18 shall include both of the following:

19 (A) A prohibition on the sale of the junior accessory dwelling  
20 unit separate from the sale of the single-family residence, including  
21 a statement that the deed restriction may be enforced against future  
22 purchasers.

23 (B) A restriction on the size and attributes of the junior accessory  
24 dwelling unit that conforms with this section.

25 (4) Require a permitted junior accessory dwelling unit to be  
26 constructed within the existing walls of the structure, and require  
27 the inclusion of an existing bedroom.

28 (5) Require a permitted junior accessory dwelling to include a  
29 separate entrance from the main entrance to the structure, with an  
30 interior entry to the main living area. A permitted junior accessory  
31 dwelling may include a second interior doorway for sound  
32 attenuation.

33 (6) Require the permitted junior accessory dwelling unit to  
34 include an efficiency kitchen, which shall include all of the  
35 following:

36 (A) A sink with a maximum waste line diameter of 1.5 inches.

37 (B) A cooking facility with appliances that do not require  
38 electrical service greater than 120 volts, or natural or propane gas.  
39

1 (C) A food preparation counter and storage cabinets that are of  
 2 reasonable size in relation to the size of the junior accessory  
 3 dwelling unit.

4 (b) (1) An ordinance shall not require additional parking as a  
 5 condition to grant a permit.

6 (2) This subdivision shall not be interpreted to prohibit the  
 7 requirement of an inspection, including the imposition of a fee for  
 8 that inspection, to determine ~~whether~~ *if* the junior accessory  
 9 dwelling unit ~~is in compliance~~ *complies* with applicable building  
 10 standards.

11 (c) An application for a permit pursuant to this section shall,  
 12 notwithstanding Section 65901 or 65906 or any local ordinance  
 13 regulating the issuance of variances or special use permits, be  
 14 considered ministerially, without discretionary review or a hearing.  
 15 A permit shall be issued within ~~120~~ *60* days of submission of an  
 16 application for a permit pursuant to this section. A local agency  
 17 may charge a fee to reimburse the local agency for costs incurred  
 18 in connection with the issuance of a permit pursuant to this section.

19 (d) ~~For the~~ purposes of any fire or life protection ordinance or  
 20 regulation, a junior accessory dwelling unit shall not be considered  
 21 a separate or new dwelling unit. This section shall not be construed  
 22 to prohibit a city, county, city and county, or other local public  
 23 entity from adopting an ordinance or regulation relating to fire and  
 24 life protection requirements within a single-family residence that  
 25 contains a junior accessory dwelling unit so long as the ordinance  
 26 or regulation applies uniformly to all single-family residences  
 27 within the zone regardless of whether the single-family residence  
 28 includes a junior accessory dwelling unit or not.

29 (e) ~~For the~~ purposes of providing service for water, sewer, or  
 30 power, including a connection fee, a junior accessory dwelling  
 31 unit shall not be considered a separate or new dwelling unit.

32 (f) This section shall not be construed to prohibit a local agency  
 33 from adopting an ordinance or regulation, related to parking or a  
 34 service or a connection fee for water, sewer, or power, that applies  
 35 to a single-family residence that contains a junior accessory  
 36 dwelling unit, so long as that ordinance or regulation applies  
 37 uniformly to all single-family residences regardless of whether the  
 38 single-family residence includes a junior accessory dwelling unit.

39 (g) *If a local agency has not adopted a local ordinance pursuant*  
 40 *to this section, the local agency shall ministerially approve a permit*

1 to construct a junior accessory dwelling unit that satisfies the  
2 requirements set forth in subparagraph (A) of paragraph (1) of  
3 subdivision (e) of Section 65852.2 and the requirements of this  
4 section.

5 ~~(g)~~

6 (h) For purposes of this section, the following terms have the  
7 following meanings:

8 (1) “Junior accessory dwelling unit” means a unit that is no  
9 more than 500 square feet in size and contained entirely within an  
10 existing single-family structure. A junior accessory dwelling unit  
11 may include separate sanitation facilities, or may share sanitation  
12 facilities with the existing structure.

13 (2) “Local agency” means a city, county, or city and county,  
14 whether general law or chartered.

15 SEC. 3. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 a local agency or school district has the authority to levy service  
18 charges, fees, or assessments sufficient to pay for the program or  
19 level of service mandated by this act, within the meaning of Section  
20 17556 of the Government Code.

O

# AB 68

## ADU Streamlining

Assemblymember  
**Phil Ting**  
19TH DISTRICT



### SUMMARY

Accessory dwelling units (ADUs) have surged in popularity as a way to address California's housing crisis as demand outpaces supply. AB 68 will remove remaining barriers to the widespread adoption of ADUs as low-cost, energy efficient, affordable housing that can go from policy to permit in 12 months.

### BACKGROUND

ADUs, also referred to as secondary units, in-law suites, or granny flats, are smaller, independent units on the same lot as a single or multi family home. Junior accessory dwelling units (JADUs) are units that are no more than 500 square feet and are contained entirely within an existing room, with an efficiency kitchen and a private or shared bathroom.

California is in a housing crisis. Currently, the ability to create additional small housing on a homeowner's property can be delayed for months, or stopped all together, due to zoning requirements that are not directly related to the health and safety of the unit's occupiers.

ADUs and JADUs represent forms of housing production that can be rapidly increased without significant change to state laws. These dwellings provide affordable housing options by maximizing existing space on lots. However, many homeowners encounter land use and permitting obstacles when planning to build ADUs, and thus end up building illegal units that may be unsafe.

A University of California, Berkeley Turner Center for Housing Innovation report (ADU Update: Early Lessons and Impacts of California's State and Local Policy Changes) documented that despite numerous ADU laws enacted in California in the past few years, many cities and counties continue to unevenly impose barriers that prevent ADU development.

By removing remaining barriers to building, while keeping health and safety in mind, we can allow for the non-discriminatory building of ADUs and JADUs throughout the State of California.

### THIS BILL

AB 68 will create more housing in California by:

- Requiring permits to be issued in 60 days, rather than the 120 days in existing law;
- Prohibiting a local ordinance that applies lot coverage, lot size, or floor area ratio requirements to ADUs;
- Eliminating the requirement that offstreet parking spaces be replaced if a garage is converted to an ADU;
- Specifying that local agencies requiring Owner-Occupancy for the primary unit must exempt trust and non-profit "owners" providing for lower income, senior, or disabled residents;
- Allowing ministerial approval for:
  - Both a JADU and an ADU within an existing space
  - An ADU that is new construction of up to 800 sq. ft. and no taller than 16 ft.
  - ADUs in multi-family building areas not currently used as livable space;
- Prohibiting local agencies from requiring that existing zoning nonconforming conditions be corrected as part of the ministerial approval process; and
- Prohibiting ministerially-approved ADUs from being used as short-term rentals.

### SUPPORT

Bay Area Council

Non-Profit Housing Association of Northern CA

### STAFF CONTACT

Office of Assemblymember Phil Ting

Irene Ho

(916) 319-2019







Lori Droste  
Berkeley City Councilmember, District 8

Consent Calendar  
January 29, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmember Lori Droste  
Subject: Support for AB 69 (Accessory Dwelling Units)

**Recommendation:**

That the Berkeley City Council send a letter supporting AB 69, Accessory Dwelling Units, authored by Assemblymember Phil Ting which will create a Small Home Building Standard Code to provide guidelines for the construction of ADUs.

**Financial Implications:**

None.

**Background:**

Over the past several years, the City of Berkeley has taken several steps to streamline the process of building ADUs. This bill furthers those goals by tasking the Department of Housing and Community Development (HCD) with creating a Small Home Building Standard Code with an emphasis on cost-effectiveness such as guidelines for small kitchens and bathrooms with small appliances. HCD will also have the authority to evaluate whether local agencies' ADU ordinances comply with state law and notify the Attorney General of violations. Ensuring compliance with state law will help eliminate barriers to the widespread adoption of ADUs as low-cost, energy efficient, affordable housing that can go from policy to permit in 12 months.

ADUs, also referred to as secondary units, in-law suites, or granny flats, are smaller, independent units on the same lot as a single or multi family home. Studies show that ADUs cost less to both build and rent, making them an affordable and eco-friendly source of new housing. For example, utilities cost less for those living in ADUs due to greater energy efficiency. ADUs utilize existing space on lots and maximize land use to minimize impacts on growing communities. The smaller size of ADUs allows them to be built faster and be on the market sooner. Residents will have greater choice in where they want to live as ADUs present more affordable options in neighborhoods.

Recent state efforts to incentivize the construction of ADUs have resulted in more communities and families building ADUs as a cost efficient way to address the affordable housing crisis. By

further streamlining the construction process, this legislation will help add thousands of new units to California's housing stock.

**Environmental Sustainability:**

No impact

**Contact Person:**

Councilmember Lori Droste    Council District 8    510-981-7180

**Attachment 1: Draft Letter of Support**

December 20, 2018

The Honorable Assemblymember Phil Ting  
California State Assembly  
State Capitol  
P.O. Box 942849  
Sacramento, CA 94249

RE: Assembly Bill 69 (Ting) – Accessory Dwelling Units - Building Standards - SUPPORT

Dear Assemblymember Ting,

Berkeley City Council is pleased to support AB 69, which will help to address California's housing crisis by setting up helpful guidelines for the construction of accessory dwelling units (ADUs). The Department of Housing and Community Development will be tasked with creating a Small Home Building Standard Code with an emphasis on cost-effectiveness such as guidelines for small kitchens and bathrooms with small appliances. Berkeley City Council has taken several steps to streamline the building process for ADU's in our City, and this bill furthers those goals.

ADUs, also referred to as secondary units, in-law suites, or granny flats, are smaller, independent units on the same lot as a single or multi family home. Studies show that ADUs cost less to both build and rent, making them an affordable and eco-friendly source of new housing. For example, utilities cost less for those living in ADUs due to greater energy efficiency. ADUs utilize existing space on lots and maximize land use to minimize impacts on growing communities. The smaller size of ADUs allows them to be built faster and be on the market sooner. Residents will have greater choice in where they want to live as ADUs present more affordable options in neighborhoods.

Recent state efforts to incentivize the construction of ADUs have resulted in more communities and families building ADUs as a cost efficient way to address the affordable housing crisis. Providing cost effective guidelines and incentivizing local agencies to follow them will help combat California's housing shortage. This legislation will help add thousands of new units to

California's housing stock. For these reasons and more, Berkeley City Council is proud to support AB 69.

Sincerely,  
Berkeley City Council

CC: Assemblymember Buffy Wicks  
Senator Nancy Skinner

# AB 69

## ADU Building Standards

Assemblymember  
**Phil Ting**  
19TH DISTRICT



### SUMMARY

Accessory dwelling units (ADUs) have surged in popularity as a way to address California's housing crisis as demand outpaces supply. However, they are subject to the same building standards as traditional homes, despite their much smaller size. AB 69 will expedite the construction of cost-effective and safe ADUs by creating a Small Home Building Standards Code that reflects the unique nature of these units.

### BACKGROUND

ADUs, also referred to as secondary units, in-law suites, or granny flats, are smaller, independent units on the same lot as a single or multi family home.

California is in a housing crisis. Currently, the ability to create additional small housing on a homeowner's property can be delayed for months, or stopped all together, due to zoning requirements that are not directly related to the health and safety of the unit's occupiers.

ADUs represent forms of housing production that can be rapidly increased without significant change to state laws. These dwellings provide affordable housing options by maximizing existing space on lots. However, many homeowners encounter land use and permitting obstacles when planning to build ADUs, and thus end up building illegal units that may be unsafe.

A University of California, Berkeley Turner Center for Housing Innovation report (ADU Update: Early Lessons and Impacts of California's State and Local Policy Changes) documented that despite numerous ADU laws enacted in California in the past few years,

many cities and counties continue to unevenly impose barriers that prevent ADU development.

By removing remaining barriers to building, while keeping health and safety in mind, we can allow for the non-discriminatory building of ADUs and JADUs throughout the State of California.

### THIS BILL

AB 69 will facilitate the construction of more ADUs in California by requiring the Department of Housing and Community Development (HCD) to create a Small Home Building Standards Code by January 1, 2021. The standards drafted by HCD must emphasize cost-effectiveness, and include guidance for small kitchens and bathrooms with small appliances.

HCD will also have the authority to evaluate whether local agencies' ADU ordinances comply with state law and notify the Attorney General of violations. Ensuring compliance with state law will help eliminate barriers to the widespread adoption of ADUs as low-cost, energy efficient, affordable housing that can go from policy to permit in 12 months.

### SUPPORT

Bay Area Council  
Non-Profit Housing Association of Northern CA

### STAFF CONTACT

Office of Assemblymember Phil Ting  
Irene Ho  
(916) 319-2019



Commission on Labor

## ACTION CALENDAR

January 29, 2019

To: Honorable Mayor and Members of the City Council

From: Commission on Labor

Submitted by: Libby Sayre, Chairperson, Commission on Labor

Subject: Council Referral-Proposed Amendments to Berkeley's Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27

### RECOMMENDATION

Adopt first reading of an Ordinance proposing revisions to Berkeley's Living Wage Ordinance, BMC Chapter 13.27, revising Sections .020, .050, .070, .080 and .090 and adding Sections .045, .110, .120, .130, and .140 to make the application and administration of the LWO consistent with the MWO where appropriate, and modifying Sections .040 and .050 to 1) limit waivers of the LWO for a maximum of one year, and 2) clarifying when employees covered by the LWO are entitled to receive the cash value of the health care benefit.

### FISCAL IMPACTS OF RECOMMENDATION

None.

### CURRENT SITUATION AND ITS EFFECTS

At its September 16, 2014 City Council meeting, the Council referred to the Commission on Labor policy changes to the city's Living Wage Ordinance. The referral specifically directed the Commission to consider:

1. Amending Section 13.27.050.A to allow an employee the right to opt out of an employer provided medical benefit plan and still receive the higher compensation amount (currently \$15.99 per hour) as cash in lieu if they provide proof of alternative coverage under a medical benefit plan; and
2. Amending the posting requirements, retaliation, complaint process, and enforcement sections to conform to the language in the recently adopted Minimum Wage Ordinance.

Throughout 2015 and 2016, the Commission's focus prioritized policy changes to the city's Minimum Wage Ordinance (MWO) and Paid Sick Leave Ordinance (PSLO) and the Commission did not have any significant discussion or action on the Living Wage Ordinance referral.

After much discussion and consideration in 2017, the Commission approved two separate motions on two separate dates. On January 17, 2018 the Commission approved the following:

M/S/C (Wilkinson/Fillingim) to adopt revisions to the Living Wage Ordinance with all changes as discussed [and enumerated below] except for section 13.27.050A regarding compensation required to be paid on specified employees, which includes the employee health care opt-out provision. This will be discussed and decided at March meeting. (Ayes: J. Fillingim, S. Frankel, L. Sayre, W. Bloom, M. Wilkinson, N. McClintick, Noes: None. Absent: P. Castelli (departed @ 8:15pm). Recused: K. Schriener.

**Summary of the Commission's Recommended LWO Revisions from January 2018:**

- 1) Add a definition of "Service Charges" Section 13.27.020
- 2) Amend the language related to "Waivers" Section 13.27.040
- 3) Add a Section related to Notice, Posting and Payroll Records, adapted from the MWO, Section 13.27.045
- 4) Clean up the language in Section 13.27.050 to make the Ordinance consistent with the Minimum Wage Ordinance by:
  - a. deleting references in Section A to specific dollar amounts and replacing them with compliance with rates that are updated annually; and
  - b. adding language regarding rules for collection and distribution of Service Charges in Section E.
- 5) Remove an exemption for "on-call" workers, Section 13.27.070
- 6) Revise "Retaliation" language to be consistent with MWO, Section 13.27.080
- 7) Revise "Complaints to the City" language to be consistent with MWO, Section 13.27.090
- 8) Add "Relationship to other requirements" language, Section 13.27.110
- 9) Add "Application to Welfare-to-work programs", Section 13.27.120
- 10) Add "Fees" language, Section 13.27.130
- 11) Add "Severability" Language, Section 13.27.140

This action intended to make the provisions and application of the LWO more comprehensive and consistent with other labor standards programs, such as the MWO and the PSLO. This motion did not include any action on the Council referral to consider a policy recommendation related to an employee having the option to select the cash value of the medical benefit requirement. The motion did, however, include one significant policy proposal related to waivers of the LWO. The Commission recommended that the LWO be revised to allow only allow temporary waivers of the LWO requirement for up to one year.

