



TRANSPORTATION and INFRASTRUCTURE COMMISSION REGULAR MEETING AGENDA

Thursday, January 18th, 2024, 7:00 pm

Mission: The Berkeley City Council established this Transportation and Infrastructure Commission to advise the City Council on matters related to transportation and public works infrastructure policies, facilities, and services in the City. In addition, the commission functions as the City of Berkeley's Bicycle and Pedestrian Advisory Committee (BPAC).

**North Berkeley Senior Center
Dining Room
1901 Hearst Avenue
Berkeley, CA 94709**

A. PRELIMINARY BUSINESS

1. Call to order
2. Roll call
3. Public comment on items not on the agenda
4. Approval of minutes from November 16th, 2023 meeting
5. Approval and Order of Agenda
6. Update on administration and staff
7. Announcements

B. DISCUSSION/ACTION ITEMS

* Written material included in packet

** Written material to be delivered at meeting

The public may speak at the beginning of any item.

1. Informational Briefing on the Ohlone Greenway Safety Improvements Project * **

Berkeley Public Works staff

Staff will update Commissioners on status and process of developing and implementing safety improvements along the Ohlone Greenway. This project will make improvements to the Ohlone Greenway multi-use pathway, from Virginia Gardens to the south to Santa Fe Avenue to the north. It includes the following intersections: Virginia Gardens, Cedar Street, Rose Street, Hopkins Street, Peralta Avenue, Gilman Street, and Santa Fe Avenue. The upgrades aim to better accommodate the needs of all users and improve safety, especially at roadway intersections and at night. Discussion; no action.

Transportation and Infrastructure Commission
Thursday, January 18th, 2024

2. Chair and Vice Chair nominations

Commissioners

Commissioners will nominate new people to serve as Commission Chair and Vice Chair. Possible actions: Nominations for chair and vice chair.

3. 2024 Commission meeting schedule

Commissioners, staff

Commissioners and staff will determine dates and times for Transportation and Infrastructure Commission meetings for calendar year 2024.

4. 2024 Commission work plan

Commissioners

Commissioners to discuss 2024 work plan. Possible actions: Adopt 2024 work plan; create subcommittees and assign members; appoint liaisons

C. INFORMATION ITEMS AND SUBCOMMITTEE REPORTS

Information items can be moved to Discussion or Action by majority vote of the TIC

1. Subcommittee reports & assignments: verbal reports from subcommittees
2. TIC [Work Plan](#)
3. TIC Mission Statement (enclosed)
4. Public Works' [Top Goals and Projects](#) and [progress report](#)
5. Council Summary Actions 2022*
6. [Link to Council and Committee Agendas and Minutes](#)

D. COMMUNICATIONS

E. FUTURE AGENDA ITEMS

F. ADJOURNMENT 9:30 pm

Agenda Posted: January 11th, 2024

The next meeting of the Transportation and Infrastructure Commission is scheduled for Thursday, February 15^h, 2024 at 7:00 pm, date and time to be confirmed.

A complete agenda packet is available for public review at the Main Branch Library and at the Transportation Division and Engineering Division front desks.

ADA Disclaimer

♿ 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. Please refrain from wearing scented products to this meeting.

SB 343 Disclaimer

Any writings or documents provided to a majority of the commission regarding any item on this agenda will be made available for public inspection at the Public Works Transportation Division offices located at 1947 Center Street, 4th Floor.

Communications Disclaimer

*Communications to Berkeley boards, commissions or committees 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 a City board, commission or committee, 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 secretary of the relevant board, commission or committee. 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 secretary to the relevant board, commission or committee for further information.*

Commission Co-Secretary: Hamid Mostowfi, Transportation Division Manager, Public Works

Commission Co-Secretary: Ron Nevels, Manager of Engineering, Public Works
1947 Center St., 4th Floor, Berkeley, CA, 94704

Telephone (510) 981-7061 / Fax: (510) 981-7060 / TDD: (510) 981-6903

Email: hmostowfi@berkeleyca.gov

Email: rnevels@berkeleyca.gov



TRANSPORTATION and INFRASTRUCTURE COMMISSION
REGULAR MEETING
DRAFT MINUTES

Thursday, November 16th, 2023, 7:00 pm

North Berkeley Senior Center
1901 Hearst Avenue
Berkeley, CA, 94709

A. PRELIMINARY BUSINESS

1. Call to order

7:03 pm: Chair Parolek called the meeting to order.

2. Roll call

7:03 pm:

Commissioners Present: Noelani Fixler, Barnali Ghosh, Adrian Leung, Bryce Nesbitt, Karen Parolek, Rick Raffanti, Ray Yep

Commissioners Excused: Liza Lutzker, Kim Walton

Commissioners Absent: None

Staff Present: Hamid Mostowfi, Ron Nevels, Noah Budnick

3. Public comment on items not on the agenda

7:04 pm: Two public comments.

4. Approval of minutes from October 19th, 2023

7:07 pm Action: It was Moved / Seconded (Yep / Raffanti) to approve the minutes.

7:07 pm: Vote:

Ayes: Fixler, Ghosh, Leung, Nesbitt, Parolek, Raffanti, Yep

Noes: None

Abstain: None

Absent: Lutzker, Walton

Recused: None

7:07 pm Motion passed 7-0-0-2-0

5. Approval and Order of Agenda

7:07 pm: No changes suggested.

6. Update on administration and staff

7:08 pm: Co-Secretaries Mostowfi and Nevels provided updates and answered Commissioners' questions on the following topics: staffing updates, paving, Stormwater Master Plan and green infrastructure.

7. Announcements

7:36 pm: Commissioner Nesbitt announced that California is working through a statewide process to amend building codes. A proposal to specifically require bike storage rooms is being reviewed, but it does not include any details about electric bikes or large bikes (e.g. cargo bikes).

B. DISCUSSION / ACTION ITEMS

1. Informational Briefing on AC Transit Realign project *

7:38 pm: AC Transit staff provided a briefing on the agency's "Realign" project. In the first half of 2023, AC Transit worked on a market analysis, a service assessment and talked to many people throughout the East Bay to help understand peoples' transit needs. They used this information to redesign their service network to better serve people's needs. For more information on the project, please visit: actransit.org/realign

8:00 pm: Commissioners asked clarifying questions on the following topics: buses on Cedar Street in Berkeley, the G bus route, bus benching and bus operator retention.

8:13 pm: Two public comments.

8:15 pm: AC Transit staff addressed Commissioner questions and comments about the following topics: connections and transfers to other transit systems, service on the G bus route, buses on Cedar Street, weekend service, farebox recovery, no fares, two door and all door bus boarding, bus shelter improvements, route-specific comments, transit access for unhoused people, service for middle school and high school students and service for college students.

2. Informational Briefing on City of Berkeley Draft Daylighting Policy

8:57 pm: Public Works staff presented an update on the City's work to draft and implement a daylighting policy. Under state law, all intersections in California with marked or unmarked crosswalks must be daylighted. AB 413, signed into law on October 10, 2023, prohibits stopping, standing, or parking a vehicle within 20-feet

of any unmarked or marked crosswalk to increase visibility and reduce potentially lethal collisions.

