



Environment and Climate Commission

CONSENT CALENDAR  
December 13, 2022

To: Honorable Mayor and Members of the City Council  
 From: Environment and Climate Commission  
 Submitted by: Ben Gould, Chairperson, Environment and Climate Commission  
 Subject: Zero-Emission Vehicle Parking Support Letter

RECOMMENDATION

Refer to the City Manager to send a letter to State Assemblymember Buffy Wicks and State Senator Nancy Skinner asking them to advance a proposal to allow cities to dedicate parking spaces for Zero-Emission Vehicles (ZEVs).

FISCAL IMPACTS OF RECOMMENDATION

Minimal staff time.

CURRENT SITUATION AND ITS EFFECTS

State law currently prohibits the City of Berkeley from dedicating parking spaces for zero-emission vehicles without also installing an EV charger. EV chargers are expensive, and as a result, they are few and far between on City streets.

As a result, EVs are forced to compete with legacy gas cars for parking spaces, and the City is unable to use parking access as an incentive mechanism to drive adoption and use of EVs.

At its meeting of October 19, 2022, the Environment and Climate Commission approved a motion by a vote of 6-1-0-1 to ask the City Council to send letter to state representatives allowing cities to designate parking for ZEVs. Motion/second Lunaparra, Gould. Ayes: Ranney, Hedlund, McGuire, Tahara, Lunaparra, Gould. Noes: Allen. Abstain: None. Absent: Guliasi.

BACKGROUND

Berkeley has adopted numerous ambitious policies around climate change, including the goal of becoming a fossil free city, carbon neutrality by 2045, and a goal of 100% sustainable transportation by 2040.

In November 2019, the Community Environmental Advisory Commission (CEAC), an ECC predecessor commission, approved a recommendation to City Council to explore operation, parking, or idling of combustion vehicles on City streets beginning in 2045, with the aim of enforcing Berkeley's carbon neutrality goal in transportation.

In late 2020, when this item came before the FITES committee, the City Attorney determined that such a policy would be preempted under state law. The California vehicle code is strictly construed, and as such, powers not explicitly authorized to municipalities are reserved to the state (see *Rumford v. City of Berkeley*, 1982).

As found in *Rumford*, changes to state law are required to lawfully enact the proposed policy.

With the assistance of a state legislator, draft legislation was developed in 2021 which would amend the California Vehicle Code to permit cities and private parking operators to dedicate parking spaces for zero emission vehicles, without requiring the installation of EV charging. (Exemptions are provided for vehicles displaying a disabled placard or license plate). This policy would provide Berkeley with another tool to encourage the use of EVs and help the city achieve its goal of 100% sustainable transportation by 2040.

#### ENVIRONMENTAL SUSTAINABILITY

Sending a letter in and of itself has no sustainability impacts, but if the law were adopted and Berkeley chose to take advantage of it, making parking spaces reserved for EVs would encourage the adoption and use of EVs, reducing greenhouse gas emissions and helping achieve Berkeley's climate goals.

#### CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Because this activity does not have the potential to cause a significant effect on the environment, it is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant impact on the environment (CEQA Guidelines 15061(b)(3)).

#### RATIONALE FOR RECOMMENDATION

This item supports the goal of 100% sustainable trips, becoming a fossil-free city, and achieving carbon neutrality.

#### ALTERNATIVE ACTIONS CONSIDERED

ECC considered taking no action, but determined that would fail to advance Berkeley's climate goals.

#### CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

#### CONTACT PERSON

Ben Gould, Chairperson, Environment and Climate Commission, 510-725-9176

Letter of Support for ZEV Parking

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**Attachments:**

Attachment 1: Letter

Attachment 2: Draft bill

[DATE]

[ADDRESS]

**RE: City of Berkeley's Request for Legislation to Authorize Dedicated Zero-Emission Vehicle Parking**

Dear Senator Skinner and Assemblymember Wicks,

The Berkeley City Council would like to request an amendment to the California Vehicle Code to authorize local governments to dedicate parking spaces for zero-emission vehicles, without requiring an EV charger, as a potential strategy for encouraging and increasing the use of zero-emission vehicles.

Berkeley has set ambitious goals of carbon neutrality by 2045, 100% sustainable trips by 2040, and becoming a fossil free city by 2030. We are working aggressively to ensure a rapid, just transition to zero emissions in all sectors of our local economy. Berkeley seeks to implement innovative, forward-thinking policies to achieve these goals, like our first-in-the-nation natural gas ban in 2019, which has become the gold standard statewide.

Cities around the world, including London, Paris, Barcelona, Stuttgart, Amsterdam, and others, are implementing policies to restrict the use of old, polluting gas- and diesel-powered vehicles within their city centers. In California, however, cities lack the ability to implement any similar restrictions. Without authority explicitly granted in the California Vehicle Code, California cities have their hands tied when it comes to how much pollution vehicle operators can produce on local roads.