At the March 21, 2018 and July 18, 2018 Commission meetings, the Commission discussed allowing employees to have the option to take the cash value of the medical benefit offered by an employer. At the July 18, 2018 meeting, the Commission opted not to recommend changes related to medical benefits due to concerns regarding potentially increasing the number of Employees that would seek the cash benefit and not maintain medical coverage and also due to the complexity of verification and enforcement of this provision. At their July 18, 2018 meeting, the Commission approved the following:

M/S/C (Fillingim/Castelli) to keep language related to the medical benefit as is and not change the Ordinance to allow Employees the option to take the cash value of the medical benefit. Ayes: Castelli, Frankel, Bloom, Fillingim, Schriener, Sayre. Noes: None Absent: McClintick. Leave of Absence: Jones, Wilkinson. Recused: K. Schriener.

As mentioned above, all of the proposed changes to the LWO, with exception of limiting the duration of an LWO waiver to one year, aim to make the language of the LWO more consistent with the provisions of the MWO so that staff can bring more efficiency and consistency to the guidelines and administration of the LWO as part of the labor standards and enforcement program.

#### BACKGROUND

The City of Berkeley's LWO was enacted June 21, 2000. The purpose of the ordinance is to ensure businesses in a contractual relationship with the City pay their employees a wage that can support a family at or above the poverty level. The Living Wage Ordinance requires that public funds be expended in such a manner as to facilitate individual self-reliance by employees of City contractors, lessees, recipients of City financial aid and their respective subcontractors. HHCS staff manage the LWO as part of the city's labor standards and enforcement programs.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report

#### RATIONALE FOR RECOMMENDATION

The proposed changes will streamline investigations and enforcement and make administration more efficient and effective by bringing consistency with other city labor standards and ordinances.

#### ALTERNATIVE ACTIONS CONSIDERED

Make no changes to the LWO or adopt only some of the Commission's recommendations.

#### CITY MANAGER

See City Manager companion report.

CONTACT PERSON

Delfina Geiken, Commission Secretary, HHCS, 510-981-7551

Nathan Dahl, Community Development Project Coordinator, HHCS 510-981-5405

Attachments:

1: Ordinance – Track changes

2: Ordinance – Without track changes

3: September 16, 2014 City Council Referral to Commission on Labor



ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 13.27; PAYMENT OF LIVING WAGE TO EMPLOYEES OF CITY CONTRACTORS

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

Section 1. That Berkeley Municipal Code Chapter 13.27 is amended to read as follows:

PAYMENT OF LIVING WAGE TO EMPLOYEES OF CITY CONTRACTORS

Sections:

- 13.27.010 Title and purpose.
- 13.27.020 Definitions.
- 13.27.030 Contractors, users of public property, City financial aid recipients and subcontractors subject to the requirements of this chapter.
- 13.27.040 Waivers.
- 13.27.045 Notice, posting, and payroll records.
- 13.27.050 Compensation required to be paid to specified employees.
- 13.27.060 Required contract provision.
- 13.27.070 Exemptions.
- 13.27.080 Retaliation and discrimination prohibited.
- 13.27.090 Employee complaints to City.
- 13.27.100 Private rights of action.
- 13.27.110 Relationship to other requirements.
- 13.27.120 Application of Living Wage to Welfare-to-Work programs.
- 13.27.130 Fees.
- 13.27.140 Severability.

**Section 13.27.010 Title and purpose.**

This ordinance shall be known as the "Berkeley Living Wage Ordinance." The purpose of this ordinance is to protect the public health, safety and welfare. It does this by requiring that public funds be expended in such a manner as to facilitate individual self-reliance by employees of City contractors, lessees, recipients of City financial aid and their respective subcontractors.

**Section 13.27.020 Definitions.**

The following definitions shall apply throughout this ordinance:

A. "City financial aid recipients" means all persons or entities that receive from the City direct assistance in the form of grants, loans, or loan guarantees, in-kind services, waivers of City fees, real property or other valuable consideration in an amount of more than \$100,000 in any 12-month period. This term shall not include those who enjoy an economic benefit as an incidental effect of City policies, regulations, ordinances, or charter provisions.

B. "Marina zone" shall mean all land held in trust by the City of Berkeley pursuant to the Public Trust Tidelands grant from the State of California to the City of Berkeley, Stats. 1962, Ch. 55; specifically, Aquatic Park and all land, including submerged land, which is west of Marina Boulevard as it is presently constructed and as if it were extended, in both northerly and southerly directions, to the Berkeley city limits and all land north of Spinnaker Way as it is presently constructed and as if it were extended to the shoreline, to the east, and to the Berkeley city limits, to the west.

C. "Non-profit" shall mean a non-profit organization described in Section 501c(3) of the Internal Revenue Code of 1954 which is exempt from taxation under Section 501(c)(3) of that code, or any non-profit educational organization qualified under Section 23701(d) of the Revenue and Taxation Code.

G.D. "Service Charge" means all separately-designated amounts collected by an Employer from customers that are described in such a way that customers might reasonably believe that the amounts are for Employees or services rendered by Employees, including but not limited to those charges designated on receipts under the term "service charge," "automatic gratuity charge," "delivery charge," or "portage charge."

**Section 13.27.030 Contractors, users of public property, City financial aid recipients and subcontractors subject to the requirements of this chapter.**

The persons and entities described below shall comply with the minimum compensation standards established by this chapter to the employees specified herein:

A. For-profit vendors of services, which employ six or more employees and receive contract(s) for \$25,000 or more in a 12-month period. Compliance shall be required during the term of said contract(s) as to any employees who spend 25% or more of their compensated time engaged in work directly related to the said contract(s).

B. Non-profit vendors of services, which employ six or more employees and receive contracts of \$100,000 or more in a 12-month period. Compliance shall be required during the term of said contract as to any employees who spend 50% or more of their compensated time engaged in work directly related to a City contract.

C. Lessees of public property, licensees, concessionaires, and franchisees, which employ six or more employees and generate \$350,000 or more in annual gross receipts. Compliance shall be required during the lease term with regard to any employees who spend 25% or more of their compensated time on the leased property, or engaged in work directly related to the license, concession or franchise.

D. City financial aid recipients, which receive more than \$100,000 in loans, or other cash and/or non-cash assistance in any 12-month period. Compliance shall be required for a period of five years following receipt of the aid with regard to employees who spend 25% or more of their compensated time engaged in work directly related to the purpose for which the City provided the aid.

E. Entities within the boundaries of the Marina Zone which employ six or more employees and generate \$350,000 or more in annual gross receipts. Compliance shall be required with regard to any employees who spend 25% or more of their compensated time in the Marina Zone.

F. Subcontractors and sublessees of any of the entities, persons, or recipients

described in subparagraphs A through D. Compliance shall be required during the term of the contract between the City and the prime contractor, lessee, licensee, concessionaire, franchisee or City financial aid recipient as to any employees who spend 25% or more of their compensated time engaged in work directly related to the City contract, lease, license, concession, franchise or agreement providing financial aid.

**Section 13.27.040 Waivers.**

The City Council may temporarily waive the requirements of this chapter upon a finding and determination that such a waiver is in the best interests of the City. Such waivers may not cover a period longer than 365 days, and may not be renewed or reissued to the same party in order to cover additional time. All waivers previously issued by the City shall expire 365 days after this Chapter becomes effective.

**13.27.045 Notice, posting, and payroll records.**

A. By May 1 of each year, the Department shall publish and make available to Employers a bulletin announcing the adjusted Living Wage rate, which shall take effect on July 1. In conjunction with this bulletin, the Department shall by May 1 of each year publish and make available to Employers, in all languages spoken by more than five percent of the work force in the City, a notice suitable for posting by Employers in the workplace informing Employees of the current Living Wage rate and of their rights under this Chapter.

B. Every Employer subject to the Living Wage Ordinance shall post in a conspicuous place at any workplace or job site in the City where any Employee works, the notice published each year by the Department informing Employees of the current Living Wage rate and of their rights under this Chapter, including healthcare and Paid Sick Leave. Every Employer shall post such notices in any language spoken by at least five percent of the Employees at the work-place or job site. Every Employer shall also provide each Employee at the time of hire with the Employer's name, address, and telephone number in writing.

C. Employers shall retain payroll records pertaining to Employees for a period of four years, and shall allow the City access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this Chapter. Where an Employer does not maintain or retain adequate records documenting wages paid or does not allow the City reasonable access to such records, the Employee's account of how much he or she was paid shall be presumed to be accurate, absent clear and convincing evidence otherwise. Such records shall include the amount of hours worked, wages paid, and shall state, in unambiguous terms, the manner in which the Employer made their required healthcare expenditures for each Employee.

D. Every Employer shall post a notice in a conspicuous place at any workplace or job site in the City where any Employee works explaining how Service Charges are distributed among Employees. Employers shall report the amount of money collected as Service Charges to Employees no later than the end of the pay period when they were collected. In order to ensure that the distribution of Service Charges is lawful, Employers shall, upon request by an Employee, make available their records of sales and associated Service Charges in a given pay period.

**Section 13.27.050 Compensation required to be paid to specified employees.**

Except as provided in Section 13.27.060, an employer subject to this chapter pursuant to Section shall provide to its covered employees the following minimum compensation terms for the duration of the covered period:

~~A. Wages. If the employer pays at least \$1.62 per hour per employee towards an employee medical benefits plan, which allows the employees to receive employer-compensated care from a licensed physician, the employer shall pay employees an hourly wage of not less than \$9.75. If the employer does not provide the employees with such a medical benefit plan, the employer shall pay employees an hourly wage of not less than \$11.37. The hourly wage rate required by this section will be adjusted automatically or modified annually pursuant to subsection D.~~

A. Wages. All employers subject to this chapter shall pay the required Living Wage rate. In addition, all subject Employers shall offer a medical benefit plan equal to or higher than the benefit rate requirement. If the employer does not offer the employees with such a medical benefit plan, the employer shall pay employees an hourly wage of not less than the Living Wage rate plus the value of the medical benefit rate. The hourly wage rate and health care expenditure rate required by this section will be adjusted automatically or modified annually pursuant to subsection D. The new rates shall be announced by May 1 of each year and shall become effective on June 30 of that year.

B. Time-off. Employees shall be entitled to at least 22 days off per year for sick leave, vacation, or personal necessity. Twelve of the required days off shall be compensated at the same rate as regular compensation for a normal working day. Ten of the required 22 days may be uncompensated days off. Employees who work part-time shall be entitled to accrue compensated days off in increments proportional to that accrued by full-time employees. Employees shall be eligible to use accrued days off after the first six months of satisfactory employment or consistent with employer policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off.

C. Additional compensation permissible. Nothing in this chapter shall be construed to limit an employer's discretion to provide greater wages or time-off to its employees.

D. The wage rates required in subsection A shall be adjusted annually, effective June 30, to reflect increases during the preceding year in the Consumer Price Index for all urban consumers in the San Francisco-Oakland area, as published in April of each year by the U.S. Department of Labor, Bureau of Labor Statistics.

~~E. Notification of rights under chapter. Employers subject to this chapter pursuant to Section 13.27.030, shall give written notification to each current and new employee of his or her potential rights under this chapter in a form provided by the City. Such notice shall also be posted prominently in areas where it will be seen by all employees. (Ord. 6765-NS § 1, 2003; Ord. 6583-NS § 2, 2000; Ord. 6548-NS § 2, 2000)~~

E. Distribution of Service Charges. Service Charges shall be used by the Employer to directly benefit the Employees. No part of these charges may be paid to the Employer. This section does not apply to any tip, gratuity, money, or part of any tip, gratuity, or money that has been voluntarily paid or given to or left for an Employee by customers over and above the actual amount due for services rendered or for goods, food, drink, or articles sold or served to the customer. No part of this chapter shall be construed to limit or prohibit the amount of any tip or gratuity left for an Employee. No Employer or agent

thereof shall deduct any amount from wages due to an Employee on account of a Service Charge or gratuity, or require an Employee to credit the amount, or any part thereof, of a Service Charge or gratuity against and as a part of the wages due to the Employee from the Employer or reduce required benefits of an Employee. Each Employer shall define the chain of service and associated job duties entitled to a portion of the distributed service charges and notify the Employees of the distribution formula as well as provide in writing to each employee its plan of distribution of service charges to employees. This Section shall not be applied to any events for which the employer already had a contract in place at the time the revised ordinance is adopted.

**Section 13.27.060 Required contract provision.**

Every City contract, lease, license, concession agreement, franchise agreement or agreement for financial aid with an employer described in Section 13.27.030 or amendment thereto shall contain provisions requiring it to comply with the requirements of this chapter as they exist on the date when the employer entered its agreement with the City or when such agreement is amended. Such contract provisions shall address the employer's duty to promptly provide to the City documents and information verifying its compliance with the requirements of this chapter, and sanctions for non-compliance.

**Section 13.27.070 Exemptions.**

The requirements of this chapter shall not be applicable to the following employees:

A. An employee participating in a temporary job-training program in which a significant component of the employee's training consists of acquiring specialized job readiness knowledge, abilities or skills (e.g., the importance of proper work attire, punctuality and workplace demeanor.)

B. An employee who is under 18 years of age, employed by a non-profit entity for after school or summer employment or as a trainee for a period not longer than 120 days.

C. An employee working for the employer for a period not exceeding six months in aggregate during any 12-month period.

D. Volunteers.

E. Employees of contractors on City public works projects subject to the requirements of Division 2, Part 7, of the California Labor Code, when said code requires compensation greater than that required by this chapter.

~~F. Employees who are standing by or on-call according to the criteria established by the Fair Labor Standards Act, 29 U.S.C. Section 201. This exemption shall apply only during the time when the employee is actually standing by or on-call.~~

~~G.F.~~ An employee for whom application of the requirements of this chapter is prohibited by state or federal law.

~~H.G.~~ An employee subject to a bona fide collective bargaining agreement where the waiver of the provisions of this chapter are set forth in clear and unambiguous terms in such an agreement.

**Section 13.27.080 Retaliation and discrimination prohibited.**

~~A. No employer shall retaliate or discriminate against an employee in his or her terms and conditions of employment by reason of the person's status as an employee.~~

~~protected by the requirements of this chapter.~~

~~B. No employer shall retaliate or discriminate against a person in his or her terms and conditions of employment by reason of the person reporting a violation of this chapter or for prosecuting an action for enforcement of this chapter. (Ord. 6548-NS § 2, 2000) It shall be unlawful for an Employer or any other party to discriminate in any manner or take any adverse action (including action relating to any term, condition or privilege of employment) against any person in retaliation for exercising rights protected under this Chapter. Rights protected under this Chapter include, but are not limited to: the right to file a complaint or inform any person about any party's alleged noncompliance with this Chapter; and the right to inform any person of his or her potential rights under this Chapter or otherwise educate any person about this Chapter or to assist him or her in asserting such rights. Protections of this Chapter shall apply to any person who mistakenly, but in good faith, alleges noncompliance with this Chapter. Taking adverse action against a person within ninety (90) days of the person's exercise of rights protected under this Chapter shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.~~

### **Section 13.27.090 Employee complaints to City.**

~~A. An employee who alleges violation of any provision of the requirements of this chapter may report such acts to the City. The City Manager may establish a procedure for receiving and investigating such complaints and take appropriate enforcement action.~~

~~A. Guidelines. The Department shall be authorized to coordinate implementation and enforcement of this Chapter and may promulgate appropriate guidelines or rules for such purposes. The Department shall seek out partnerships with community-based organizations and collaborate with the Labor Commission to facilitate effective implementation and enforcement of this Chapter. Any guidelines or rules promulgated by the Department shall have the force and effect of law and may be relied on by Employers, Employees and other parties to determine their rights and responsibilities under this Chapter. Any guidelines or rules may establish procedures for ensuring fair, efficient and cost-effective implementation of this Chapter, including supplementary procedures for helping to inform Employees of their rights under this Chapter, for monitoring Employer compliance with this Chapter, and for providing administrative hearings to determine whether an Employer or other person has violated the requirements of this Chapter.~~

~~B. Reporting Violations. An Employee or any other person may report to the Department any suspected violation of this Chapter. The Department shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the Employee or person reporting the violation. Provided, however, that with the authorization of such person, the Department may disclose his or her name and identifying information as necessary to enforce this Chapter or other Employee protection laws. Any complaints received shall be treated as confidential matters, to the extent permitted by law. Any complaints received and all investigation documents related thereto shall be deemed exempt from disclosure pursuant to California Government Code, Sections 6254 and 6255. In order to further encourage reporting by~~

Employees, if the Department notifies an Employer that the Department is investigating a complaint, the Department shall require the Employer to post or otherwise notify its Employees that the Department is conducting an investigation, using a form provided by the Department.