9:00 pm: Commissioner asked clarifying questions on the following topics: the daylighting policy's impact on blue zones, physical improvements to prevent drivers from parking in daylight areas, potential use of daylight street space for bike parking, bike share stations, dockless bike share and scooter parking, green infrastructure and stormwater management, public engagement, community members painting the curbs and community partnerships in Oakland.

9:17 pm: One public comment.

3. Informational Briefing on Community-led Traffic Counts

9:19 pm: It was Moved / Seconded (Raffanti / Yep) to extend the meeting to 9:45 pm.

9:19 pm: Vote:

Ayes: Fixler, Ghosh, Nesbitt, Parolek, Raffanti, Yep

Noes: Leung

Abstain: None

Absent: Lutzker, Walton

Recused: None

9:20 pm Motion passed 6-1-0-2-0

9:20 pm: Commissioner Nesbitt gave a presentation on equipment and techniques used for community-led traffic counts.

9:30 pm: One public comment.

9:32 pm: Commissioner discussion.

C. INFORMATION ITEMS AND SUBCOMMITTEE REPORTS

9:41 pm: No reports.

D. COMMUNICATIONS

E. FUTURE AGENDA ITEMS

9:42 pm: Commissioners discussed agenda items for future meetings.

Transportation and Infrastructure Commission
Thursday, November 16st, 2023

F. ADJOURNMENT

9:43 pm: It was Moved / Seconded (Ghosh / Fixler) to close the meeting

9:43 pm: Vote:

Ayes: Fixler, Ghosh, Leung, Nesbitt, Parolek, Raffanti, Yep

Noes: None

Abstain: None

Absent: Lutzker, Walton

Recused: None

9:43 pm Motion passed 7-0-0-2-0

The next meeting of the Transportation and Infrastructure Commission is scheduled for Thursday, January 18th, 2024 at 7:00 pm, TBC, at the North Berkeley Senior Center, 1901 Hearst Ave, Berkeley, CA 94709.

Administrative Procedures

From the City of Berkeley Commissioners' Manual, 2019 Edition, page 70 regarding minutes:

Although the Brown Act does not require minutes, except for closed sessions, the Commissioners' Manual does require minutes of commission meetings but not for subcommittee meetings. When required, minutes are limited to action minutes only. Minutes are unofficial until approved by the commission. The minutes are converted to PDF and posted on the City's website.

The secretary shall keep an accurate record of the commission's proceedings and transactions. The secretary shall provide action minutes similar to those provided to the Council by the City Clerk. Action minutes list the date, time, and place of the meetings; the staff in attendance; the commissioners present and absent; and a clear and concise description of final actions taken. Approved motions are indicated by "moved, seconded, and carried" and include a breakdown of the vote. The vote breakdown includes the commissioners voting yes, no, abstain, absent, recused, and reason for recusal. Reasons for making a motion, debate, content of public comments, and audience reaction are not to be included.

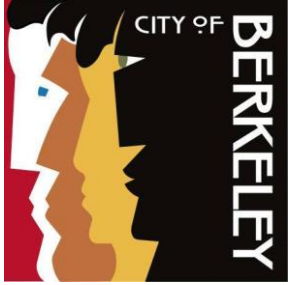
Commission Co-Secretary: Hamid Mostowfi, Transportation Division Manager, Public Works

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OHLONE GREENWAY SAFETY IMPROVEMENTS PROJECT

TRANSPORTATION & INFRASTRUCTURE COMMISSION MEETING

JANUARY 18, 2024

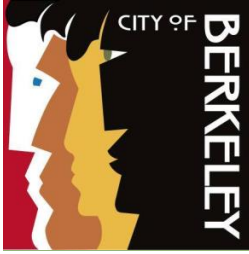
PUBLIC WORKS DEPARTMENT - TRANSPORTATION DIVISION

Presented by:

Ken Jung

Project Manager, City of Berkeley



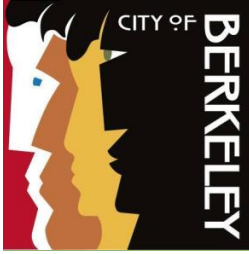


OHLONE GREENWAY SAFETY IMPROVEMENTS PROJECT

PURPOSE OF PRESENTATION

1. Update the TIC on significant project issues
2. Address public misinformation about the project
3. Respond to any commissioner's questions



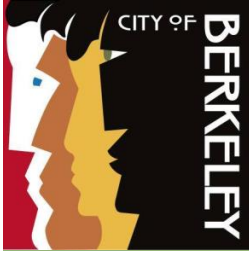


OHLONE GREENWAY SAFETY IMPROVEMENTS PROJECT

PROJECT OVERVIEW

- Operational and safety improvements along 1/2-mile long portion of Ohlone Greenway
- Project goals:
 - Upgrade as low-stress bike and pedestrian pathway
 - Better accommodate needs of all users
 - Improve safety, especially at intersections and non-daylight hours





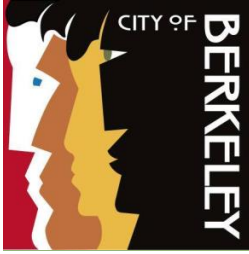
OHLONE GREENWAY SAFETY IMPROVEMENTS PROJECT

PUBLIC OUTREACH

Previous and upcoming public outreach activities:

- Project website: <https://berkeleyca.gov/your-government/our-work/capital-projects/ohlone-greenway-safety-improvements-project>
- November 2022: Hand-delivered letters to residences on Peralta Ave. and the Hopkins-Peralta apartments.
- November 2022 - January 2023: Emails and discussions with community gardens along Peralta.
- February 2 and 4, 2023: In-person events in Cedar Rose Park.
- February 8 – March 6, 2023: Online survey. City received over 500 responses.
- February 22, 2023: Online public meeting
- August 2023: Updated concepts for Rose St., Peralta Ave., and Gilman St.
- September 13, 2023: Presentation to Commission on Disability.
- January 18, 2024: Presentation to Transportation & Infrastructure Commission.
- TBD: City Council meeting to approve final plans and award construction contract.

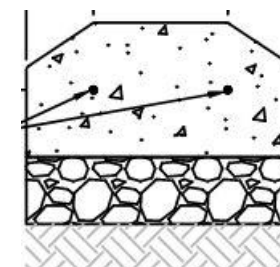




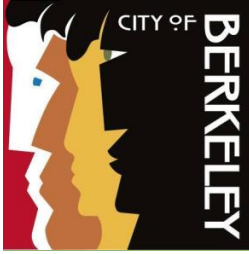
OHLONE GREENWAY SAFETY IMPROVEMENTS PROJECT

BERKELEY FIRE DEPARTMENT

- Project has been reviewed by BFD
- Continued coordination with BFD will occur throughout design process
- Access & operation:
 - Minimum lane width of 10.5'
 - Clear space around hydrants
 - Cedar St., Rose St., and Hopkins St. are emergency access routes
 - Vehicle turn movements at intersections
 - Raised buffers between vehicle lane and bicycle cycletrack to be mountable by emergency vehicles



Proposed detail
of concrete
mountable buffer

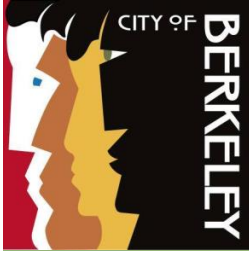


OHLONE GREENWAY SAFETY IMPROVEMENTS PROJECT

PATHWAY GEOMETRY & OPERATION

- Operates as 2-way **shared-use** pathway
- Current widths 10-12' (8' in Cedar Rose Park)
- Proposed widths 12-14' (unchanged in Cedar Rose Park)
- Unable to design as **separated-use** pathway due to insufficient available space
 - State standards require minimum 16' width
 - Constraints include mature trees, fences, property boundaries, etc.