While broader restrictions on the use of polluting vehicles on city streets could be cost-prohibitive to implement and enforce, Berkeley is interested in exploring the opportunities to encourage zero-emission vehicle usage by restricting certain parking spots, in certain locations, to zero-emission vehicles only (with exceptions for vehicles displaying a disabled placard). We believe this can send an effective signal to residents and businesses to encourage a more rapid transition, and that it can be implemented as part of a comprehensive strategy to ensure continued equitable mobility and accessibility across socioeconomic levels and disability status. Berkeley's existing Electric Mobility Roadmap will serve as a guide in this regard.

Please find attached draft bill language, prepared by the Office of Legislative Counsel, for your consideration in the upcoming legislative cycle.

Sincerely,

Berkeley City Council

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 22511.2 of the Vehicle Code is amended to read:

22511.2. (a) A parking space served by electric vehicle supply equipment or designated for the exclusive purpose of parking a zero-emission vehicle or a parking space designated as a future electric vehicle charging space shall count as at least one standard automobile parking space for the purpose of complying with any applicable minimum parking space requirements established by a local jurisdiction.

(b) An accessible parking space with an access aisle served by electric vehicle supply equipment or an accessible parking space with an aisle designated as a future electric vehicle charging space shall count as at least two standard automobile parking spaces for the purpose of complying with any applicable minimum parking space requirements established by a local jurisdiction.

(c) This section does not modify the approval requirements for an electric vehicle charging station pursuant to Section 65850.7 of the Government Code.

(d) The following definitions apply for purposes of this section:

(1) "Electric vehicle supply equipment" has the same definition as that term is used in the latest published version of the California Electrical Code, that is in effect, and applies to any level or capacity of supply equipment installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.

(2) "Electric vehicle charging space" means a space designated by a local jurisdiction for charging electric vehicles.

(3) "Local jurisdiction" means a city, including a charter city, county, or city and county.

(4) "Zero-emission vehicle" shall have the same definition as in Section 44258 of the Health and Safety Code.

SEC. 2. Section 22511.25 is added to the Vehicle Code, to read:

22511.25. (a) (1) A local authority, by ordinance or resolution, or a person in lawful possession of an offstreet parking facility may designate stalls or spaces in an offstreet parking facility owned or operated by that local authority or person for the exclusive purpose of parking a zero-emission vehicle.

(2) A local authority, by ordinance or resolution, may designate stalls or spaces on a public street within its jurisdiction for the exclusive purpose of parking a zero-emission vehicle.

(b) A person shall not park or leave standing a vehicle in, or obstruct, block, or otherwise bar access to, a stall or space designated pursuant to subdivision (a) unless the vehicle meets the definition of a zero-emission vehicle.

(c) A person may park or leave standing a vehicle that displays either a special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59 in a stall or space reserved for the exclusive purpose of parking a zero-emission vehicle, even if the vehicle is not a zero-emission vehicle.

(d) For purposes of this section, "zero-emission vehicle" shall have the same definition as in Section 44258 of the Health and Safety Code.

(e) This section does not interfere with existing law governing the ability of local authorities to adopt ordinances related to parking programs within their jurisdiction,



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such as programs that provide free parking in metered areas or municipal garages for electric vehicles.

SEC. 3. The Legislature finds and declares that ensuring access to zero emission vehicle parking spaces is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act amending Section of the 22511.2 of the Vehicle Code applies to all cities, including charter cities.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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LEGISLATIVE COUNSEL'S DIGEST

Bill No. \_\_\_\_\_  
as introduced, \_\_\_\_\_  
General Subject: Vehicles: local regulation: parking: zero-emission vehicles.

Existing law authorizes a local authority, by ordinance or resolution, and a person in lawful possession of an offstreet parking facility to designate stalls or spaces in an offstreet parking facility owned or operated by that local authority or person, or stalls or spaces on a public street within a local authority's jurisdiction, for the exclusive purpose of charging and parking a vehicle that is connected for electric charging purposes. Under existing law, a violation of the Vehicle Code is an infraction, unless otherwise specified.

This bill would additionally authorize a local authority, by ordinance or resolution, or a person in lawful possession of an offstreet parking facility to designate stalls or spaces in an offstreet parking facility owned or operated by that local authority or person, or stalls or spaces on a public street within a local authority's jurisdiction, for the exclusive purpose of parking a zero-emission vehicle, as specified. The bill would prohibit a person from parking or leaving standing a vehicle in, or obstructing, blocking, or otherwise barring access to, a stall or space designated, as authorized under the bill, unless the vehicle meets the definition of a zero-emission vehicle. Because a violation of this prohibition would be an infraction, the bill would impose a state-mandated local program by creating a new crime.

Existing law requires a parking space served by electric vehicle service equipment and a parking space designated as a future electric vehicle charging space to be counted as at least one standard automobile parking space for the purpose of complying with any applicable minimum parking requirements established by a local jurisdiction.

This bill would also require a parking space designated for the exclusive purpose of parking a zero-emission vehicle to be counted as at least one standard automobile parking space for the purpose of complying with any applicable minimum parking requirements established by a local jurisdiction.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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.



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