C. Investigation. The Department shall be responsible for investigating any possible violations of this Chapter by an Employer or other person. The Department shall have the authority to inspect workplaces, interview persons and request the City Attorney to subpoena books, papers, records, or other items relevant to the enforcement of this Chapter.

D. Informal Resolution. The Department shall make every effort to resolve complaints informally, in a timely manner, and shall have a policy that the Department shall take no more than six months to resolve any matter, before initiating an enforcement action. The failure of the Department to meet these timelines within six months shall not be grounds for closure or dismissal of the complaint.

### **Section 13.27.100 Private rights of action.**

A. An employee claiming violation of this chapter may bring an action in the municipal court or superior court of the State of California, as appropriate, against an employer and obtain the following remedies:

1. Back pay for each day during which the employer failed to pay the compensation required by this chapter.

2. Reinstatement, compensatory damages and punitive damages.

3. Reasonable attorney's fees and costs.

B. Notwithstanding any provision of this chapter or any other ordinance to the contrary, no criminal penalties shall attach for any violation of this article.

C. No remedy set forth in this chapter is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce any rights hereunder in a court of law. This chapter shall not be construed to limit an employee's right to bring a common law cause of action for wrongful termination.

D. Nothing in this chapter shall be interpreted to authorize a right of action against the City.

### **13.27.110 Relationship to other requirements.**

This Chapter provides for payment of a local Living Wage and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement, policy or standard that provides for payment of higher or supplemental wages or benefits, or that extends other protections.

### **13.27.120 Application of Living Wage to Welfare-to-Work programs.**

The Living Wage established under this Chapter shall apply to the Welfare-to-Work programs under which persons must perform work in exchange for receipt of benefits. Participants in Welfare-to-Work Programs within the City of Berkeley shall not, during a given benefits period, be required to work more than a number of hours equal to the value of all cash benefits received during that period, divided by the Living Wage.

**13.27.130 Fees.**

Nothing herein shall preclude the City Council from imposing a cost recovery fee on all Employers to pay the cost of administering this Chapter.

**13.27.140 Severability.**

If any part or provision of this ordinance, or the application of this ordinance to any person or circumstance, is held invalid, the remainder of this ordinance, including the application of such part or provisions to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this ordinance are severable.

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 Council Chambers, 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.



ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 13.27; PAYMENT OF LIVING WAGE TO EMPLOYEES OF CITY CONTRACTORS

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

Section 1. That Berkeley Municipal Code Chapter 13.27 is amended to read as follows:  
PAYMENT OF LIVING WAGE TO EMPLOYEES OF CITY CONTRACTORS

Sections:

- 13.27.010 Title and purpose.
- 13.27.020 Definitions.
- 13.27.030 Contractors, users of public property, City financial aid recipients and subcontractors subject to the requirements of this chapter.
- 13.27.040 Waivers.
- 13.27.045 Notice, posting, and payroll records.
- 13.27.050 Compensation required to be paid to specified employees.
- 13.27.060 Required contract provision.
- 13.27.070 Exemptions.
- 13.27.080 Retaliation and discrimination prohibited.
- 13.27.090 Employee complaints to City.
- 13.27.100 Private rights of action.
- 13.27.110 Relationship to other requirements.
- 13.27.120 Application of Living Wage to Welfare-to-Work programs.
- 13.27.130 Fees.
- 13.27.140 Severability.

**Section 13.27.010 Title and purpose.**

This ordinance shall be known as the "Berkeley Living Wage Ordinance." The purpose of this ordinance is to protect the public health, safety and welfare. It does this by requiring that public funds be expended in such a manner as to facilitate individual self-reliance by employees of City contractors, lessees, recipients of City financial aid and their respective subcontractors.

**Section 13.27.020 Definitions.**

The following definitions shall apply throughout this ordinance:

A. "City financial aid recipients" means all persons or entities that receive from the City direct assistance in the form of grants, loans, or loan guarantees, in-kind services, waivers of City fees, real property or other valuable consideration in an amount of more than \$100,000 in any 12-month period. This term shall not include those who enjoy an economic benefit as an incidental effect of City policies, regulations, ordinances, or charter provisions.

B. "Marina zone" shall mean all land held in trust by the City of Berkeley pursuant to the Public Trust Tidelands grant from the State of California to the City of Berkeley,

Stats. 1962, Ch. 55; specifically, Aquatic Park and all land, including submerged land, which is west of Marina Boulevard as it is presently constructed and as if it were extended, in both northerly and southerly directions, to the Berkeley city limits and all land north of Spinnaker Way as it is presently constructed and as if it were extended to the shoreline, to the east, and to the Berkeley city limits, to the west.

C. "Non-profit" shall mean a non-profit organization described in Section 501c(3) of the Internal Revenue Code of 1954 which is exempt from taxation under Section 501(c)(3) of that code, or any non-profit educational organization qualified under Section 23701(d) of the Revenue and Taxation Code.

D. "Service Charge" means all separately-designated amounts collected by an Employer from customers that are described in such a way that customers might reasonably believe that the amounts are for Employees or services rendered by Employees, including but not limited to those charges designated on receipts under the term "service charge," "automatic gratuity charge," "delivery charge," or "portage charge."

**Section 13.27.030 Contractors, users of public property, City financial aid recipients and subcontractors subject to the requirements of this chapter.**

The persons and entities described below shall comply with the minimum compensation standards established by this chapter to the employees specified herein:

A. For-profit vendors of services, which employ six or more employees and receive contract(s) for \$25,000 or more in a 12-month period. Compliance shall be required during the term of said contract(s) as to any employees who spend 25% or more of their compensated time engaged in work directly related to the said contract(s).

B. Non-profit vendors of services, which employ six or more employees and receive contracts of \$100,000 or more in a 12-month period. Compliance shall be required during the term of said contract as to any employees who spend 50% or more of their compensated time engaged in work directly related to a City contract.

C. Lessees of public property, licensees, concessionaires, and franchisees, which employ six or more employees and generate \$350,000 or more in annual gross receipts. Compliance shall be required during the lease term with regard to any employees who spend 25% or more of their compensated time on the leased property, or engaged in work directly related to the license, concession or franchise.

D. City financial aid recipients, which receive more than \$100,000 in loans, or other cash and/or non-cash assistance in any 12-month period. Compliance shall be required for a period of five years following receipt of the aid with regard to employees who spend 25% or more of their compensated time engaged in work directly related to the purpose for which the City provided the aid.

E. Entities within the boundaries of the Marina Zone which employ six or more employees and generate \$350,000 or more in annual gross receipts. Compliance shall be required with regard to any employees who spend 25% or more of their compensated time in the Marina Zone.

F. Subcontractors and sublessees of any of the entities, persons, or recipients described in subparagraphs A through D. Compliance shall be required during the term of the contract between the City and the prime contractor, lessee, licensee,

concessionaire, franchisee or City financial aid recipient as to any employees who spend 25% or more of their compensated time engaged in work directly related to the City contract, lease, license, concession, franchise or agreement providing financial aid.

**Section 13.27.040 Waivers.**

The City Council may temporarily waive the requirements of this chapter upon a finding and determination that such a waiver is in the best interests of the City. Such waivers may not cover a period longer than 365 days, and may not be renewed or reissued to the same party in order to cover additional time. All waivers previously issued by the City shall expire 365 days after this Chapter becomes effective.

**13.27.045 Notice, posting, and payroll records.**

A. By May 1 of each year, the Department shall publish and make available to Employers a bulletin announcing the adjusted Living Wage rate, which shall take effect on July 1. In conjunction with this bulletin, the Department shall by May 1 of each year publish and make available to Employers, in all languages spoken by more than five percent of the work force in the City, a notice suitable for posting by Employers in the workplace informing Employees of the current Living Wage rate and of their rights under this Chapter.

B. Every Employer subject to the Living Wage Ordinance shall post in a conspicuous place at any workplace or job site in the City where any Employee works, the notice published each year by the Department informing Employees of the current Living Wage rate and of their rights under this Chapter, including healthcare and Paid Sick Leave. Every Employer shall post such notices in any language spoken by at least five percent of the Employees at the work-place or job site. Every Employer shall also provide each Employee at the time of hire with the Employer's name, address, and telephone number in writing.

C. Employers shall retain payroll records pertaining to Employees for a period of four years, and shall allow the City access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this Chapter. Where an Employer does not maintain or retain adequate records documenting wages paid or does not allow the City reasonable access to such records, the Employee's account of how much he or she was paid shall be presumed to be accurate, absent clear and convincing evidence otherwise. Such records shall include the amount of hours worked, wages paid, and shall state, in unambiguous terms, the manner in which the Employer made their required healthcare expenditures for each Employee.

D. Every Employer shall post a notice in a conspicuous place at any workplace or job site in the City where any Employee works explaining how Service Charges are distributed among Employees. Employers shall report the amount of money collected as Service Charges to Employees no later than the end of the pay period when they were collected. In order to ensure that the distribution of Service Charges is lawful, Employers shall, upon request by an Employee, make available their records of sales and associated Service Charges in a given pay period.

**Section 13.27.050 Compensation required to be paid to specified employees.**

Except as provided in Section 13.27.060, an employer subject to this chapter

pursuant to Section shall provide to its covered employees the following minimum compensation terms for the duration of the covered period:

A. Wages. All employers subject to this chapter shall pay the required Living Wage rate. In addition, all subject Employers shall offer a medical benefit plan equal to or higher than the benefit rate requirement. If the employer does not offer the employees with such a medical benefit plan, the employer shall pay employees an hourly wage of not less than the Living Wage rate plus the value of the medical benefit rate. The hourly wage rate and health care expenditure rate required by this section will be adjusted automatically or modified annually pursuant to subsection D. The new rates shall be announced by May 1 of each year and shall become effective on June 30 of that year.

B. Time-off. Employees shall be entitled to at least 22 days off per year for sick leave, vacation, or personal necessity. Twelve of the required days off shall be compensated at the same rate as regular compensation for a normal working day. Ten of the required 22 days may be uncompensated days off. Employees who work part-time shall be entitled to accrue compensated days off in increments proportional to that accrued by full-time employees. Employees shall be eligible to use accrued days off after the first six months of satisfactory employment or consistent with employer policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off.

C. Additional compensation permissible. Nothing in this chapter shall be construed to limit an employer's discretion to provide greater wages or time-off to its employees.

D. The wage rates required in subsection A shall be adjusted annually, effective June 30, to reflect increases during the preceding year in the Consumer Price Index for all urban consumers in the San Francisco-Oakland area, as published in April of each year by the U.S. Department of Labor, Bureau of Labor Statistics.

E. Distribution of Service Charges. Service Charges shall be used by the Employer to directly benefit the Employees. No part of these charges may be paid to the Employer. This section does not apply to any tip, gratuity, money, or part of any tip, gratuity, or money that has been voluntarily paid or given to or left for an Employee by customers over and above the actual amount due for services rendered or for goods, food, drink, or articles sold or served to the customer. No part of this chapter shall be construed to limit or prohibit the amount of any tip or gratuity left for an Employee. No Employer or agent thereof shall deduct any amount from wages due to an Employee on account of a Service Charge or gratuity, or require an Employee to credit the amount, or any part thereof, of a Service Charge or gratuity against and as a part of the wages due to the Employee from the Employer or reduce required benefits of an Employee. Each Employer shall define the chain of service and associated job duties entitled to a portion of the distributed service charges and notify the Employees of the distribution formula as well as provide in writing to each employee its plan of distribution of service charges to employees. This Section shall not be applied to any events for which the employer already had a contract in place at the time the revised ordinance is adopted.

### **Section 13.27.060 Required contract provision.**

Every City contract, lease, license, concession agreement, franchise agreement or agreement for financial aid with an employer described in Section 13.27.030 or amendment thereto shall contain provisions requiring it to comply with the requirements

of this chapter as they exist on the date when the employer entered its agreement with the City or when such agreement is amended. Such contract provisions shall address the employer's duty to promptly provide to the City documents and information verifying its compliance with the requirements of this chapter, and sanctions for non-compliance.

**Section 13.27.070 Exemptions.**

The requirements of this chapter shall not be applicable to the following employees:

A. An employee participating in a temporary job-training program in which a significant component of the employee's training consists of acquiring specialized job readiness knowledge, abilities or skills (e.g., the importance of proper work attire, punctuality and workplace demeanor.)

B. An employee who is under 18 years of age, employed by a non-profit entity for after school or summer employment or as a trainee for a period not longer than 120 days.

C. An employee working for the employer for a period not exceeding six months in aggregate during any 12-month period.

D. Volunteers.

E. Employees of contractors on City public works projects subject to the requirements of Division 2, Part 7, of the California Labor Code, when said code requires compensation greater than that required by this chapter.

F. An employee for whom application of the requirements of this chapter is prohibited by state or federal law.

G. An employee subject to a bona fide collective bargaining agreement where the waiver of the provisions of this chapter are set forth in clear and unambiguous terms in such an agreement.

**Section 13.27.080 Retaliation and discrimination prohibited.**

It shall be unlawful for an Employer or any other party to discriminate in any manner or take any adverse action (including action relating to any term, condition or privilege of employment) against any person in retaliation for exercising rights protected under this Chapter. Rights protected under this Chapter include, but are not limited to: the right to file a complaint or inform any person about any party's alleged noncompliance with this Chapter; and the right to inform any person of his or her potential rights under this Chapter or otherwise educate any person about this Chapter or to assist him or her in asserting such rights. Protections of this Chapter shall apply to any person who mistakenly, but in good faith, alleges noncompliance with this Chapter. Taking adverse action against a person within ninety (90) days of the person's exercise of rights protected under this Chapter shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

**Section 13.27.090 Employee complaints to City.**

A. Guidelines. The Department shall be authorized to coordinate implementation and enforcement of this Chapter and may promulgate appropriate guidelines or rules for such purposes. The Department shall seek out partnerships with community-based organizations and collaborate with the Labor Commission to facilitate effective implementation and enforcement of this Chapter. Any guidelines or rules promulgated

by the Department shall have the force and effect of law and may be relied on by Employers, Employees and other parties to determine their rights and responsibilities under this Chapter. Any guidelines or rules may establish procedures for ensuring fair, efficient and cost-effective implementation of this Chapter, including supplementary procedures for helping to inform Employees of their rights under this Chapter, for monitoring Employer compliance with this Chapter, and for providing administrative hearings to determine whether an Employer or other person has violated the requirements of this Chapter.

B. Reporting Violations. An Employee or any other person may report to the Department any suspected violation of this Chapter. The Department shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the Employee or person reporting the violation. Provided, however, that with the authorization of such person, the Department may disclose his or her name and identifying information as necessary to enforce this Chapter or other Employee protection laws. Any complaints received and all investigation documents related thereto shall be deemed exempt from disclosure pursuant to California Government Code, Sections 6254 and 6255. In order to further encourage reporting by Employees, if the Department notifies an Employer that the Department is investigating a complaint, the Department shall require the Employer to post or otherwise notify its Employees that the Department is conducting an investigation, using a form provided by the Department.

C. Investigation. The Department shall be responsible for investigating any possible violations of this Chapter by an Employer or other person. The Department shall have the authority to inspect workplaces, interview persons and request the City Attorney to subpoena books, papers, records, or other items relevant to the enforcement of this Chapter.

D. Informal Resolution. The Department shall make every effort to resolve complaints informally, in a timely manner, and shall have a policy that the Department shall take no more than six months to resolve any matter, before initiating an enforcement action. The failure of the Department to meet these timelines within six months shall not be grounds for closure or dismissal of the complaint.