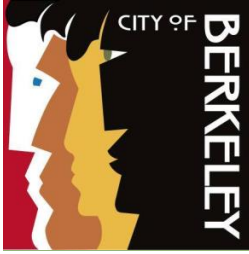


OHLONE GREENWAY SAFETY IMPROVEMENTS PROJECT

E-BIKES AND MOTORIZED SCOOTERS

- **E-bike** use governed by State AB 1096
 - Class 1 and 2 (up to 20 mph) allowed on bikeways
 - Class 3 (up to 28 mph) prohibited on bikeways
- **Motor scooter** use governed by California Vehicle Code:
 - Limited to 15 mph
 - Allowed on bikeways

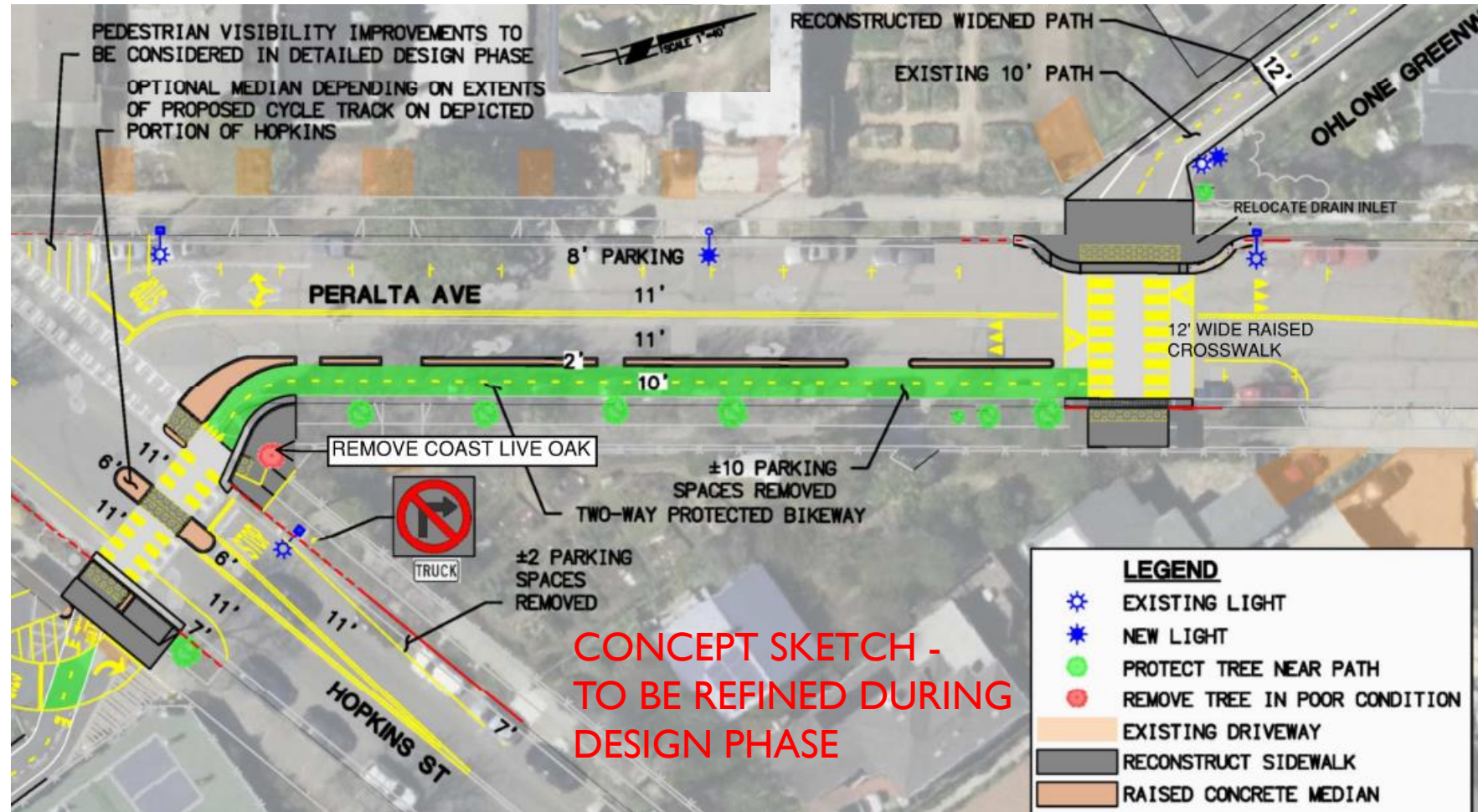


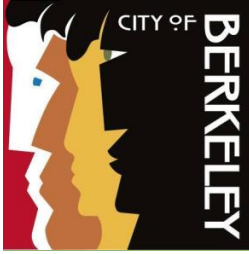


OHLONE GREENWAY SAFETY IMPROVEMENTS PROJECT

PERALTA ST. CYCLETRACK

- Proposed 200'-long cycletrack on east side of Peralta as per Citywide Bike Plan recommendation
- Maintain parking along west side, adjacent to houses
- Remove parking along east side
- Access to driveways (including community gardens) unaffected





OHLONE GREENWAY SAFETY IMPROVEMENTS PROJECT

QUESTIONS/COMMENTS



From: Susan Schwartz

Sent: Saturday, October 28, 2023 4:36 PM

To: Ferris, Scott <SFerris@berkeleyca.gov>; Garland, Liam <LGarland@berkeleyca.gov>; Skramstad, Mary <MSkramstad@berkeleyca.gov>; Torres, Ronald <RoTorres@berkeleyca.gov>; Miller, Roger <RMiller@berkeleyca.gov>; Mostowfi, Hamid <HMostowfi@berkeleyca.gov>; Nevels, Ronald <RNevels@berkeleyca.gov>

Subject: Fwd: Supporting item 16, Nov. 7 Consent Calendar, match to repair Aquatic Park tide tubes

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

I should have sent this to all of you -- apologies.

Roger, will you see that this gets to the Parks, Recreation, and Waterfront Commission?

Mr. Mostowfi and Mr. Nevels, will you please see that this is distributed to the Transportation and Infrastructure Commission at their next meeting? Thanks!

----- Forwarded message -----

From: Susan Schwartz

Date: Sat, Oct 28, 2023 at 4:26 PM

Subject: Supporting item 16, Nov. 7 Consent Calendar, match to repair Aquatic Park tide tubes

To: <Council@cityofberkeley.info>

Mayor Jesse Arreguin, members of the City Council

I very much hope that you will support item 16 on the Nov. 7 Consent Calendar, setting aside matching funds for infrastructure grants for the Aquatic Park lagoons.

The tide tubes that allow water to circulate in these three lagoons were built in 1937. Even if they had been properly maintained, they would be approaching the end of their useful lives. The city should seize this relatively brief opportunity to get help with this (and other) aging infrastructure.

Repairs are critical to preventing collapse (very likely along with a section of I-80) and to lessening fish kills and algae blooms due to massive influxes of storm water, like those experienced in 2023. We will see more of these as climate change brings larger deluges.

I have been observing the lagoons fairly closely in the last couple of years. The 2023 massive amounts of urban runoff did not harm only sharks and bat rays. Most of the formerly abundant mussels ringing the shoreline of the main lagoon died in spring -- significantly, the survivors seem to be all near the main tide gates. Inflows of salty Bay water there probably kept them alive. [See photos below.](#)

Two tubes should exchange water between the main lagoon and Model Yacht Basin. The western tube has no visible flow. The eastern one does have flow, as does the tube connecting the Model Yacht Basin to the Bay. But [sediment dramatically limits this exchange](#). Water levels have to be so different that water from the higher level cuts a deep trench or hole through sediments in the lower one. The pipes would otherwise be buried. [See photos below.](#)

Why does this matter? With more salt water, the lagoons should have less widgeon grass, a native that benefits waterbirds but impedes rowing. With saltier and more water exchange, the [lagoons are less likely to see the massive freshwater algae blooms that the city must pay to cut](#), so that boaters' experience will not be ruined and the decaying algae will not stink, rob the water of oxygen, and kill fish. Significantly, these blooms occur only at the ends of the main lagoon. At the north end, landfill that is now Eastshore State Park long ago cut off circulation. At the south end, connections to the Model Yacht Basin barely function. Algae is not a problem near the main tide gates. [See photos below](#).

The city should not regard Aquatic Park as a place to store or purify polluted urban runoff. This has been illegal since the Water Quality Control Board declared the lagoons impacted in the 1970s.

Berkeley [should](#) seize this opportunity to:

- avoid consequences of 80+ years of neglect of this and other infrastructure,
- take a significant first step addressing the complex environmental challenges of these human-built lagoons. The [city has spent hundreds of thousands of dollars on increasingly expensive studies](#), without no action taken.
- embrace reserves, accounting that includes lifetime maintenance costs, and a new stormwater plan that realistically addresses the likely effect of coming deluges on an aging stormwater system that is in no way adequate to deal with them, particularly in Southwest Berkeley.

Susan Schwartz
1236 Oxford St.

Written as an individual, but I have some knowledge of these matters from heading Friends of Five Creeks for 20+ years, and having volunteered at Aquatic Park somewhat longer.

Here are some photos:



Dead leopard shark, Feb. 2023



Dead mussels, July 2023

Above: Flow into Aquatic Park main lagoon from Model Yacht Basin, eastern tube. Photo taken at very low tide, with higher water in Model Yacht Basin. There are two pipes. The upper pipe (red arrow) is broken but has some flow. The lower pipe (yellow arrow) has more flow. It would be almost entirely buried in sediment except that the force of water digs a deep hole at the mouth of the pipe.



Below: A similar pattern at the tube connecting the Model Yacht Basin to the Bay. The upper pipe is broken and has little or no flow. The force of Bay water through the lower pipe digs a deep hole in sediment that would otherwise largely block the pipe.



Above: Mowing bloom of yellow algae, S. end Aquatic Park, August 2023. Better circulation and saltier water (which the Model Yacht Basin receives from the Potter Drain at high tides) should lessen these blooms.

For more information and photos, please explore aquaticpark.org (for which I am webmaster).

BERKELEY CITY COUNCIL AGENDA & RULES COMMITTEE SPECIAL MEETING MINUTES

MONDAY, OCTOBER 23, 2023

2:30 P.M.

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

1404 Le Roy Ave, Berkeley, CA 94708 – Teleconference Location

Committee Members:

Mayor Jesse Arreguin, Councilmembers Sophie Hahn and Susan Wengraf

Alternate: Councilmember Ben Bartlett

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. For in-person attendees, face coverings or masks that cover both the nose and the mouth are encouraged. If you are feeling sick, please do not attend the meeting in person.

Remote participation by the public is available through Zoom. To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL - <https://cityofberkeley-info.zoomgov.com/j/1604511264>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and Enter Meeting ID: **160 451 1264**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair.

To submit a written communication for the Committee's consideration and inclusion in the public record, email policycommittee@berkeleyca.gov.

Written communications submitted by mail or e-mail to the Agenda & Rules Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

AGENDA

Roll Call: 2:35 p.m. All present.

Public Comment – 6 speakers

Review of Agendas

1. Approval of Minutes: September 26, 2023

Action: M/S/C (Hahn/Wengraf) to approve the minutes of 9/26/23.

Vote: All Ayes.

2. Review and Approve Draft Agenda:

a. 11/7/23 – 6:00 p.m. Regular City Council Meeting

Action: M/S/C (Arreguin/Hahn) to request that the author of Item 21 add a referral to the Environment and Climate Commission.

Vote: All Ayes.

Action: M/S/C (Hahn/Arreguin) to request that the author of Item 22 add a referral to the Commission on Disability, Commission on Aging, and the Transportation and Infrastructure Commission.

Vote: All Ayes.

Action: M/S/C (Arreguin/Hahn) to approve the agenda of 11/7/23 with the changes noted below.

- Item Added: Tide Tube Budget Referral (Harrison) – Item added to the agenda
- Item 10 United Against Hate Week (Arreguin) – Revised item submitted; Councilmember Hahn added as a co-sponsor
- Item 11 – Holiday Fund (Arreguin) – Councilmembers Hahn and Wengraf added as co-sponsors
- Item 12 Housing Retention Program (Arreguin) – Councilmembers Hahn, Robinson, and Wengraf added as co-sponsors
- Item 14 Berkeley Youth (Harrison) – Councilmember Taplin added as a co-sponsor
- Item 17 Land Trust (City Manager) – Moved to Consent Calendar
- Item 21 Just Transition (Taplin) – Referred to Land Use, Housing, and Economic Development Committee with additional commission referral requested
- Item 22 Modernizing Transportation Language in BMC (Robinson) – Referred to Facilities, Infrastructure, Transportation, Environment & Sustainability Committee with additional commission referrals requested
- Item 23 Neighborhood Scale Commercial (Robinson) – Referred to Land Use, Housing, and Economic Development Committee

Order of Action Items

Item 16 Initiative Petition

Item 18 Surveillance Technology Report

Item 19 Energy Commission Recommendation

Item 20 Peace & Justice Commission Recommendation

Vote: All Ayes.

3. **Selection of Item for the Berkeley Considers Online Engagement Portal**
 - None Selected
4. **Adjournments In Memory – None**

Scheduling

5. **Council Worksessions Schedule** – updates for providing information on future regular meeting agendas
6. **Council Referrals to Agenda Committee for Scheduling** – received and filed
7. **Land Use Calendar** – received and filed

Referred Items for Review

8. **Discussion and Possible Action on City Council Rules of Decorum and Remote Public Comments**

Action: 3 speakers. Discussion held. Retain existing practice at this time. Request for additional signage.

9. **City Council Legislative Systems Redesign**

Action: 2 speakers. No action taken.