### **Section 13.27.100 Private rights of action.**

A. An employee claiming violation of this chapter may bring an action in the municipal court or superior court of the State of California, as appropriate, against an employer and obtain the following remedies:

1. Back pay for each day during which the employer failed to pay the compensation required by this chapter.
2. Reinstatement, compensatory damages and punitive damages.
3. Reasonable attorney's fees and costs.

B. Notwithstanding any provision of this chapter or any other ordinance to the contrary, no criminal penalties shall attach for any violation of this article.

C. No remedy set forth in this chapter is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce any rights hereunder in a court of law. This chapter shall not be construed to limit an employee's right to bring a common law cause

of action for wrongful termination.

D. Nothing in this chapter shall be interpreted to authorize a right of action against the City.

**13.27.110 Relationship to other requirements.**

This Chapter provides for payment of a local Living Wage and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement, policy or standard that provides for payment of higher or supplemental wages or benefits, or that extends other protections.

**13.27.120 Application of Living Wage to Welfare-to-Work programs.**

The Living Wage established under this Chapter shall apply to the Welfare-to-Work programs under which persons must perform work in exchange for receipt of benefits. Participants in Welfare-to-Work Programs within the City of Berkeley shall not, during a given benefits period, be required to work more than a number of hours equal to the value of all cash benefits received during that period, divided by the Living Wage.

**13.27.130 Fees.**

Nothing herein shall preclude the City Council from imposing a cost recovery fee on all Employers to pay the cost of administering this Chapter.

**13.27.140 Severability.**

If any part or provision of this ordinance, or the application of this ordinance to any person or circumstance, is held invalid, the remainder of this ordinance, including the application of such part or provisions to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this ordinance are severable.

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 Council Chambers, 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.

CONSENT CALENDAR  
September 16, 2014

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguin

Subject: Referral to Commission on Labor: Amendments to Living Wage Ordinance (Berkeley Municipal Code Chapter 13.27)

**RECOMMENDATION:**

Refer to the Commission on Labor the following suggested amendments to the Living Wage Ordinance, Berkeley Municipal Code Chapter 13.27:

1. Amend Section 13.27.050.A to allow an employee the right to opt out of an employer provided medical benefit plan and still receive the higher compensation amount (currently \$15.99 per hour) as cash in lieu if they provide proof of alternative coverage under a medical benefit plan.
2. Amend the posting requirements, retaliation, complaint process, and enforcement sections to conform to the language in the recently adopted Minimum Wage Ordinance.

**BACKGROUND:**

The Berkeley City Council adopted a Living Wage Law in 2000 to require for-profit and non-profit businesses (at a certain threshold), that are under a City contract, to pay their employees a living wage and provide health insurance and paid time off. The current Living Wage rate is **\$13.71 per hour plus a medical benefit equivalent to at least \$2.28 per hour**. If the employer does not provide the employee at least \$2.28 per hour toward an employee medical benefits plan, the employer shall pay an hourly wage of not less than **\$15.99**. If an employer pays for health coverage and an employee elects not to receive coverage, the employer is permitted to pay the lower hourly rate.

Two recent complaints filed by former and current employees of LAZ Parking, a city contractor who manages the City's public parking garages, have alleged that the employer failed to pay the full rate of compensation and denied breaks and paid days off.

The complaint made by Mr. Julio Castro alleging that LAZ Parking was required to provide Mr. Castro with the higher compensation amount because it did not provide actual medical coverage has raised issues regarding the loopholes in the current Living Wage Ordinance. Mr. Castro opted to not take the employer provided medical insurance plan, because he paid for another plan that was less costly. Nevertheless, despite the fact that the employer never directly provided health insurance coverage, they were able to pay Mr. Castro the lower wage, rather than include the differential for lack of



health coverage. Apparently, under city law all an employer has to do is offer health coverage but not directly provide it in order to pay the lower wage amount.

Nowhere in the current Living Wage Ordinance does it state that the employer would pay the whole amount of the medical insurance plan. The employee would still pay a premium which depending on the cost of the insurance may be significant, and as result decrease the amount of take home pay an employee would be entitled to. The current language of the law provides incentives for employers to offer more expensive insurance plans with higher employee premiums in order to avoid paying a higher wage.

The law was clearly written with the goal of extending benefits to employees, not taking them away. Similar to city employees, including City Councilmembers, contract employees subject to the Living Wage Ordinance, should be allowed to pay for alternative insurance and receive cash in lieu equivalent to the higher wage amount if they provide proof of insurance coverage. In addition, the City should explore changing the law to say that only if an employee is covered under an insurance plan can the employer pay the lower wage amount. These changes would close the existing loophole and ensure that contract employees are afforded the same rights as our city employees.

In addition, the recently adopted Minimum Wage Ordinance included stronger language on posting of notices, notification of rights, making complaints, retaliation and enforcement. Since the Living Wage Ordinance was adopted in 2000 before the Minimum Wage Law, and since it affectively accomplishes the same goals - fair wages for employees - the City should amend the Living Wage law to conform to the notice, complaint, retaliation and enforcement requirements of the new Minimum Wage Ordinance.

One of the issues alleged is the lack of proper notification of employees covered under the Living Wage Ordinance. The Minimum Wage Ordinance standards are stronger and require better notification and enforcement. Given that the City will be creating an enforcement position to implement both the Minimum Wage and Living Wage Ordinance, there should be consistency of the requirements for ease of enforcement.

Also the notification requirements must be strengthened. There is no requirement for annual notification, so employees may not necessarily know what the wage amount has increased due to inflation. There is also no requirement that the notice provided to workers and required to be posted, has to include information on how to file a complaint and contact information on where to make a complaint. Providing better information on the wages, benefits, complaint process, and protection against retaliation will ensure that workers know their rights and can help prevent potential violations in the future.

#### FINANCIAL IMPLICATIONS:

Staff time involved in presenting the City Council's referral to the Commission on Labor, analyzing the proposed changes, and proposing recommendations to the Commission and City Council.

CONTACT PERSON:

Jesse Arreguin, Councilmember, District 4      981-7140

Attachments:

1. Current Living Wage Ordinance (B.M.C. Chapter 13.27) with sections highlighted to be changed
2. July 9, 2014 East Bay Express Article "Berkeley Sides with Living Wage Law Violators"

**Chapter 13.27**  
**PAYMENT OF LIVING WAGE TO EMPLOYEES OF CITY CONTRACTORS**

Sections:

- [13.27.010](#) Title and purpose.
- [13.27.020](#) Definitions.
- [13.27.030](#) Contractors, users of public property, City financial aid recipients and subcontractors subject to the requirements of this chapter.
- [13.27.040](#) Waivers.
- [13.27.050](#) Compensation required to be paid to specified employees.
- [13.27.060](#) Required contract provision.
- [13.27.070](#) Exemptions.
- [13.27.080](#) Retaliation and discrimination prohibited.
- [13.27.090](#) Employee complaints to City.
- [13.27.100](#) Private rights of action.

**13.27.010 Title and purpose.**

This ordinance shall be known as the "Berkeley Living Wage Ordinance." The purpose of this ordinance is to protect the public health, safety and welfare. It does this by requiring that public funds be expended in such a manner as to facilitate individual self-reliance by employees of City contractors, lessees, recipients of City financial aid and their respective subcontractors. (Ord. 6548-NS § 2, 2000)

**13.27.020 Definitions.**

The following definitions shall apply throughout this ordinance:

A. "City financial aid recipients" means all persons or entities that receive from the City direct assistance in the form of grants, loans, or loan guarantees, in-kind services, waivers of City fees, real property or other valuable consideration in an amount of more than \$100,000 in any 12-month period. This term shall not include those who enjoy an economic benefit as an incidental effect of City policies, regulations, ordinances, or charter provisions.

B. "Marina zone" shall mean all land held in trust by the City of Berkeley pursuant to the Public Trust Tidelands grant from the State of California to the City of Berkeley, Stats. 1962, Ch. 55; specifically, Aquatic Park and all land, including submerged land, which is west of Marina

Boulevard as it is presently constructed and as if it were extended, in both northerly and southerly directions, to the Berkeley city limits and all land north of Spinnaker Way as it is presently constructed and as if it were extended to the shoreline, to the east, and to the Berkeley city limits, to the west.

C. "Non-profit" shall mean a non-profit organization described in Section 501c(3) of the Internal Revenue Code of 1954 which is exempt from taxation under Section 501(c)(3) of that code, or any non-profit educational organization qualified under Section 23701(d) of the Revenue and Taxation Code. (Ord. 6583-NS § 2, 2000: Ord. 6548-NS § 2, 2000)

**13.27.030 Contractors, users of public property, City financial aid recipients and subcontractors subject to the requirements of this chapter.**

The persons and entities described below shall comply with the minimum compensation standards established by this chapter to the employees specified herein:

A. For-profit vendors of services, which employ six or more employees and receive contract(s) for \$25,000 or more in a 12-month period. Compliance shall be required during the term of said contract(s) as to any employees who spend 25% or more of their compensated time engaged in work directly related to the said contract(s).

B. Non-profit vendors of services, which employ six or more employees and receive contracts of \$100,000 or more in a 12-month period. Compliance shall be required during the term of said contract as to any employees who spend 50% or more of their compensated time engaged in work directly related to a City contract.

C. Lessees of public property, licensees, concessionaires, and franchisees, which employ six or more employees and generate \$350,000 or more in annual gross receipts. Compliance shall be required during the lease term with regard to any employees who spend 25% or more of their compensated time on the leased property, or engaged in work directly related to the license, concession or franchise.

D. City financial aid recipients, which receive more than \$100,000 in loans, or other cash and/or non-cash assistance in any 12-month period. Compliance shall be required for a period of five years following receipt of the aid with regard to employees who spend 25% or more of

their compensated time engaged in work directly related to the purpose for which the City provided the aid.

E. Entities within the boundaries of the Marina Zone which employ six or more employees and generate \$350,000 or more in annual gross receipts. Compliance shall be required with regard to any employees who spend 25% or more of their compensated time in the Marina Zone.

F. Subcontractors and sublessees of any of the entities, persons, or recipients described in subparagraphs A through D. Compliance shall be required during the term of the contract between the City and the prime contractor, lessee, licensee, concessionaire, franchisee or City financial aid recipient as to any employees who spend 25% or more of their compensated time engaged in work directly related to the City contract, lease, license, concession, franchise or agreement providing financial aid. (Ord. 6583-NS § 2, 2000; Ord. 6548-NS § 2, 2000)

#### **13.27.040 Waivers.**

The City Council may waive the requirements of this chapter upon a finding and determination that such a waiver is in the best interests of the City. (Ord. 6548-NS § 2, 2000)

#### **13.27.050 Compensation required to be paid to specified employees.**

Except as provided in Section [13.27.060](#), an employer subject to this chapter pursuant to Section [13.27.030](#) shall provide to its covered employees the following minimum compensation terms for the duration of the covered period:

A. **Wages.** If the employer pays at least \$1.62 per hour per employee towards an employee medical benefits plan, which allows the employees to receive employer-compensated care from a licensed physician, the employer shall pay employees an hourly wage of not less than \$9.75. If the employer does not provide the employees with such a medical benefit plan, the employer shall pay employees an hourly wage of not less than \$11.37. The hourly wage rate required by this section will be adjusted automatically or modified annually pursuant to subsection D.

B. **Time-off.** Employees shall be entitled to at least 22 days off per year for sick leave, vacation, or personal necessity. Twelve of the required days off shall be compensated at the same rate as regular compensation for a normal working day. Ten of the required 22 days may be uncompensated days off. Employees who work part-time shall be entitled to accrue compensated days off in increments proportional to that accrued by full-time employees.

Employees shall be eligible to use accrued days off after the first six months of satisfactory employment or consistent with employer policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off.

C. Additional compensation permissible. Nothing in this chapter shall be construed to limit an employer's discretion to provide greater wages or time-off to its employees.

D. The wage rates required in subsection A shall be adjusted annually, effective June 30, to reflect increases during the preceding year in the Consumer Price Index for all urban consumers in the San Francisco-Oakland area, as published in April of each year by the U.S. Department of Labor, Bureau of Labor Statistics.

E. Notification of rights under chapter. Employers subject to this chapter pursuant to Section [13.27.030](#), shall give written notification to each current and new employee of his or her potential rights under this chapter in a form provided by the City. Such notice shall also be posted prominently in areas where it will be seen by all employees. (Ord. 6765-NS § 1, 2003; Ord. 6583-NS § 2, 2000; Ord. 6548-NS § 2, 2000)

**13.27.060 Required contract provision.**

Every City contract, lease, license, concession agreement, franchise agreement or agreement for financial aid with an employer described in Section [13.27.030](#) or amendment thereto shall contain provisions requiring it to comply with the requirements of this chapter as they exist on the date when the employer entered its agreement with the City or when such agreement is amended. Such contract provisions shall address the employer's duty to promptly provide to the City documents and information verifying its compliance with the requirements of this chapter, and sanctions for non-compliance. (Ord. 6548-NS § 2, 2000)

**13.27.070 Exemptions.**

The requirements of this chapter shall not be applicable to the following employees:

A. An employee participating in a temporary job-training program in which a significant component of the employee's training consists of acquiring specialized job readiness knowledge, abilities or skills (e.g., the importance of proper work attire, punctuality and workplace demeanor.)

- B. An employee who is under 18 years of age, employed by a non-profit entity for after school or summer employment or as a trainee for a period not longer than 120 days.
- C. An employee working for the employer for a period not exceeding six months in aggregate during any 12-month period.
- D. Volunteers.
- E. Employees of contractors on City public works projects subject to the requirements of Division 2, Part 7, of the California Labor Code, when said code requires compensation greater than that required by this chapter.
- F. Employees who are standing by or on-call according to the criteria established by the Fair Labor Standards Act, 29 U.S.C. Section 201. This exemption shall apply only during the time when the employee is actually standing by or on-call.
- G. An employee for whom application of the requirements of this chapter is prohibited by state or federal law.
- H. An employee subject to a bona fide collective bargaining agreement where the waiver of the provisions of this chapter are set forth in clear and unambiguous terms in such an agreement. (Ord. 6548-NS § 2, 2000)

**13.27.080 Retaliation and discrimination prohibited.**

A. No employer shall retaliate or discriminate against an employee in his or her terms and conditions of employment by reason of the person's status as an employee protected by the requirements of this chapter.

B. No employer shall retaliate or discriminate against a person in his or her terms and conditions of employment by reason of the person reporting a violation of this chapter or for prosecuting an action for enforcement of this chapter. (Ord. 6548-NS § 2, 2000)

**13.27.090 Employee complaints to City.**

A. An employee who alleges violation of any provision of the requirements of this chapter may report such acts to the City. The City Manager may establish a procedure for receiving and investigating such complaints and take appropriate enforcement action.

B. Any complaints received shall be treated as confidential matters, to the extent permitted by law. Any complaints received and all investigation documents related thereto shall be deemed exempt from disclosure pursuant to California Government Code, Sections 6254 and 6255. (Ord. 6548-NS § 2, 2000)

**13.27.100 Private rights of action.**

A. An employee claiming violation of this chapter may bring an action in the municipal court or superior court of the State of California, as appropriate, against an employer and obtain the following remedies:

1. Back pay for each day during which the employer failed to pay the compensation required by this chapter.
2. Reinstatement, compensatory damages and punitive damages.
3. Reasonable attorney's fees and costs.

B. Notwithstanding any provision of this chapter or any other ordinance to the contrary, no criminal penalties shall attach for any violation of this article.

C. No remedy set forth in this chapter is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce any rights hereunder in a court of law. This chapter shall not be construed to limit an employee's right to bring a common law cause of action for wrongful termination.

D. Nothing in this chapter shall be interpreted to authorize a right of action against the City. (Ord. 6548-NS § 2, 2000)



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## Berkeley Sides With Living Wage Violators

The city has brushed aside numerous labor complaints against a city contractor — and has now revised its policy in a way that benefits employers and shortchanges low-wage workers.