Unscheduled Items

10. **Modifications or Improvements to City Council Meeting Procedures (referred by Council at the March 14, 2023 meeting)**
11. **Strengthening and Supporting City Commissions: Guidance on the Development of Legislative Proposals**
12. **Discussion and Recommendations on the Continued Use of the Berkeley Considers Online Engagement Portal**

Items for Future Agendas

- None

Adjournment

Action: M/S/C (Arreguin/Hahn) to adjourn the meeting.

Vote: All Ayes.

Adjourned at 4:03 p.m.

I hereby certify that the foregoing is a true and correct record of the Agenda & Rules Committee meeting held on October 23, 2023.

Mark Numainville, City Clerk

Communications

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



CONSENT CALENDAR
November 7, 2023

To: Honorable Mayor and Members of the City Council

From: Councilmember Rigel Robinson (Author)

Subject: Modernizing and updating outdated & unnecessary language in the BMC related to transportation

RECOMMENDATION

Adopt first reading of an Ordinance amending BMC Chapters 6.32, 14.32, and 14.68 to:

1. Rescind outdated or unnecessary regulations pertaining to jaywalking, skateboarding, bicycle licenses, and bicycle establishment requirements
2. Allow 24/7 use of public paths by pedestrians and bicyclists for the purpose of transportation
3. Allow bicyclists on non-electric bicycles to ride on the sidewalk while exercising due care and yielding right-of-way to pedestrians when no Class I, Class II, or Class IV bicycle facility is available
4. Align the penalty for bicycle violations with other moving violations by amending it from a misdemeanor to an infraction
5. Update definitions of bicycles and scooters to align with definitions in the California Vehicle Code

PROPOSED POLICY COMMITTEE TRACK

Facilities, Infrastructure, Transportation, Environment, & Sustainability.

BACKGROUND

Berkeley Municipal Code Chapter 6.32 regulates parks and public pathways, and Chapters 14.32 and 14.68 regulate pedestrians and bicyclists respectively. BMC 14.32 was adopted in 1952 and BMC 14.68 was adopted in 1976, with minimal amendments since adoption. As a result, many provisions of these ordinances are outdated and do not reflect current practice, terminology, or state law. Table 1 summarizes proposed amendments to the municipal code and their justifications.

Table 1: Summary of Proposed Amendments

Proposed Amendment	Reasoning
6.32.020: Allowing use of public paths during park closure hours	Public paths in parks, such those in Ohlone Park, Strawberry Creek Park, San Pablo Park, and Cedar-Rose Park, provide a connection for pedestrians and bicyclists where the park interrupts the continuity of public streets. Several of these paths also connect directly to on-street and off-street bicycle facilities. In addition to recreation, these paths serve an important transportation function and should be open for through travel 24/7 as public streets are.
6.32.050 – 060: Clarifying vehicle regulations in parks	BMC 6.32.010 includes bicycles and scooters in the definition of “vehicle.” However, BMC 6.32.050 and 6.32.060 regulate vehicles in a manner that seems to only make sense for automobiles and motorcycles — for example, disallowing their use on public paths and requiring that they be parked in painted parking spaces. This amendment clarifies that these restrictions only apply to motor vehicles.
14.32.020 – 050: Rescinding jaywalking regulations	The California Vehicle Code (CVC) already regulates jaywalking, rendering these BMC sections redundant as local law is preempted by state law. Furthermore, the passage of AB 2147 (2022) decriminalized jaywalking when there is no immediate danger. ¹ The City of Berkeley supported a previous iteration of this bill (AB 1238) that would have repealed jaywalking laws altogether. ² Rescinding the City’s local jaywalking laws is therefore in line with past Council action.
14.32.060: Rescinding skateboarding regulations	The CVC already regulates skateboarding, prohibiting the use of motorized skateboards on sidewalks, roadways, and trails. ³ This BMC section requires skateboarders to wear reflective or light-colored clothing after dark — a requirement that is not imposed on bicyclists, scooter riders, or roller skaters.
6.32.010, 14.68.110: Updating bicycle, electric	These amendments align the definitions in the BMC with recently updated definitions in the CVC, improving clarity, consistency,

¹ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2147

² <https://berkeleyca.gov/sites/default/files/documents/2021-05-11%20Item%2027%20Support%20for%20AB%201238%20and%20AB%20122.pdf>

³

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=21968.&nodeTreePath=15.5&lawCode=VEH

bicycle, and motorized scooter definitions	and accuracy. Terminology is updated throughout BMC 6.32 and 14.68.
14.68.020 – 100, 320 – 340: Rescinding bicycle licensing requirements	These regulations are currently not enforced or followed in practice. There is no system in place for residents to register their bicycles with BPD and has not been since at least 2015. Furthermore, this change is necessary to comply with state law: AB 1909 (2022) prohibits jurisdictions from requiring bicycle licenses. ⁴ In lieu of obtaining bicycle licenses, residents can register their bikes with Bike Index, a free, non-profit, and open-source database that partners with local community organizations such as Bike East Bay. ⁵
14.68.130: Allowing sidewalk bicycling with due care	Sidewalk bicycling is a direct result of insufficient bicycling facilities and dangerous traffic conditions on streets. Research shows that bike infrastructure is disproportionately absent from Black and Latino neighborhoods, and bicyclist citations are subsequently issued disproportionately in these neighborhoods. ⁶ The due care clause still allows for enforcement in situations where the bicyclist is not yielding right-of-way to pedestrians or otherwise not exercising due care. This ordinance permits sidewalk bicycle with due care for people riding non-electric bicycles on streets without Class I, Class II, or Class IV bicycle facilities. This recommendation is similar to language in AB 825, ⁷ which was passed by the California state legislature but failed to be signed into law.
14.68.140: Allowing bicycling in parks, playgrounds, and school grounds with due care	The current language, requiring “permission of the person having supervision of said playground, park or school ground,” is unenforceable as it is unclear who has the supervisory power to grant access to a public park or playground. Trespassing laws already prohibit trespassing on public property after hours and on private property. This change strikes the permission requirement and adds a requirement to exercise due care for children playing in the area.
14.68.210 – 300: Rescinding bicycle establishment requirements	These regulations are currently not enforced or followed in practice. BPD does not have sufficient capacity to enforce the regulations.

⁴ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1909

⁵ <https://bikeeastbay.org/Register>

⁶ <https://www.sciencedirect.com/science/article/pii/S1361920921003254>

⁷ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB825

14.68.370: Amending penalty for violation to be an infraction instead of a misdemeanor	In the state of California, misdemeanors are punishable by a maximum fine of \$1,000 or up to 6 months of imprisonment. Infractions are less serious offenses with fines of \$100 to \$500 and no imprisonment option. ⁸ Examples of misdemeanors are reckless driving, driving under the influence, and hit and runs, which are violations far more severe than those outlined in this chapter. This change brings penalties for violations of this chapter in line with the vast majority of moving violations.
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FINANCIAL IMPLICATIONS

No significant financial implications.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable negative environmental impacts associated with this action.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170
 Angie Chen, Legislative Assistant
 Julie Zhu, Intern

Attachments:

1: Ordinance

⁸ <https://berkeley.municipal.codes/BMC/1.20.020>

ORDINANCE NO. -N.S.