By Sam Levin @SamTLevin



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Since 2000, businesses that have contracts with the City of Berkeley have been subject to a living wage ordinance that establishes minimum standards of pay and employee health benefits for employees. The intent is simple: to ensure that city contractors pay their workers wages that can support a family at or above the poverty level. In 2012, for the first time since the living wage law was enacted, an employee of a city contractor filed a complaint with the city, alleging violations of the ordinance. The alleged offender was LAZ Parking, a private company that manages three city-owned garages, and the complaint, from former employee Julio Castro, only came to light earlier this year when the city council began discussions about expanding LAZ's contract.

According to Castro, the company had underpaid him and other employees in violation of the law, and despite his persistent complaints to the city, officials did little to help him. His struggle exposed Berkeley's lack of an effective living wage enforcement mechanism. When I first reported on Castro's story (see "The Failure of Berkeley's Living Wage Law," 4/23) city spokesperson Matthai Chakko declined to comment, saying a report would be sent to the city council, detailing an investigation into LAZ Parking. The city finally produced the report last month, and the document, according to a number of labor advocates, reveals just how deeply flawed the city's living wage policy and enforcement system really are. For starters, the city's report sides with LAZ Parking in Castro's dispute, despite significant evidence that the company underpaid him, and notwithstanding a state ruling last year in Castro's favor. What's more, the city has used its report as an opportunity to reinterpret a critical part of the living wage law in a manner that benefits contractors and hurts low-wage workers.

"The living wage ordinance was made to help employees," said Castro, a sixty-year-old Concord resident and former LAZ Parking cashier. "It's the city's job to make sure things are done right."

Castro's case — and the city's new interpretation of the living wage law —

center on the health care contribution requirements laid out in the ordinance. At current rates, employers must pay an hourly wage of \$13.71 plus a medical benefit equivalent to at least \$2.28 per hour. If an employer does not provide an employee with the medical benefit, then it must pay the additional \$2.28, meaning an hourly wage of \$15.99, according to the law.

LAZ Parking, as Castro outlined in formal allegations in 2012, paid him the lower rate, which was \$12.76 per hour when he started working for the company in July 2011. But LAZ did not pay for his health benefits. That's because the package LAZ offered, Castro said, would have been significantly more expensive for him than his insurance plan with Contra Costa County (the Contra Costa Health Plan). That meant that LAZ, according to his complaints, was obligated to pay him the higher rate — at that time, \$14.88 per hour. After discussions with his managers and multiple city officials got him nowhere, Castro filed a complaint with the state labor commissioner's office in 2012. And in 2013, the state issued a ruling in his favor, declaring that LAZ had violated Berkeley's living wage law and should have paid the higher rate, amounting to a total of \$2,245 in back wages. LAZ has since paid Castro this amount.

But in the city's recent report on LAZ, Berkeley City Manager Christine Daniel wrote that the state's decision in support of Castro was "incorrect" and contrary to the living wage ordinance. Because LAZ had *offered* Castro health care benefits, the company was allowed to pay him the lower \$12.76 rate, Daniel wrote. And to ensure that employees understand this in the future, the report continued, the city has revised its living wage website to include this statement: "If an employer pays for health coverage and an employee elects not to receive coverage, the employer is permitted to pay the lower hourly rate."

Because this is a new statement on the website — and one that is nowhere to be found in the actual ordinance — the revision has alarmed labor advocates who argue that the city is not only endorsing LAZ's decision to underpay employees, but is going a step further and establishing this practice as acceptable policy. "It essentially eviscerates the law," said Carole Vigne, director of the wage protection program of the Legal Aid Society-Employment Law Center. "This new interpretation ... feels like a tremendous loophole."

Vigne is one of several Employment Law Center attorneys who have represented Castro in the course of his multi-year fight against LAZ. The labor commissioner's office also ruled last year that the company also owed Castro \$939.24 for denying him rest breaks, a violation separate from the living wage concerns. Castro has further alleged retaliation, because LAZ terminated him in 2012 after he complained about the living wage violations; a decision in this separate retaliation case is pending, after labor hearings concluded last month.

In its 2013 ruling on Castro's living wage complaint, the California labor commissioner's office noted that when employers don't provide medical benefits, there is a "clear directive" in the Berkeley living wage ordinance that employers "shall" pay the higher rate: "There is nothing in the Ordinance that allows an employee entitled to its benefits to waive his right to those benefits," the state hearing officer wrote.

Vigne, too, argued that, regardless of the city's elaborations on its website, the enforceable language of the ordinance says employers must "provide" medical benefits or the higher wage: "Provide means to give, it doesn't just mean to offer," she said. Vigne also shared with me printouts of older versions of Berkeley's living wage web pages, pointing out that, even in the city's detailed FAQ section on the law, "there was no suggestion anywhere on their website that this is how the living wage ordinance was intended to be interpreted."

It's unclear why exactly the city is taking a position that shortchanges low-wage workers. In her report, Daniel cited a September 2000 city memo on the living wage ordinance that said employers could pay the lower hourly

rate when employees decline an offer of health coverage. But Vigne sent me a June 2000 memo from the Berkeley commission on labor that emphasized that one of the objectives of the living wage law was to help employees access "reasonable health insurance." And regardless of the debates around interpretation, living wage laws should not prevent low-wage workers from buying a health-care plan that is cheaper than the one offered by the employer, said Gina Gemello, an Employment Law Center project attorney who has also represented Castro. "If an employee can get insurance coverage for half of what the employer offers, then why would the city stand against them?" said Castro.

Berkeley City Councilmember Jesse Arreguín — who has been in contact with Castro for years and has repeatedly asked the city to address complaints against LAZ — said he also disagrees with the city's new interpretation of the law and plans to introduce legislation later this year that would revise the ordinance to make clear that contractors must provide health care or pay the higher wage. "If an employee is able to get health care at a much cheaper rate, the employer should help contribute to that," he said, adding, "I was very surprised when the city took a position trying to disprove the state. ... The law was intended to favor the worker, not management."

In response to Daniel's report, Arreguín issued a memo last week questioning why the city has been so slow to respond to complaints about LAZ and why its report ignores Castro's allegations of retaliation entirely. The living wage law explicitly prohibits retaliation and discrimination against a person who reports a violation, meaning the city's enforcement of the law and investigation into LAZ should have addressed concerns of retaliation. Arreguín's memo also questioned whether the city has followed up on a complaint from another former LAZ employee, Chauncy Taylor, who, like Castro, said she was paid the lower rate and did not receive health benefits.

Though Taylor outlined her situation in great detail to Arreguín's office — which forwarded the claims to the city manager more than a year ago — Taylor has not received any back wages and it's unclear if the city has done any investigation into her case. Taylor said in an interview that no city official other than Arreguín's office has ever contacted her about her claims. Further, Taylor said LAZ never even offered her health benefits in the first place because she was technically a part-time employee. That means that, even with the city's new interpretation of the law, she could have a strong case. And her situation is a clear illustration of the impacts of a flawed living wage law: When she worked for LAZ, she was uninsured.

"It would really help if they could come through," said Taylor, noting that her landlord just raised her rent and that she continues to struggle to make ends meet. "I am praying and hoping that they come around. At this point, I'd be okay if they just gave me half. Times are so hard."

Chakko declined to answer any questions about LAZ Parking or the living wage law, saying the city plans to issue a response to Arreguín's memo. LAZ representatives did not respond to multiple requests for comment.

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Office of the Mayor

CONSENT CALENDAR

January 29, 2019

To: Members of the City Council

From: Mayor Jesse Arreguín

Subject: Short-Term Referral: Develop Ordinance permitting Cannabis Events and designate Cesar Chavez Park as an Approved Venue

RECOMMENDATION

Short-Term Referral to the City Manager to develop ordinance amendments permitting cannabis events in the City of Berkeley and designating Cesar Chavez Park as an approved location for cannabis events, provided such events are organized and licensed as required by the State of California. The ordinance shall: 1) reference Resolution No. 68,326-N.S., declaring that Berkeley is a sanctuary for adult use cannabis, 2) specify procedures for such events that replicate similar alcohol related event protocols.

BACKGROUND

The residents of Berkeley have long supported reform cannabis laws. In 1979, voters passed the Berkeley Marijuana Initiative, which recognized the negative impact of prosecuting marijuana users, called for city government to support all efforts towards the reform of marijuana laws, and directed the Berkeley Police Department to give the lowest priority to the enforcement of marijuana laws.

For over twenty years the City of Berkeley has also permitted medical cannabis dispensaries, authorized under state Proposition 215 and local law, to safely deliver medicine to patients. Allowing these services has had an overwhelmingly positive impact on our community, creating new options in patient care. In recognition of this and to further its support, the City Council adopted Resolution No. 63,966-N.S. in 2008, declaring the City of Berkeley a sanctuary for medical cannabis patients and providers, and opposing attempts by the U.S. Drug Enforcement Administration (DEA) to close medical marijuana dispensaries.

Most recently, in 2016, 83% of Berkeley voters and 57% of Californians voted in favor of Proposition 64, a statewide ballot initiative to legalize adult recreational cannabis for persons over 21 years old. In June 2017, Governor Brown signed SB94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). This bill is the foundation of the state's regulatory and enforcement framework for the burgeoning legal cannabis industry. Draft regulations were published in December of 2017, and final regulations are currently under review.

In anticipation of state regulations on adult use cannabis, and at City Council direction, staff have been developing ordinance modifications to allow Berkeley businesses to operate in accordance with state law, and a selection process for retailers and large cultivators. Draft documents were reviewed by the Cannabis Commission, Planning Commission and Community Health Commission in early 2018, and two Council Work Sessions have been held to present the proposed new regulatory framework. Once again, in support of safe access to cannabis and decriminalization, the City Council passed Resolution No. 68,326-N.S. on February 13, 2018, declaring that Berkeley will be a sanctuary for adult-use cannabis customers, businesses, providers, and landlords, specifying procedures regarding staff interaction with the Drug Enforcement Administration related to the enforcement of federal drug laws.

AB 2020 was passed by the California Legislature in 2018, which expanded locations where cannabis related events can occur beyond county fairgrounds. Such events can only be held by someone with a cannabis event organizer permit from the State of California. The event organizer must also acquire a temporary event permit from the State for each event, in addition to any local permits.

The City of Berkeley has been contacted by vendors that hold the required State of California cannabis event organizer permit requesting a venue for a cannabis and music event. These same vendors have held successful events, partnering with local jurisdictions all over the world, most recently in the cities of Sacramento and Santa Rosa.

During the October 2018 Work Session, Council requested that staff prioritize the adoption of adult use licenses for new cannabis businesses and also requested updates and a timeline on other cannabis matters. Consideration of special events specifically involving cannabis products - such as music festivals, judging events, and conventions - was included in that work plan (See Attachment 1). Upon the approval of developing an ordinance to designate Cesar Chavez Park as an approved venue for cannabis events, this task can be removed from the Planning Department's cannabis ordinance workplan that is due to return to the City Council in mid-2019.

Amending our Municipal Code to permit cannabis events, as authorized by state law, will provide a safe and regulated location for these types of events and provide significant economic benefits to the City of Berkeley. The City currently allows alcohol related events in City Parks. We are proposing that any ordinance undergo review by the appropriate City Departments: Planning, City Attorney, Environmental Health, Police, to ensure adequate safety protocols.

#### FINANCIAL IMPLICATIONS

According to reports of similar events held by state licensed operators, permitting such events at Cesar Chavez Park could contribute approximately \$200 per customer per day to the city's economy, adding up to \$10-12 million dollars.

ENVIRONMENTAL SUSTAINABILITY

Complies with City of Berkeley sustainability goals

CONTACT PERSON

Mayor Jesse Arreguín (510) 981-7100

ATTACHMENT:

1. Letter from City Manager dated November 9, 2018
2. Resolution No. 68,326-N.S.



Office of the City Manager

November 9, 2018

To: Honorable Mayor and Members of the City Council

From: *DWR* Dee Williams-Ridley, City Manager

Subject: Cannabis: Next steps following October 9, 2018 work session

On October 9, 2018, the Council held a work session related to draft cannabis ordinances. The Council requested that staff prioritize adoption of adult use licenses for new cannabis businesses and create a path to approve conversion of existing nurseries into cannabis retail nurseries. This memo provides the status of the two prioritized items and the next steps for cannabis ordinances.

**Adult use licenses for new cannabis businesses:** On September 13, 2018, the Council approved changes that allow cannabis distributors and small cultivators to operate in Berkeley. These changes included new and revised definitions as considered by the Cannabis, Planning and Community Health Commissions. The new definitions removed references to 'medical cannabis' and replaced it with 'cannabis' in order to conform to State regulations. In effect, this change allowed all cannabis businesses, existing and new, to choose to operate as a medicinal business, an adult use business, or both. Therefore, as of October 31, 2018, when the distributors and small cultivator ordinances came into effect, all new and existing cannabis businesses that are currently allowed in Berkeley can apply for adult use business licenses.

**Retail nurseries:** Staff has developed draft ordinance language which would allow up to two of the eight existing nurseries in Berkeley to convert to a cannabis nursery with retail sales. This type of business would be called a Retail Nursery Microbusiness (RNM). This language will be considered by the Cannabis, Planning, and Community Health Commissions in late 2018 and will be folded into other cannabis ordinance language going to Council in early 2019 (see below).

**Next steps for completing Berkeley's cannabis ordinances:** Staff will bring forward draft cannabis ordinance language to Council in two separate meetings in 2019.

The first meeting is proposed for January 2019 and will focus on issues for which staff has already received direction from Council and previous commission review. The draft language presented by staff will also restructure the cannabis ordinance for clarity, removing obsolete language and applying general regulations to all cannabis businesses. The changes will include:



Page 2

November 9, 2018

Re: Cannabis next steps following October 9, 2018 work session

- Relocating and consolidating text within the ordinance for clarity and ease of use;
- Advertising and signage regulations for cannabis businesses;
- Language for Retail Nursery Microbusinesses;
- Recommendations for quotas for retail cannabis businesses; and
- Revised retail buffers requirements (include a 600' buffer around six youth centers and increase the buffer around middle and high schools from 600' to 1,000').

Additional issues requiring further commission consideration and/or staff analysis will be presented for Council consideration in spring 2019. These include:

- Regulations for delivery-only businesses;
- Options for integrating equity considerations into cannabis business selection processes;
- Consideration of cannabis lounges;
- Consideration of special events specifically involving cannabis products, such as music festivals, judging events, and conventions;
- Consideration of buffers for non-retail cannabis businesses;
- Consideration of expansion of cultivation use outside the Manufacturing (M) District;
- Further consideration of Community Health Commission recommendations designed to address public health concerns related to cannabis.

Per Council direction, staff looks forward to moving expeditiously to provide clear rules and regulations for cannabis businesses that also address community questions and concerns. Please contact Timothy Burroughs, Director of the Department of Planning & Development, if you have any questions.

cc: Paul Buddenhagen, Interim Deputy City Manager  
Timothy Burroughs, Planning and Development Director  
Kelly Wallace, Interim Health Housing and Community Services Director  
Mark Numainville, City Clerk  
Matthai Chakko, Assistant to the City Manager  
Ann-Marie Hogan, City Auditor

RESOLUTION NO. 68,326-N.S.

DECLARING THE CITY OF BERKELEY AS A SANCTUARY FOR RECREATIONAL CANNABIS AND OPPOSING ATTEMPTS BY THE U.S. DRUG ENFORCEMENT ADMINISTRATION TO CLOSE CANNABIS BUSINESSES

WHEREAS, since the adoption of the Berkeley Marijuana Initiative by voters in 1979, Berkeley has recognized the harmful impacts of prosecuting marijuana users, instructs the city government to support all efforts towards the reform of marijuana laws, and directs the Berkeley Police Department to give the lowest priority to the enforcement of marijuana laws; and

WHEREAS, the federal government continues to classify all forms of cannabis as Schedule I under the federal Controlled Substances Act, and therefore does not recognize medical or recreational marijuana; and

WHEREAS, Resolution No. 63,966-N.S. adopted in 2008, declares the City of Berkeley as a sanctuary for medicinal cannabis and opposes attempts by the U.S. Drug Enforcement Administration to Close Medical Marijuana Dispensaries; and

WHEREAS, legalizing marijuana is an important social justice issue; and

WHEREAS, millions of peaceful Americans have been fined, arrested, imprisoned, or otherwise needlessly criminalized and stigmatized, potentially for life, because of their use of marijuana; and

WHEREAS, over \$1 trillion dollars has been spent enforcing drug laws, including those pertaining to marijuana, since the War on Drugs was initiated by President Richard Nixon in the 1970s; and

WHEREAS, because of aggressive enforcement of drug laws, including marijuana laws, the United States has become a nation of mass incarceration – imprisoning 2 million American citizens which represents the highest imprisonment rate of any nation on Earth, representing 25% the world's prisoners; and

WHEREAS, the enforcement of marijuana and other drug laws has had a disproportionate impact on communities of color– evidenced by the fact comparable usage by whites and Blacks, a Black person is four times as likely to be arrested for marijuana possession than a white person; and

WHEREAS, an April 2, 2014, Pew Research Center poll found that 75% of Americans believe the use and sale of marijuana will eventually be legal in the United States nationwide; and

WHEREAS, in November 2016, 57% of California voters and 83% of Berkeley voters voted in favor of Prop 64 to legalize adult recreational cannabis for persons over 21 years old; and

WHEREAS, Prop 64 includes an important provision for anyone who has been or currently is imprisoned, on probation, or on parole to apply for resentencing or redesignation – a small but important step in reducing the unjust and unequal impact of decades of harmful and costly marijuana laws and prosecution; and

WHEREAS, in 2011, when national and statewide momentum for cannabis legalization was growing, the Department of Justice issued guidance for federal prosecutors widely known as the “Cole Memo” that outlined both the Department’s enforcement priorities and that state and local law enforcement and regulation should “remain the primary means of addressing marijuana-related activity” when there is a strong and effective regulatory and enforcement system in place; and

WHEREAS, for 20 years, the City of Berkeley has permitted medical cannabis dispensaries, authorized under state Proposition 215 and local law, to safely delivered medicine to patients. These established businesses have not had a negative impact on the surrounding community or resulted in any increase in crime; and

WHEREAS, the City of Berkeley staff and local cannabis businesses have been working diligently since the passage of Proposition 64 to build upon the City’s robust regulatory and enforcement system for medicinal cannabis in preparation for statewide legal adult-use cannabis, a system that is designed to explicitly address the concerns in the Cole memo; and

WHEREAS, in June 2017 Governor Brown signed SB94 the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), wherein the State of California formally recognized adult-use cannabis cultivators, testing laboratories, distributors and retailers (dispensaries), as legally taxable entities; and

WHEREAS, as a result of Prop 64 and MAUCRSA the State of California could potentially generate \$1 Billion annually in tax revenue and \$100 million in savings; and

WHEREAS, the City of Berkeley will also generate significant tax revenue locally, with estimates of up to \$3 million dollars annually; and

WHEREAS, in January 2018, U.S. Attorney General Jeff Sessions presented a Memorandum on Marijuana Enforcement which rescinded previous guidelines, including those established by the Cole Memo, increasing confusion about the legal risk of cannabis-related activity in the State of California; and

WHEREAS, because marijuana is currently legal in some form in 28 states and the District of Columbia, this action represents an attack on cities where legal, safe, and highly

regulated recreational sale and use occurs, and the majority of states where the voters have made their voices heard; and

WHEREAS, prior activities of the Drug Enforcement Administration to shut down medical marijuana dispensaries and collectives by targeting their landlords and seizing their landlord's properties will have serious consequences if they are repeated and targeted at either the medical or adult-use cannabis industry; and

WHEREAS, increased federal enforcement may force established medical and adult-use cannabis-related businesses to close or move underground, impeding the development of a newly regulated market, and threatening public safety; and

WHEREAS, the economic impact to cities and the statewide economy would be significant with hundreds of existing workers statewide will lose well-paying jobs with benefits and the state and City of Berkeley will lose significant amounts of tax revenue; and

WHEREAS, it is fundamental that the City of Berkeley take a strong stance against threats by the Trump Administration to interfere with the right of the State of California to tax and regulate cannabis, and protect our patients and local economy.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley is declared to be a sanctuary for recreational cannabis customers, providers, and landlords.

BE IT FURTHER RESOLVED that no department, agency, commission, officer or employee of the City of Berkeley shall use any City funds or resources to assist in the enforcement of Federal drug laws related to cannabis landlords, property owners, cultivators, distributors, retailers, laboratory testers, or customers who are operating within California state law and local ordinances.

BE IT FURTHER RESOLVED that the City of Berkeley does not support cooperation with the Drug Enforcement Administration in its efforts to undermine state and local marijuana laws, and further calls upon the Berkeley Police Department, the District Attorney for the County of Alameda, the Alameda County Sheriff's Department, and the Attorney General of the State of California to uphold the laws of the State, and specifically to not assist in the harassment, arrest or prosecution of cannabis landlords, owners, cultivators, distributors, retailers, laboratory testers, or customers who are licensed and attempting to comply with MAUCRSA and local laws and regulations.

BE IT FURTHER RESOLVED that the City Attorney shall transmit copies of this Resolution to the California Attorney General, the Governor of California, and to Senators Dianne Feinstein and Kamala Harris and U.S. Representative Barbara Lee.

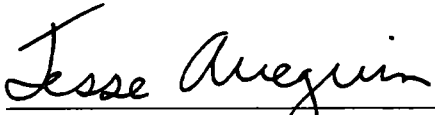
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The foregoing Resolution was adopted by the Berkeley City Council on February 13, 2018 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numainville, City Clerk





Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR  
January 29, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Cheryl Davila and Ben Bartlett

Subject: Adopt a resolution to denounce and oppose white nationalist and neo-Nazi groups including their actions.

RECOMMENDATION

Adopt a resolution denouncing and opposing, in words and actions, white nationalist and neo-Nazi groups including their actions in the City of Berkeley.

FISCAL IMPACTS OF RECOMMENDATION

No general fund impact.

ENVIRONMENTAL SUSTAINABILITY

No ecological impact. Supports an environment in which all people's dignity, rights and civil liberties are protected and defended regardless of race, ethnicity, national origin, religious affiliation, kinship, belief, or practice, gender, sexuality or ability and where people most targeted by prejudice can be free from hate speech that questions their humanity and status as equal human beings.

BACKGROUND

According to the Southern Poverty Law Center, "white nationalist groups espouse white supremacist or white separatist ideologies, often focusing on the alleged inferiority of nonwhites. Groups listed in a variety of other categories - Ku Klux Klan, neo-Confederate, neo-Nazi, racist skinhead, and Christian Identity - could also be fairly described as white nationalist."<sup>1</sup>

As documented in the November 3, 2018 cover article of the New York Times Magazine, since 9/11, U.S. counter-terrorism policy has focused almost entirely on

<sup>1</sup> Southern Poverty Law Center: <https://www.splcenter.org/fighting-hate/extremist-files/ideology/white-nationalist>.

combating American and foreign-born “jihadists,” failing to recognize the growing threat of far-right extremism. This has contributed to widespread vigilante attacks on, government surveillance and repression of, and sweeping policies that discriminate against Muslim, Arab and South Asian communities. Meanwhile, it has failed to address the growing threat and presence of white nationalists and neo-Nazis across the U.S.<sup>2</sup>

As Janet Reitman’s article documents, according to the data, far-right extremists have killed more people since 9/11 than any other category of domestic terrorism. According to the Anti-Defamation League, “71% of extremist-related deaths between 2008 and 2017 were committed by members of a far-right movement, while Islamic extremists were responsible for 26%.” Meanwhile, “between 2002 and 2017, the U.S. spent \$2.8 trillion on counterterrorism. In that time frame, terrorist attacks by Muslim extremists killed 100 people in the U.S. Between 2008 and 2017, meanwhile, domestic extremists killed 387 people.”<sup>3</sup>

Researchers at the University of Maryland published a report in 2017 showing an increase in attacks by right-wing extremists, from 6% in the 2000s to 35% in the 2010s. Quartz further confirmed that the trend persisted in 2017, when most attacks in the U.S. were committed by right-wing extremists. Out of 65 incidents last year, 37 were explicitly motivated by racist, anti-Muslim, homo/transphobic, anti-Semitic, fascist, anti-government, or xenophobic ideology.<sup>4</sup>

Reitman concludes, “These statistics belie the strident rhetoric around ‘foreign-born’ terrorists that the Trump administration has used to drive its anti-immigration agenda.” Similar conclusions were reached by The Brennan Center for Justice at NYU School of Law. Their report, *Wrong Priorities on Fighting Terrorism*, warns, “Some in the Justice Department are calling for new laws to fight domestic terrorism. But existing laws provide plenty of authority to prevent, investigate, and prosecute attacks. And passing new ones could worsen existing racial and religious disparities in who the government targets. Instead, we need a smarter approach that ensures resources are directed toward the deadliest terrorist threats. And we need to evaluate those threats based on objective evaluations of potential harm, not political considerations that prioritize some communities over others.”<sup>5</sup>

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<sup>2</sup> Reitman, Janet. U.S. Law Enforcement Failed to See the Threat of White Nationalism. Now They Don’t Know How to Stop It. *New York Times Magazine*. November 3, 2018. <https://www.nytimes.com/2018/11/03/magazine/FBI-charlottesville-white-nationalism-far-right.html>.

<sup>3</sup> Ibid

<sup>4</sup> Romero, Luiz. US terror attacks are increasingly motivated by right-wing views. *Quartz*. October 24, 2018. <https://qz.com/1435885/data-shows-more-us-terror-attacks-by-right-wing-and-religious-extremists/>.

<sup>5</sup> German, Michael and Sara Robinson. *Wrong Priorities on Fighting Terrorism*. *The Brennan Center for Justice*. October 31, 2018. <https://www.brennancenter.org/publication/wrong-priorities-fighting-terrorism>.



The report documents the ways in which while right-wing acts of mass violence are on the rise, the government is focused on an ideological war against Muslims and failing to address the rise of white nationalism and neo-Nazi threats despite the documented acts of violence they inspire and hateful goals of their activities. In addition, the report documents the decision of the Trump administration to not add white nationalist and neo-Nazi groups, both domestic and international, to the list of foreign or domestic terrorist organizations.<sup>6</sup> Furthermore, it demonstrates that instead the federal government has consistently targeted social and environmental justice organizations over right-wing groups threatening and enacting mass violence.

As their report shows, in 2010, even the Justice Department criticized the FBI Joint Terrorism Task Force for a number of investigations of animal rights, peace, and social justice advocates for treating trespassing, nonviolent civil disobedience, and vandalism as “acts of terrorism.” Similarly, the report goes on to say, “in the weeks before the deadly Charlottesville, Virginia, “Unite the Right” rally, the FBI’s Domestic Terrorism Analysis Unit warned law enforcement that “Black Identity Extremists” posed a deadly threat, despite the fact that no such movement exists.”

Meanwhile, the Justice Department failed to bring federal charges after a series of violent far right riots around the country, in Sacramento, Anaheim, and Seattle – all before Charlottesville, left anti-racist counter-protesters stabbed, beaten, and shot.<sup>7</sup> In contrast, under Trump, “federal prosecutors aggressively pursued more than 200 felony conspiracy cases against activists and journalists who attended a January 20, 2017, anti-Trump protest, where some in the crowd broke store windows and set a limousine on fire. After two trials of the first dozen activists ended with acquittals and the judge ruled prosecutors illegally withheld evidence from defense attorneys, the Justice Department dropped the remaining cases.”<sup>8</sup>

The report concludes that “there is reason to fear that new laws expanding the Justice Department’s counter-terrorism powers will not make Americans safer from terrorist violence. Instead, they may further entrench existing disparities in communities the government targets with its most aggressive tactics, with serious implications for Americans’ free speech, association, and equal protection rights. Treating civil disobedience and property crimes as “terrorism” diverts resources from more serious and deadly crimes and chills political activism.”<sup>9</sup>

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<sup>6</sup> Ibid, page 4.

<sup>7</sup> Ibid, page 2.

<sup>8</sup> Ibid, page 3.

<sup>9</sup> Ibid, page 3.

We have seen this very dynamic play out in Berkeley. White nationalists and neo-Nazis in collaboration with a broader spectrum of extreme right-wing groups and individuals have been allowed to use public university spaces and gather with police protection while anti-racist activists faced arrests and public exposure. In keeping with our resolution of non-participation with the so-called “Muslim-ban” and threatened registry and support for Berkeley communities, residents, families, students and workers being targeted by both, as well as our commitment to ending the use of exposing those arrested at protests on social media and thereby exposing them to targeting by white nationalists, we need to denounce white nationalist and neo-Nazi groups and actions.

Increasingly, civil liberty organizations, law schools and anti-hate groups are recognizing that while free speech protects the rights of white nationalists and neo-Nazis to say some things, it does not protect their right to say anything nor to gather with the intent of inciting violence or hurling hate speech at individuals.<sup>10</sup> Furthermore, organizations from the ACLU to the Center for Constitutional Rights to the National Lawyers Guild are engaging in questions about the valuing of “free speech” at the expense of other basic constitutional rights, particularly those most targeted by racist, xenophobic, sexist, homo/transphobic violence.<sup>11</sup>

#### CONTACT PERSON

Cheryl Davila, Councilmember District 2                      510.981.7120

#### ATTACHMENTS:

- 1: [U.S. Law Enforcement Failed to See the Threat of White Nationalism. Now They Don't Know How to Stop It.](#) New York Times Magazine, November 3, 2018.
- 2: [US terror attacks are increasingly motivated by right-wing views.](#) Quartz, October 24, 2018.
- 3: [Wrong Priorities on Fighting Terrorism.](#) The Brennan Center for Justice. October 31, 2018.
- 4: [The White Nationalists Are Winning: Fox News anchors and high-profile politicians are now openly pushing the racism of the alt-right. The fringe movement's messages have permeated the mainstream Republican Party.](#) The Atlantic. August 10, 2018.
- 5: [Democrats ask Trump administration for answers on rise of white nationalism in US.](#) CNN Politics. November 27, 2018.
- 6: Southern Poverty Law Center page on white nationalist hate groups:  
<https://www.splcenter.org/fighting-hate/extremist-files/ideology/white-nationalist>

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<sup>10</sup> Campbell, Alexia Fernandex. [The limits of free speech for white supremacists marching at Unite the Right 2, explained: The First Amendment doesn't protect targeted racial slurs that could spark violence.](#) Vox. Aug 12, 2018.

<sup>11</sup> Blasdel, Alex. [How the resurgence of white supremacy in the US sparked a war over free speech.](#) The Guardian. May 31, 2018.

7: [The limits of free speech for white supremacists marching at Unite the Right 2, explained: The First Amendment doesn't protect targeted racial slurs that could spark violence.](#) Vox. Aug 12, 2018.

8: [How the resurgence of white supremacy in the US sparked a war over free speech.](#) The Guardian. May 31, 2018.

9: [Powerful photo essay on the rise of white nationalism - Documenting the Rise of White Nationalism.](#) The New York Times. October 17, 2018.

10: Georgetown Institute for Constitutional Advocacy & Protection: Prohibiting Private Armies at Public Rallies: <https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2018/04/Prohibiting-Private-Armies-at-Public-Rallies.pdf>.

RESOLUTION

CITY OF BERKELEY DENOUNCES AND OPPOSES WHITE NATIONALIST AND  
NEO-NAZI GROUPS AND ACTIONS.

WHEREAS, throughout the course of U.S. history, white nationalism has promoted intimidation and violent repression of individuals solely on the basis of their race, ethnicity, religion and immigration status; and

WHEREAS, today, white nationalism has attempted to reinvent itself, self-identifying as the “Alt-Right,” yet their present day rhetoric and terrorism conjure painful memories of our nation’s past; and

WHEREAS, white nationalism and neo-Nazism seek to intensify racial animosities and inequities, further divide people in their shared interests in freedom, justice and humanity and foment hatred, classism, racism, xenophobia, anti-Muslim prejudice, antisemitism and ethnic eradication; and

WHEREAS, across the country there has been a rise in public expressions and violence by self-proclaimed white nationalists and neo-Nazis;<sup>12</sup> and

WHEREAS, 71% of extremist-related deaths between 2008 and 2017 were committed by members of a far-right movement and there has been an increase in attacks by right-wing extremists, from 6% in the 2000s to 35% in the 2010s;<sup>13</sup> and

WHEREAS, out of 65 incidents in 2017, 37 were explicitly motivated by racist, anti-Muslim, homo/transphobic, anti-Semitic, fascist, or xenophobic ideology; <sup>14</sup> and

WHEREAS, while free speech and assembly are bedrock civil liberties, while nationalists and neo-Nazi groups promote agendas that are in irreconcilable conflict with other fundamental rights including liberty and justice for all; and

WHEREAS, the white nationalist and neo-Nazi messages of racial and social intolerance have led to senseless acts of violence that continue to terrorize members of ethnic, racial and religious communities; and

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<sup>12</sup> Southern Poverty Law Center: <https://www.splcenter.org/fighting-hate/extremist-files/ideology/white-nationalist>.