ORDINANCE AMENDING TITLES 6 AND 14 OF THE BERKELEY MUNICIPAL CODE
TO UPDATE BICYCLE AND PEDESTRIAN REGULATIONS

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

Section 1. That Berkeley Municipal Code Chapter 6.32 is amended to read as follows:

Chapter 6.32 PARKS AND PUBLIC PATHWAYS--USE RESTRICTIONS

6.32.010 Definitions.

A. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power, devices used exclusively upon stationary rails or tracks, and motor-driven wheelchairs or similar devices used by a physically handicapped person; provided, however, that for the purposes of this chapter, a bicycle shall be deemed a vehicle.

B. "Bicycle" means a device upon which a person may ride, propelled exclusively by human power, except as provided in BMC 6.32.010.C, through a belt, chain or gears, and having one or more wheels. An electric bicycle is a bicycle.

C. "Electric bicycle" means a bicycle equipped with fully operable pedals and an electric motor of less than 750 watts.

1. "Class 1 electric bicycle," or "low-speed pedal-assisted electric bicycle," means a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

2. "Class 2 electric bicycle," or "low-speed throttle-assisted electric bicycle," means a bicycle equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

3. "Class 3 electric bicycle," or "speed pedal-assisted electric bicycle," means a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour, and equipped with a speedometer.

~~B. "Automobile" means every motor vehicle, as herein defined, except motorcycles.~~

DC. "Loud or offensive noise" means willful disruption of the public tranquility or peace by any tumultuous proceeding.

ED. "Motorcycle" means every motor vehicle, other than a tractor, designed to travel on not more than three wheels in contact with the ground.

F. "Motorized scooter" means any two-wheeled device that has handlebars, has either a floorboard that is designed to be stood upon when riding or a seat and footrests in place of the floorboard, and is powered by a motor.

~~E.~~ "Motor-driven cycle" means any motorcycle, including every motor scooter, with a motor which produces less than fifteen gross brake horsepower, and every bicycle with motor attached.

GF. "Motor vehicle" means every device, as herein defined, which is self-propelled. Electric bicycles and motorized scooters are not motor vehicles.

HG. "Operator" means every person who drives, operates or is in actual physical control of a ~~motor~~ vehicle.

IH. "Person" means every natural person, firm, copartnership, association or corporation.

J. "Public path" means public rights-of-way other than sidewalks dedicated to pedestrian use and connecting public streets. (Ord. 4731-NS § 1, 1974; Ord. 4716-NS § 1, 1974)

6.32.020 Park hours.

A. No person shall enter upon or otherwise remain within City parks, or portions thereof, between the hours or for the period specifically posted as closure hours at the entrance to the particular park and, where applicable, adjacent to any portion of a park being closed.

B. Where no hours are posted, a park shall be closed between the hours of ten p.m. and six a.m., except that parks equipped with user operated lights shall be closed between the hours of eleven p.m. and six a.m.

C. Closure hours shall not apply to persons, bicycles, and motorized scooters traveling on a public path within a park for the sole purpose of transportation through the park.

DC. Reserved. (Ord. 6524-NS § 1, 2000; Ord. 5823-NS § 1, 1987; Ord. 5454-NS § 1, 1982; Ord. 4716-NS § 8, 1974)

6.32.030 Park rules and uses.

A. The City Manager or their designee is authorized to issue such regulations and take such other actions as are necessary to preserve park property and public safety and to distribute park space and facilities among competing uses, including the prohibition of certain activities or restriction of them to certain times and/or locations. Failure to obey any directive issued by the City Manager or their designee pursuant to this section shall be a violation of this chapter.

B. Whenever any activity is restricted or prohibited in specified areas of any park, or whenever the use of specified areas is restricted or prohibited, the City Manager or their designee shall cause signs to be posted or permits to be issued notifying the public of such restrictions or prohibitions. Failure to obey the restrictions stated in any properly posted sign or in any permit shall be a violation of this chapter.

C. This ordinance is intended to be declaratory of and does not constitute any change in existing law. (Ord. 6577-NS § 1, 2000)

6.32.040 Offensive noise.

A. It is unlawful for any person to produce or cause to be produced loud or offensive noise in public parks after the hour of ten p.m. and before the hour of seven a.m.

B. Programs and events which may be sponsored by the Department of Recreation, Parks and Community Services or by authorized groups, where a valid permit has been issued therefor by the Director of Recreation and Parks, may continue after ten p.m., but such programs or events shall not unreasonably disturb the neighborhood. (Ord. 6577-NS § 2, 2000; Ord. 4736-NS § 6 (part), 1974; Ord. 4716-NS § 5, 1974)

6.32.050 Traffic prohibited in Aquatic Park when.

It is unlawful for any person to operate, park, stop or leave standing any motor vehicle in the Berkeley Aquatic Park at any time from a half-hour after sunset to a half-hour before sunrise, except that portion lying east of the lake between the southern line of the extension of Bancroft Way and the northern line of the extension of Addison Street. (Ord. 6577-NS § 2, 2000; Ord. 4716-NS § 3, 1974)

6.32.060 Parking and vehicle operation restrictions.

It is unlawful for any person to stop, park or leave standing any ~~vehicle, motor vehicle, automobile, or motorcycle or motor-driven cycle~~, whether attended or unattended, in any park in the City, including the Berkeley Aquatic Park, except that motor vehicles may be parked in the allotted parking spaces designated by painted or marked lines placed for the purpose of allotting spaces to parked motor vehicles, and in such cases

where there are no painted or marked lines designating the allotted parking spaces, motor vehicles shall be parked in such a manner that both wheels on the right side of the roadway of such motor vehicle are not more than six inches from the right-hand edge of the roadway, and such motor vehicle is at least three feet distant from any motor vehicle standing in the front or the rear thereof. It is further unlawful to operate any ~~vehicle~~, motor vehicle, automobile, motorcycle, or Class 3 electric bicycle ~~or motor-driven cycle~~ in parks and on public paths except on roadways designated for vehicular use. (Ord. 6577-NS § 2, 2000: Ord. 4716-NS § 2, 1974)

6.32.070 Vehicle removal authorized when--Procedures required.

The Police Department is authorized to remove or cause to be removed to the nearest garage or other place of safety, or to a garage designated or maintained by the City, any vehicle that is stopped, standing or parked in violation of any of the provisions herein and when signs are posted giving notice of such removal. The provisions of the California Vehicle Code pertaining to notice to owner and garagekeeper's lien shall apply in the event of such removal. (Ord. 6577-NS § 2, 2000: Ord. 4716-NS § 7, 1974)

6.32.080 Applicability--Exceptions.

Authorized officers, employees, agents or representatives of the City shall be excepted from the provisions of this chapter only when such officer, employee, agent or representative is on the official business of the City and such official business requires such person to be in a City park. (Ord. 6577-NS § 2, 2000: Ord. 4716-NS § 4, 1974)

6.32.090 Signs required.

The Police Department is authorized and directed to erect, maintain, place and paint the necessary signs and markings which shall give notice of the regulations prescribed in this chapter. (Ord. 6577-NS § 2, 2000: Ord. 4716-NS § 6, 1974)

6.32.095 Skate parks--rules.

A. All persons using skate parks within the City of Berkeley shall comply with the following requirements:

1. Only persons using skateboards and skates, including but not limited to roller skates, in-line skates and/or roller blades, shall be allowed within any skate park. Persons without skateboards or skates are not allowed within skate parks.
2. Persons using bicycles or scooters are not allowed within any skate park.

3. All persons using skate parks shall wear a helmet, elbow pads and kneepads, suitable to provide protection in the event of falls or collisions. Such safety equipment must be worn at all times.
 4. Additional obstacles or other materials, including but not limited to ramps and jumps, are prohibited within skate parks.
 5. Glass products are prohibited within skate parks.
 6. Earphones or headsets are prohibited while skating or otherwise using a skate park.
- B. Skate parks shall be open only from 6:30 a.m. until 9:30 p.m., provided that if a skate park does not have adequate lighting for after-dark operation, as determined by the City Manager or designee, it shall close no later than one-half (1/2) hour before sunset. No person shall be allowed within a skate park outside of these hours.
- C. The City Manager, or designee, may close any skate park whenever the City Manager, or said designee, determines that such a closure is necessary, or may promulgate other rules as necessary, for the protection of public property or public safety.
- D. No skating contests or events of any kind are permitted within skate parks without the prior written approval of the City Manager or designee.
- E. Amplified sounds are not permitted in skate parks.
- F. Graffiti of any form within, on, or around any skate park is prohibited.
- G. All injuries must be reported to the City Manager's office.
- H. For purposes of this ordinance, a skate park is a public recreational facility that is designed and built specifically to provide skating opportunities to persons using either a skateboard or skates. A skateboard is a flat platform, two to three feet in length, with no handholds, attached to four wheels for riding on while standing or crouching. Skates are defined as a boot or shoe having wheels either attached in-line at the center of the boot or having two wheels attached at the toe and two wheels attached at the heel.
- I. Any person who violates this section shall, in addition to any other criminal or civil penalties provided by this Code, be subject to removal from all skate parks operated by the City of Berkeley for up to twenty-four (24) hours, upon the order of any authorized employee or officer of the City. (Ord. 6592-NS 2, 2000)

6.32.100 Violation--Penalty.

Any person violating any provision or failing to comply with any of the requirements of this chapter shall be deemed guilty of an infraction as set forth in Chapter 1.20 of this code. (Ord. 6577-NS § 2, 2000; Ord. 5591-NS § 1 (part), 1984; Ord. 4716-NS § 9, 1974)

Section 2. That Berkeley Municipal Code Chapter 14.32 is amended to read as follows:

Chapter 14.32 PEDESTRIAN REGULATIONS

14.32.010 Traffic Engineer to establish marked crosswalks.

The City Traffic Engineer is authorized to establish and maintain crosswalks and to designate them by appropriate devices or painted signs upon the surface of the roadway. (Ord. 3262-NS § 8, 1952)

~~14.32.020 When pedestrian must use crosswalks.~~

~~It is unlawful for any pedestrian to cross a roadway in any business district other than by a crosswalk. (Ord. 3262-NS § 8.1, 1952)~~

~~14.32.030 Crossing at right angles.~~

~~It is unlawful for any pedestrian to cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a marked crosswalk. (Ord. 3262-NS § 8.2, 1952)~~

14.32.0240 Standing in roadway--Use of divisional islands.

It is unlawful for any person to stand in any roadway other than in a safety zone or in a crosswalk if such action interferes with the lawful movement of traffic and it is unlawful for any person to use any safety zone or divisional island for any purpose other than that necessary to provide temporary safety from moving vehicular traffic. This section shall not apply to any public officer or employee, or employee of a public utility when necessarily upon a street or divisional island in the line of duty. (Ord. 4241-NS § 1, 1967; Ord. 3262-NS § 8.3, 1952)

~~14.32.050 Pedestrians to obey special pedestrian traffic signals.~~

~~Pedestrians shall obey the indication of special traffic signals installed for pedestrians only and shall disregard the indication of a vehicular traffic signal at any location where special pedestrian traffic signals are in place. (Ord. 3262-NS § 8.4, 1952)~~

~~14.32.060 Regulating the use of skateboards.~~

~~Skateboards shall obey all rules applicable to pedestrians, the California Vehicle Code and comply with the following regulations:~~

~~A. No age restrictions shall be placed upon skateboard users;~~

~~B. Skateboarders shall wear reflecting material and/or light colored clothing when skateboarding after dark;~~

~~C. Butt boarding and lying down on skateboards shall be prohibited;~~

~~D. Home made ramps in streets shall be prohibited;~~

~~E. Sidewalks shall be used for skateboarding where available, and skateboarders will yield the right-of-way to pedestrians;~~

~~F. Where sidewalks are not available, the skateboarder will be required to use the extreme left-hand edge of the roadway; facing oncoming traffic;~~

~~G. Skateboarders are required to obey traffic laws and vehicles codes set forth in California Highway Patrol's Skateboard Safety Handbook. (Ord. 5853-NS § 1, 1988)~~

Section 3. That Berkeley Municipal Code Chapter 14.68 is amended to read as follows:

Chapter 14.68 BICYCLES ~~AND BICYCLE ESTABLISHMENTS~~

14.68.010 Definitions.

~~A. "Bicycle" means a device upon which any person may ride, propelled exclusively by human power, except as provided in BMC 14.68.010.B, through a belt, chain or gears, and having one or more wheels either two or three wheels in a tandem or tricycle arrangement. An electric bicycle is a bicycle.~~

~~B. "Bicycle establishment" means and includes a business operated by any person, partnership, association or corporation, wherein new or used bicycles or bicycle parts are purchased, sold, dismantled or junked.~~

~~BC. "Motorized Electric bicycle" means any two-wheeled or three-wheeled device having fully operative pedals for propulsion by human power, or having no pedals if powered solely by electrical energy, and an automatic transmission and a motor which produces less than two gross brake horsepower and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground. means a bicycle equipped with fully operable pedals and an electric motor of less than 750 watts.~~

1. “Class 1 electric bicycle,” or “low-speed pedal-assisted electric bicycle,” means a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

2. “Class 2 electric bicycle,” or “low-speed throttle-assisted electric bicycle,” means a bicycle equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

3. “Class 3 electric bicycle,” or “speed pedal-assisted electric bicycle,” means a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour, and equipped with a speedometer.