<sup>13</sup> Reitman, Janet. U.S. Law Enforcement Failed to See the Threat of White Nationalism. Now They Don’t Know How to Stop It. *New York Times Magazine*. November 3, 2018. <https://www.nytimes.com/2018/11/03/magazine/FBI-charlottesville-white-nationalism-far-right.html>.

<sup>14</sup> Romero, Luiz. US terror attacks are increasingly motivated by right-wing views. *Quartz*. October 24, 2018. <https://qz.com/1435885/data-shows-more-us-terror-attacks-by-right-wing-and-religious-extremists/>.

WHEREAS, the federal government has failed to address the rising violence of white nationalists and instead focused its effort on a broad, sweeping attack against what is perceived as a foreign terrorist threat abroad and at home, despite the numbers showing double the attacks by the former over attacks by the later;<sup>15,16, 17</sup> and

WHEREAS, recent tragic and terrorizing events in Berkeley, Charlottesville, Sacramento, Anaheim, Portland and Seattle have proven that white nationalists and neo-Nazis remain a very real threat to safety, humanity and racial justice.

NOW, THEREFORE BE IT RESOLVED that the City of Berkeley strongly denounces and opposes the fascist<sup>i</sup> impulses, violent actions, xenophobic biases, and bigoted ideologies that are promoted by white nationalists and neo-Nazis; and

BE IT FURTHER RESOLVED that the City of Berkeley will not tolerate discrimination or hate in any form or manifestation and that we stand united with resolve to promote and continue to secure equality for all people.

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<sup>i</sup> “The common elements of fascism — extreme nationalism, social Darwinism, the leadership principle, elitism, anti-liberalism, anti-egalitarianism, anti-democracy, intolerance, glorification of war, the supremacy of the state and anti-intellectualism — together form a rather loose doctrine.” Ian Adams, [Political Ideology Today](#).

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<sup>15</sup> Reitman, Janet. U.S. Law Enforcement Failed to See the Threat of White Nationalism. Now They Don’t Know How to Stop It. *New York Times Magazine*. November 3, 2018. <https://www.nytimes.com/2018/11/03/magazine/FBI-charlottesville-white-nationalism-far-right.html>.

<sup>16</sup> German, Michael and Sara Robinson. Wrong Priorities on Fighting Terrorism. *The Brennan Center for Justice*. October 31, 2018. <https://www.brennancenter.org/publication/wrong-priorities-fighting-terrorism>.

<sup>17</sup> [Democrats ask Trump administration for answers on rise of white nationalism in US](#). CNN Politics. November 27, 2018.





Lori Droste  
Berkeley City Councilmember, District 8

**CONSENT CALENDAR**

January 29, 2019

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Councilmember Lori Droste, Mayor Jesse Arreguín, Councilmember Rashi Kesarwani, and Councilmember Susan Wengraf

**SUBJECT:** Vision Zero: eliminating pedestrian, bicyclist and traffic injuries and fatalities

**RECOMMENDATION**

- 1) Create an official Vision Zero Task Force (or Leadership Committee) to lead the planning and implementation effort for Vision Zero. The Task Force should include, at a minimum, representatives from the City Manager's office, Police, Public Works (Transportation and Engineering Divisions), Fire, and Public Health ([visionzeronetwerk.org](http://visionzeronetwerk.org)).
- 2) Request that the City Manager hold community events to encourage equitable outcomes, cooperation and collaboration from community stakeholders to set shared goals and focus on coordination and accountability. Representatives from various commissions, including but not limited to Transportation, Disability, Aging, and Health, should be encouraged to attend and provide input.
- 3) Request that the City Manager hold a worksession where a Vision Zero Action Plan is presented for eliminating fatal and severe traffic injuries. Subsequent to the worksession, request that biannual informational updates on Vision Zero progress are reported to Council. The Action Plan should establish clear

strategies, owners of each strategy, interim targets, timelines, & performance measures ([visionzeronetWORK.org](http://visionzeronetWORK.org)).

**BACKGROUND:**

In March of 2018, Berkeley City Council resolved to make Berkeley a Vision Zero city and referred the policy and implementation plan to the City Manager. Since that time, City Council rated this Vision Zero legislation as its number one priority for the year. This item is to help guide the process so we can take measurable action to prevent fatalities and injuries on Berkeley streets.

Approximately three people are killed and 31 people are severely injured each year in traffic collisions on Berkeley streets (City Council work session report, 2017).

Pedestrians and bicyclists are involved in only 7% of overall crashes but represent roughly one-third of all traffic fatalities. High vehicle speeds, violation of “Pedestrian Right of Way”, and alcohol/drug intoxication are the primary causes of severe and fatal collisions. Under a Vision Zero approach, traffic safety efforts would focus on reducing these primary causes of severe and fatal collisions ([City Council work session report, 2017](#)).

**ENVIRONMENTAL SUSTAINABILITY**

Vision Zero policies are consistent with several provisions of the City of Berkeley’s Climate Action Plan. Significant positive environmental impacts (e.g. increased pedestrian and bicycle trips resulting in lower greenhouse gas output) arise when cities prioritize walking and bicycling infrastructure and safety.

**FINANCIAL IMPLICATIONS**

None.

**CONTACT**

Councilmember Lori Droste, 510-981-7180





Planning Commission

## INFORMATION CALENDAR

January 29, 2019

To: Honorable Mayor and Members of the City Council

From: Planning Commission

Submitted by: Chris Schildt, Chairperson, Planning Commission and Jeff Vincent,  
Chairperson of the Workplan Subcommittee

Subject: Planning Commission Workplan 2018-2019

### INTRODUCTION

The City of Berkeley Planning Commission (PC) hereby submits its work plan for Fiscal Year 2018, pursuant to the Berkeley City Council's request.

### CURRENT SITUATION AND ITS EFFECTS

Unlike other city commissions, the PC's workload is almost exclusively dictated by referrals from the City Council. Each year, the Council goes through an extensive referral ranking process, which shapes the prioritization of work for the PC. Thus, by design, the PC has far less latitude than other city commissions in setting its agenda. As of October 2018, the PC has a workload of more than 40 referrals from the City Council.

The PC's workplan organizes the referrals around three strategic areas of PC interest/outcome, as described below. Across these strategic outcome areas, the PC aims to **demonstrate state-wide leadership in promoting social equity, affordability, and climate resilience issues**. In some cases this requires action to comply with new state laws, and in some cases this may involve going "beyond" state laws to recommend local land use policies that the PC feels will achieve more equitable results than state requirements.

#### ***Strategic Outcome Areas:***

1. **Increase affordable housing.** This includes retaining and expanding the stock of affordable housing available throughout the city. The commission has identified three mechanisms by which we can advance this strategic outcome:
  1. Modify development standards to create more affordable housing;
  2. Revise administrative procedures and levels of discretion to streamline affordable housing;
  3. Develop community benefits and other value capture mechanisms in order to maximize affordability in new development.

2. **Promote healthy, livable communities.** This includes ensuring Berkeley residents live in safe, healthy, and accessible communities with parks, schools, local businesses, and cultural institutions, and promoting healthy mobility options for all residents.
3. **Support community economic development and commercial vitality.** This includes preserving and enhancing Berkeley's thriving neighborhood commercial areas and ensuring a vibrant downtown.

**Resources:** Significant staff time is required to conduct the research, write reports, and draft zoning language. In some cases, consultants are brought on board to assist staff.

**Activities:** For each referral, the PC's action requires staff time for substantive reports on each topic within each referral as well as developing draft zoning language changes. Often the draft zoning language goes through multiple revisions across multiple PC meetings.

**Outputs:** On nearly all referrals, the PC output consists of recommendations to the City Council.

## **BACKGROUND**

City Council has requested that each commission provide a workplan that explains the mission and goals of each appointed body. The mission of the Planning Commission, as outlined in the City Charter, reads:

*"The Commission recommends modifications to the City of Berkeley General Plan and related policy documents. All Zoning Ordinance amendments are developed through this Commission and recommended to the City Council. Other purviews include subdivision map consideration and review and comments on substantial projects from surrounding jurisdictions."*

Members of the PC have discussed their goals and prioritized three strategic outcomes to guide their 2018-2019 work as described above: 1) Increase affordable housing; 2) Promote healthy, livable communities; and 3) Support community economic development and commercial vitality.

At its meeting of November 7, 2018, the Planning Commission voted to adopt this workplan with Commissioner Vincent's edits and send it to City Council. [Vote: 8-0-0-1; Ayes: Martinot, Kapla, Schildt, Vincent, Fong, Pinto, Beach, Lacey. Noes: None. Abstain: None. Absent: Wrenn. Motion/Second: Kapla/Schildt]

The attached Planning Commission Workplan Table 2018-2019 (*see Attachment 1*) shows prioritized referrals, referrals awaiting action from other commission(s), referrals ranked by City Council that are slated for PC action to begin after the current work planning period (ending June 2019) based on resources and capacity, and referrals not

ranked by City Council for 2018-2019 work plan but which will be added to PC work schedule in priority order once ranked by Council.

**ENVIRONMENTAL SUSTAINABILITY**

The PC's workplan aids in advancing the city's goals around sustainability and greenhouse gas reduction.

**POSSIBLE FUTURE ACTION**

The PC's pace in working through City Council referrals is determinant on staff support. Currently, the Long Range Policy Group has two FTE staff planners (with plans to hire a 3<sup>rd</sup> and 4<sup>th</sup> soon) that support the growing workload of the PC. The PC is understaffed relative to its workload, as created by the City Council and relative to other Commissions. The PC's ability to move more quickly through City Council referrals could be greatly improved by increasing staff support to the PC.

The PC also makes additions or changes to the workplan as expedited referrals and other timely requests which arise from the City Council.

***Resources Needed:*** Given the urgency of the housing situation in the City of Berkeley, additional staff support for the PC seems to be a prudent priority for city leaders to address.

**FISCAL IMPACTS OF POSSIBLE FUTURE ACTION**

Increasing staff support to the PC will likely incur expense to the City of Berkeley Planning Department.

**CONTACT PERSON**

Alene Pearson, Commission Secretary, Land Use Planning Division, 510-981-7489

Attachments:

1: PC Workplan Table 2018-2019

| REFERRALS to Planning Commission by the City Council  | RANKING* - RRV & HAP              | STRATEGIC OUTCOME AREAS        |                                         |                                                         |                               |
|-------------------------------------------------------|-----------------------------------|--------------------------------|-----------------------------------------|---------------------------------------------------------|-------------------------------|
| A. Referrals Prioritized by PC for 2018-2019 Workplan |                                   | 1. Increase Affordable Housing | 2. Promote Healthy, Livable Communities | 3. Support Economic Development and Commercial Vitality | Waiting on other Commission ? |
| Small Business Package                                | started                           |                                |                                         | x                                                       |                               |
| Moderate Impact Home Occupations                      | started                           |                                |                                         | x                                                       |                               |
| Comprehensive Cannabis Ordinance                      | 3 started referrals               |                                | x                                       | x                                                       |                               |
| Density Bonus Package                                 | 56, 16, and 2 started referrals   | x                              |                                         |                                                         | JSISHL                        |
| Student Housing Package                               | 16, 56, and two started referrals | x                              |                                         |                                                         | JSISHL                        |
| Adeline Community Benefits/Land Value Capture         | 10                                | x                              | x                                       |                                                         |                               |
| Streamline Permitting for Affordable Housing          | started                           | x                              |                                         |                                                         | JSISHL                        |
| Zoning Ordinance Revision Project Phase 1 & 2         | started                           |                                | x                                       |                                                         |                               |
| Green Affordable Housing                              | started                           | x                              |                                         |                                                         |                               |
| Flexible Ground Floor Uses                            | 25 and one started referral       | x                              |                                         |                                                         |                               |
| Housing Linkage Fees                                  | started (short-term)              | x                              |                                         |                                                         |                               |

| B. Referrals Awaiting Action by Other Commission(s) |    | 1. Increase Affordable Housing | 2. Promote Healthy, Livable Communities | 3. Support Economic Development and Commercial Vitality | Waiting on other Commission ? |
|-----------------------------------------------------|----|--------------------------------|-----------------------------------------|---------------------------------------------------------|-------------------------------|
| Reclassify 1050 Paker from MU-LI to C-W             | 57 |                                |                                         | x                                                       | ZAB approval                  |

| REFERRALS to Planning Commission by the City Council | RANKING* - RRV & HAP | STRATEGIC OUTCOME AREAS |   |  |      |
|------------------------------------------------------|----------------------|-------------------------|---|--|------|
| Green Stormwater Requirements from CEAC              |                      |                         | x |  | CEAC |
| Air Pollution Performance Standards from CEAC        |                      |                         | x |  | CEAC |
| Denial of Permits to Violators                       |                      |                         | x |  | HAC  |

| C. Referrals ranked by City Council, work to begin after end of this work planning period (June 2019) TBD, based on resources and capacity |                   | 1. Increase Affordable Housing | 2. Promote Healthy, Livable Communities | 3. Support Economic Development and Commercial Vitality | Waiting on other Commission ? |
|--------------------------------------------------------------------------------------------------------------------------------------------|-------------------|--------------------------------|-----------------------------------------|---------------------------------------------------------|-------------------------------|
| Toxic Remediation Regulations                                                                                                              | started           |                                | x                                       |                                                         |                               |
| Green Development Standards from CEAC                                                                                                      | started (by CEAC) |                                | x                                       |                                                         |                               |
| Lower discretion for internal remodeling                                                                                                   | 14                |                                | x                                       |                                                         |                               |
| Expand boundaries of Downtown Arts District                                                                                                | 17                |                                |                                         | x                                                       |                               |
| Junior ADUs                                                                                                                                | 20                |                                |                                         |                                                         |                               |
| San Pablo Ave Specific Area Plan                                                                                                           | 23                |                                | x                                       |                                                         |                               |
| ADUs in very high fire zones                                                                                                               | 43                |                                | x                                       |                                                         |                               |
| Health Equity and Innovation District                                                                                                      | 49                |                                | x                                       |                                                         |                               |
| Research Tiny Homes, YSA Tiny Homes                                                                                                        | 63                | x                              |                                         |                                                         |                               |
| Commercial Square Footage in C-E                                                                                                           | 59                |                                |                                         | x                                                       |                               |

| REFERRALS to Planning Commission by the City Council                                                                          | RANKING* - RRV & HAP | STRATEGIC OUTCOME AREAS        |                                         |                                                         |                               |
|-------------------------------------------------------------------------------------------------------------------------------|----------------------|--------------------------------|-----------------------------------------|---------------------------------------------------------|-------------------------------|
| D. Referrals not ranked by City Council for 2018-2019 work plan; will be added to work schedule once ranked based on ranking. |                      | 1. Increase Affordable Housing | 2. Promote Healthy, Livable Communities | 3. Support Economic Development and Commercial Vitality | Waiting on other Commission ? |
| Demolition Ordinance                                                                                                          |                      | x                              |                                         |                                                         |                               |
| ADUs for Homeless                                                                                                             |                      | x                              |                                         |                                                         |                               |
| Fee Waivers for Housing Trust Fund Projects                                                                                   |                      | x                              |                                         |                                                         |                               |
| Auto Uses in C-SA                                                                                                             |                      |                                |                                         | x                                                       |                               |
| ADA Improvements in ADUs                                                                                                      |                      |                                | x                                       |                                                         |                               |
| Inclusionary Requirement for Live/Work                                                                                        |                      | x                              |                                         |                                                         |                               |
| Mini Dorms (student housing)                                                                                                  |                      | x                              |                                         |                                                         |                               |
| ADU Mods                                                                                                                      |                      |                                | x                                       |                                                         |                               |

\* "started" is a referral on which substantive work began before last Council RRV, thus not subject to re-ranking. If blank, the referral has not yet been ranked by the City Council

NOTE: Many of these referrals touch on all 3 strategic outcome areas.

| REFERRALS to Planning Commission by the City Council                                                                                          | RANKING* - RRV & HAP              | STRATEGIC OUTCOME AREAS        |                                         |                                                         |                                    |                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|--------------------------------|-----------------------------------------|---------------------------------------------------------|------------------------------------|-------------------------------|
|                                                                                                                                               |                                   | 1. Increase Affordable Housing | 2. Promote Healthy, Livable Communities | 3. Support Economic Development and Commercial Vitality | 4. Comply with or Exceed State Law | Waiting on other Commission ? |
| <b>Referrals Prioritized by PC for 2018-2019 Workplan</b>                                                                                     |                                   |                                |                                         |                                                         |                                    |                               |
| <b>Small Business Package</b>                                                                                                                 | started                           | x                              |                                         |                                                         |                                    |                               |
| <b>Moderate Impact Home Occupations</b>                                                                                                       | started                           |                                |                                         | x                                                       |                                    |                               |
| <b>Comprehensive Cannabis Ordinance</b>                                                                                                       | 3 started referrals               |                                |                                         | x                                                       | x                                  |                               |
| <b>Density Bonus Package</b>                                                                                                                  |                                   |                                |                                         |                                                         |                                    |                               |
| Develop Community Benefits with C-T development standards (see Student Housing Package)                                                       | started                           |                                |                                         |                                                         |                                    |                               |
| Create pilot program for in-lieu fees for City Density Bonus (see Student Housing Package)                                                    | 56                                | x                              |                                         |                                                         |                                    |                               |
| Revise General Plan & Zoning Ord. to add written standards including density standards for parcels                                            | started                           |                                |                                         |                                                         |                                    |                               |
| Amend Zoning Ord. to increase max height by 20' and adjust FAR in area bounded by Bancroft, College, and Fulton (see Student Housing Package) | 16                                |                                |                                         |                                                         |                                    |                               |
| <b>Student Housing Package</b>                                                                                                                | 16, 56, and two started referrals | x                              |                                         |                                                         |                                    |                               |
| <b>Adeline Community Benefits/Land Value Capture</b>                                                                                          | 10                                | x                              | x                                       |                                                         |                                    |                               |
| <b>Streamline Permitting for Affordable Housing</b>                                                                                           | started                           | x                              |                                         |                                                         |                                    | JSISHL                        |
| <b>Zoning Ordinance Revision Project Phase 1 &amp; 2</b>                                                                                      | started                           |                                | x                                       |                                                         |                                    |                               |
| <b>Green Affordable Housing</b>                                                                                                               | started                           | x                              |                                         |                                                         |                                    |                               |
| <b>Flexible Ground Floor Uses</b>                                                                                                             | 25 and one started referral       | x                              |                                         |                                                         |                                    |                               |
| <b>Housing Linkage Fees</b>                                                                                                                   | started (short-term)              | x                              |                                         |                                                         |                                    |                               |

| RESOURCES                                                                         | ACTIVITIES                                            | OUTPUTS                                                |
|-----------------------------------------------------------------------------------|-------------------------------------------------------|--------------------------------------------------------|
|                                                                                   |                                                       |                                                        |
| LUP & OED staff time to write staff reports and Staff time to write staff reports |                                                       |                                                        |
| Cannabis Commission Staff time to write Zoning                                    | Commission will review language and provide feedback  | Commission makes recommendations to Council            |
|                                                                                   |                                                       |                                                        |
| Staff time to write staff reports                                                 |                                                       |                                                        |
| Staff time to write staff reports                                                 |                                                       |                                                        |
| Consultant Staff time                                                             |                                                       |                                                        |
| Staff time to write staff reports                                                 |                                                       |                                                        |
| Staff time to write staff reports                                                 |                                                       |                                                        |
| <b>Adeline consultant Staff time</b>                                              |                                                       |                                                        |
| <b>JSISHL Subcommittee Staff time to write staff</b>                              | <b>JSISHL will review state housing laws, provide</b> | <b>JSISHL will make recommendations to the Council</b> |
| Consultant ZORP Subcommittee                                                      |                                                       |                                                        |
| Staff time to write staff reports and zoning                                      |                                                       |                                                        |
| Staff time to write staff reports                                                 |                                                       |                                                        |
| Consultant Staff time                                                             |                                                       |                                                        |

| Referrals Awaiting Action by Other Commission(s)     |    | 1. Increase Affordable Housing | 2. Promote Healthy, Livable Communities | 3. Support Economic Development and Commercial Vitality | 4. Comply with or Exceed State Law | Waiting on other Commission ? |
|------------------------------------------------------|----|--------------------------------|-----------------------------------------|---------------------------------------------------------|------------------------------------|-------------------------------|
| <b>Reclassify 1050 Paker from MU-LI to C-W</b>       | 57 |                                |                                         | x                                                       |                                    | ZAB approval                  |
| <b>Green Stormwater Requirements from CEAC</b>       |    |                                | x                                       |                                                         |                                    | CEAC                          |
| <b>Green Development Standards from CEAC</b>         |    |                                | x                                       |                                                         |                                    | CEAC                          |
| <b>Air Pollution Performance Standards from CEAC</b> |    |                                | x                                       |                                                         |                                    | CEAC                          |
| <b>Denial of Permits to Violators</b>                |    |                                | x                                       |                                                         |                                    | HAC                           |

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| Staff time and ZAB |  |  |
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| Referrals ranked by City Council, work to begin after end of this work planning period (June 2019) TBD, based on resources and capacity |  | 1. Increase Affordable Housing | 2. Promote Healthy, Livable Communities | 3. Support Economic Development and Commercial Vitality | 4. Comply with or Exceed State Law | Waiting on other Commission ? |
|-----------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------------|-----------------------------------------|---------------------------------------------------------|------------------------------------|-------------------------------|
|                                                                                                                                         |  |                                |                                         |                                                         |                                    |                               |

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|---------------------------------------------|---------|---|---|---|---|--|
| Toxic Remediation Regulations               | started |   | x |   | x |  |
| Lower discretion for internal remodeling    | 14      |   | x |   |   |  |
| Expand boundaries of Downtown Arts District | 17      |   |   | x |   |  |
| Junior ADUs                                 | 20      | x |   |   |   |  |
| San Pablo Ave Specific Area Plan            | 23      |   | x |   |   |  |
| ADUs in very high fire zones                | 43      |   | x |   |   |  |
| Health Equity and Innovation District       | 49      |   | x |   |   |  |
| Research Tiny Homes, YSA Tiny Homes         | 63      | x |   |   |   |  |
| Commercial Square Footage in C-E            | 59      |   |   | x |   |  |

|                                                       |  |  |
|-------------------------------------------------------|--|--|
| Staff time to write staff reports                     |  |  |
| Staff time to write staff reports                     |  |  |
| Staff time to write staff reports                     |  |  |
| Staff time to write staff reports                     |  |  |
| Funding<br>Staff time<br>Consultant?<br>Subcommittee? |  |  |
| Staff time to write staff reports                     |  |  |
| Staff time to write staff reports                     |  |  |
| Staff time to write staff reports                     |  |  |
| Staff time to write staff reports                     |  |  |

| Referrals not ranked by City Council for 2018-2019 work plan; will be added to work schedule once ranked based on ranking. |  | 1. Increase Affordable Housing | 2. Promote Healthy, Livable Communities | 3. Support Economic Development and Commercial Vitality | 4. Comply with or Exceed State Law | Waiting on other Commission ? |
|----------------------------------------------------------------------------------------------------------------------------|--|--------------------------------|-----------------------------------------|---------------------------------------------------------|------------------------------------|-------------------------------|
| Demolition Ordinance                                                                                                       |  | x                              |                                         |                                                         |                                    |                               |
| ADUs for Homeless                                                                                                          |  | x                              |                                         |                                                         |                                    |                               |
| Fee Waivers for Housing Trust Fund projects                                                                                |  | x                              |                                         |                                                         |                                    |                               |
| Auto Uses in C-SA                                                                                                          |  |                                |                                         | x                                                       |                                    |                               |
| ADA Improvements in ADUs                                                                                                   |  |                                | x                                       |                                                         |                                    |                               |
| Inclusionary Requirement for Live/Work                                                                                     |  | x                              |                                         |                                                         |                                    |                               |

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| Mini Dorms (student housing) |  | x |   |  |  |  |
| ADU Mods                     |  |   | x |  |  |  |

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\* "started" is a referral on which substantive work began before last Council RRV, thus not subject to re-ranking. If blank, the referral has not yet been ranked by the City Council



| Upcoming Workshops – <i>start time is 6:00 p.m. unless otherwise noted</i> |                                                                                                                                                                |
|----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Scheduled Dates                                                            |                                                                                                                                                                |
| Jan 15                                                                     | <ol style="list-style-type: none"> <li>1. Berkeley Ballot Measure Follow-up</li> <li>2. North Berkeley BART Zoning and Future Development</li> </ol>           |
| Feb 5                                                                      | <ol style="list-style-type: none"> <li>1. Pedestrian Master Plan Update</li> <li>2. OED Update</li> <li>3. Wildfire Risk Reduction and Planning</li> </ol>     |
| March 19                                                                   | <ol style="list-style-type: none"> <li>1. FY 2020 – FY 2021 Budget Update</li> <li>2. Crime Report</li> </ol>                                                  |
| May 7                                                                      | <ol style="list-style-type: none"> <li>1. Proposed FY 2020 – FY 2021 Budget</li> <li>2. Zero Waste Rate Review</li> <li>3. Bond Disclosure Training</li> </ol> |
| June 18                                                                    | <ol style="list-style-type: none"> <li>1. Transfer Station Feasibility Study</li> <li>2. Staff Presentation - TBD</li> </ol>                                   |

| Unscheduled Workshops                                                                                                                                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Cannabis Health Considerations</li> <li>2. UC Berkeley Student Housing Plan</li> <li>3. Qualified Opportunity Zones</li> </ol> |

| Unscheduled Presentations (City Manager)                                                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. Digital Strategic Plan/erma/Website Update</li> <li>2. Measure T1 Project Prioritization (Action Calendar)</li> <li>3. Arts and Culture Plan</li> <li>4. Parks, Recreation, and Waterfront CIP Update (Budget Presentation)</li> <li>5. Public Works CIP Update (Budget Presentation)</li> <li>6. AC Mosquito Abatement District (presentation by the District, March 12 - tentative)</li> </ol> |

|    | <b>City Council Referrals to the Agenda Committee and Unfinished Business</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <p><b>61a. Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley</b> (<i>Referred from the July 24, 2018 agenda</i>)<br/> <b>From: Housing Advisory Commission</b><br/> <b>Recommendation:</b> That the City Council not use U1 funds to backfill the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue, and 1925 Ninth Street, City of Berkeley.<br/> <b>Financial Implications:</b> See report<br/> Contact: Amy Davidson, Commission Secretary, 981-5400</p> <p><b>61b. Companion Report: Use of U1 Funds for Property Acquisition at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley</b> (<i>Referred from the July 24, 2018 agenda</i>)<br/> <b>From: City Manager</b><br/> <b>Recommendation:</b> Accept staff's recommendation to use \$4,730,815 of Measure U1 revenue over a 5 year period (\$946,163 annually) to repay the Workers' Compensation Fund for the acquisition of the properties located at 1001, 1007, and 1011 University Avenue and 1925 Ninth Street, Berkeley.<br/> <b>Financial Implications:</b> See report<br/> Contact: Dee Williams-Ridley, City Manager, 981-7000</p> |
| 2. | <p><b>68. Revisions to Ordinance No. 7,521--N.S. in the Berkeley Municipal Code to increase compliance with the city's short-term rental ordinance</b> (<i>Referred from the July 24, 2018 agenda. Agenda Committee to revisit in April 2019.</i>)<br/> <b>From: Councilmember Worthington</b><br/> <b>Recommendation:</b> Refer the City Manager to look into adopting revisions to Ordinance No. 7,521--N.S by modeling after the Home-Sharing Ordinance of the City of Santa Monica and the Residential Unit Conversion Ordinance of the City of San Francisco in order to increase compliance with city regulations on short-term rentals of unlicensed properties.<br/> <b>Financial Implications:</b> Minimal<br/> Contact: Kriss Worthington, Councilmember, District 7, 981-7170</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 3. | <p><b>4. Disposition of City-Owned, Former Redevelopment Agency Properties at 1631 Fifth Street and 1654 Fifth Street</b> (<i>Referred from the September 25, 2018 agenda</i>)<br/> <b>From: City Manager</b><br/> <b>Recommendation:</b><br/> 1. Adopt first reading of an Ordinance authorizing the sale of two City-owned, former Redevelopment Agency properties at 1631 Fifth Street and 1654 Fifth Street at market rate and deposit the proceeds in the City's Housing Trust Fund (HTF).<br/> 2. Direct the City Manager to issue a Request for Proposals to select a real estate broker to manage the sale.<br/> <b>Financial Implications:</b> See report<br/> Contact: Kelly Wallace, Housing and Community Services, 981-5400</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 4. | <p><b>19. Adopt the Sanctuary Contracting Ordinance proposed by the Peace and Justice Commission</b> (<i>Referred from the November 13, 2018 agenda</i>)<br/> <b>From: Councilmembers Worthington, Davila, Harrison, and Bartlett</b><br/> <b>Recommendation:</b> That the City Council adopt the attached Sanctuary Contracting Ordinance proposed by the Peace and Justice Commission. This ordinance prohibits the award of city contracts to vendors acting as ICE data brokers, or those providing extreme vetting services.<br/> <b>Financial Implications:</b> Minimal<br/> Contact: Kriss Worthington, Councilmember, District 7, 981-7170</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

| <b>CITY CLERK DEPARTMENT</b>                                                        |                              |                               |                                                  |                           |
|-------------------------------------------------------------------------------------|------------------------------|-------------------------------|--------------------------------------------------|---------------------------|
| <b>WORKING CALENDAR FOR SCHEDULING LAND USE MATTERS<br/>BEFORE THE CITY COUNCIL</b> |                              |                               |                                                  |                           |
| <b>Address</b>                                                                      | <b>Board/<br/>Commission</b> | <b>Appeal Period<br/>Ends</b> | <b>Determination<br/>on Appeal<br/>Submitted</b> | <b>Public<br/>Hearing</b> |
| <b>NOD – Notices of Decision</b>                                                    |                              |                               |                                                  |                           |
| 1 and 5 Canyon Rd (City Landmark designation)                                       | LPC                          | 1/22/2019                     |                                                  |                           |
| 2415 Blake St (City Landmark designation)                                           | LPC                          | 1/22/2019                     |                                                  |                           |
|                                                                                     |                              |                               |                                                  |                           |
|                                                                                     |                              |                               |                                                  |                           |
| <b>Public Hearings Scheduled</b>                                                    |                              |                               |                                                  |                           |
| 1155-73 Hearst Ave (develop two parcels)                                            | ZAB                          |                               |                                                  | 1/29/2019                 |
| 2190 Shattuck Ave (Shattuck Terrace Green Apartments)                               | ZAB                          |                               |                                                  | 1/31/2019                 |
| 2701 Shattuck Ave (construct 5-story mixed-use building)                            | ZAB                          |                               |                                                  | 3/12/2019                 |
| 1722 Walnut St (permit a ninth dwelling unit)                                       | ZAB                          |                               |                                                  | 3/26/2019                 |
|                                                                                     |                              |                               |                                                  |                           |
| <b>Remanded to ZAB or LPC</b>                                                       |                              |                               |                                                  |                           |
|                                                                                     |                              |                               |                                                  |                           |
|                                                                                     |                              |                               |                                                  |                           |
|                                                                                     |                              |                               |                                                  |                           |
| <b>Notes</b>                                                                        |                              |                               |                                                  |                           |
|                                                                                     |                              |                               |                                                  |                           |
|                                                                                     |                              |                               |                                                  |                           |
|                                                                                     |                              |                               |                                                  |                           |

Last Updated: 1/8/2019