C. “Non-electric bicycle” means a bicycle that does not fall under BMC 14.68.010.B.

CD. "Motorized scooter" means any two-wheeled device that has handlebars, has either a floorboard that is designed to be stood upon when riding or a seat and footrests in place of the floorboard, and is powered by a motor. (Ord. 7786-NS § 3, 2021; Ord. 4957-NS §§ 1-3, 1976)

Article I. Bicycles and Motorized ~~Bicycles~~Scooters

~~14.68.020 License and registration required.~~

~~It is unlawful for any person to operate or use a bicycle or motorized bicycle in the city which has not been registered and licensed in accordance with Section 39002(a) of the Vehicle Code of the state. (Ord. 4957-NS § 4, 1976)~~

~~14.68.030 Applicability of provisions.~~

~~Any bicycle or motorized bicycle not subject to the provisions of Division 16.7 of the Vehicle Code of the state of California shall be subject to this chapter, as provided by Section 39002(b) of the Vehicle Code of the state. (Ord. 4957-NS § 5, 1976)~~

~~14.68.040 License--Application required.~~

~~Every person making application for a bicycle license or registration in the City shall make application to the Chief of Police, either directly or through a bicycle establishment, upon forms provided by the Chief of Police. Said application form shall contain such information as may be required by the Chief of Police as to the applicant and the description of the bicycle licensed. (Ord. 6230-NS § 1, 1994; Ord. 4957-NS § 6, 1976)~~

~~14.68.050 License--Proof of ownership.~~

~~For each bicycle license issued, the applicant may be required to provide proof of ownership to the Chief of Police. Said proof shall be in any form designated by the Chief of Police to be satisfactory for such purpose. (Ord. 4957-NS § 7, 1976)~~

~~14.68.060 License--Bicycle to be presented.~~

~~Upon making application for a bicycle license or bicycle license renewal, the applicant shall present the bicycle at such place designated by the Chief of Police as a licensing facility. (Ord. 4957-NS § 8, 1976)~~

~~14.68.070 License--Examination of applicant required when.~~

~~Upon making an application for a first bicycle license, the applicant may be required to be examined by an examining officer designated by the Chief of Police. The Chief of Police may further designate the manner of examination. Upon completion of said examination, the examining officer may refuse to issue a license to the applicant if the said examination discloses to the examining officer that the applicant does not have a reasonable knowledge of the provisions of this chapter, the provisions of Division 11 (commencing with Section 21220) of the Vehicle Code of the state, or that the applicant is unable to exercise reasonable control in operating a bicycle. (Ord. 4957-NS § 9, 1976)~~

~~14.68.080 License--Renewal procedures.~~

~~Application for a bicycle license renewal shall be made by presentation of the licensed bicycle and the registration certificate last issued for the bicycle, and by payment of the full annual fee for said bicycle as provided by this chapter. (Ord. 4957-NS § 10, 1976)~~

~~14.68.090 License--Fees.~~

~~The fees required to be paid pursuant to the provisions of this chapter are:~~

~~A. For each new bicycle license and registration certificate, the sum shall be two dollars per year or any portion thereof;~~

~~B. For each transfer of registration certificate, the sum shall be one dollar;~~

~~C. For each replacement of a bicycle license and registration certificate, the sum shall be one dollar;~~

~~D. For each replacement of a registration certificate only, there shall be no fee;~~

~~E. For each bicycle license renewal, the sum shall be one dollar. (Ord. 5181-NS § 1, 1979; Ord. 4957-NS § 11, 1976)~~

~~14.68.100 License--Issuance.~~

~~Upon approval of the application and payment of the license fee, the Chief of Police will issue a license and a copy of the registration certificate to the applicant pursuant to Section 39003 of the Vehicle Code of the state. (Ord. 4957-NS § 12, 1976)~~

~~14.68.02110 Operation--Conformity with chapter provisions required.~~

~~It is unlawful for any person to operate a bicycle or motorized bicycle or motorized scooter in the City in violation of any of the provisions of this chapter. (Ord. 4957-NS § 13, 1976)~~

~~14.68.03120 Riding motorized electric bicycles and motorized scooters on sidewalk prohibited.~~

~~No person shall ride or operate an electric motorized bicycle or motorized scooter on any sidewalk in the City. (Ord. 7786-NS § 4, 2021; Ord. 4957-NS § 14, 1976)~~

~~14.68.04130 Riding bicycles on sidewalk permitted when.~~

No person shall ride or operate a bicycle on any sidewalk in the city except:

A. ~~Juveniles~~Persons, exercising the due care and giving the pedestrian the right-of-way, may ride and operate their non-electric bicycles upon the sidewalk adjacent to a street that does not include a Class I, Class II, or Class IV bikeway, as defined in Section 890.4 of the Streets and Highway Code, ~~except such sidewalks as are in front of schools, stores or buildings used for business purposes;~~

B. ~~Juveniles~~Persons riding or operating a non-electric bicycle on the sidewalk shall do so in single file at a speed no higher than 10 miles per hour;

C. Peace officers who determine in good faith that riding or operating a bicycle on the sidewalk is necessary to perform official duties. (Ord. 6113-NS § 1, 1992; Ord. 4957-NS § 15, 1976)

~~14.68.05140 Operation restrictions--Playgrounds, parks, school grounds.~~

No person shall ride or operate a bicycle or motorized bicycle upon any playground, park, or school ground where children are playing, without ~~the permission of the person~~

~~having supervision of said playground, park or school ground due regard for the safety of the operator and other persons upon such place.~~ (Ord. 4957-NS § 16, 1976)

14.68.06150 Operation restrictions--Public places.

No person shall ride or operate a bicycle ~~or motorized bicycle~~ upon any public place in the City other than a public street or highway, without due regard for the safety of the operator and other persons upon such public place. (Ord. 4957-NS § 17, 1976)

14.68.07160 Stunt riding.

No person riding or operating a bicycle ~~or motorized bicycle~~ shall perform or attempt to perform any acrobatic, fancy or stunt riding upon any public place, other than a street or highway, in the City. (Ord. 4957-NS § 18, 1976)

14.68.08170 Procedures on emerging from driveway or alley.

The operator of a bicycle ~~or motorized bicycle~~ or motorized scooter, on leaving a driveway or alley when the operator's view of either the sidewalk or street area is obstructed, shall stop such bicycle ~~or motorized bicycle~~ or motorized scooter immediately prior to riding upon or across such sidewalk or street area. (Ord. 4957-NS § 19, 1976)

14.68.09180 Parking Restrictions.

No person shall park any bicycle ~~, motorized bicycle,~~ or motorized scooter against windows or parking meters or on the main-traveled portion of the sidewalk, nor in such manner as to constitute a hazard to pedestrians, traffic or property. (Ord. 7786-NS § 5, 2021; Ord. 4957-NS § 20, 1976)

14.68.1090 Accidents--Procedures required.

The operator of any bicycle ~~or motorized bicycle~~ or motorized scooter involved in an accident shall take reasonable steps to ascertain whether or not anyone was injured, and shall give their name and, address ~~and the license number of their bicycle or motorized bicycle~~ to the person with whom they had the accident, and shall obtain the same information from the other person. (Ord. 4957-NS § 21, 1976)

14.68.11200 Accidents--Report required when.

It shall be the duty of the operator of any bicycle ~~or motorized bicycle~~ or motorized scooter to make a written report of any accident resulting in death or injury to the Police Department immediately after such accident. (Ord. 4957-NS § 22, 1976)

Article II. Bicycle Establishments

14.68.210 Business license and permit required.

~~No person or persons in the city shall establish, carry on or operate a bicycle establishment, except as authorized by this chapter, and without first obtaining a business license as provided in Ordinance 2805-NS of the City, and a permit from the Chief of Police. (Ord. 4957-NS § 23, 1976)~~

14.68.220 Permit--Application.

~~A. The application for such permit shall be in writing and signed by the applicant and shall set forth the following information: The name, age and residence address of the applicant if a natural person, or if a corporation, its name, date and place of incorporation, address of its principal place of business and the names of all its officers with their respective residence addresses, or if a partnership, association or unincorporated company, the names of the partners or persons comprising the partnership, association or company with their respective residence addresses. The application shall state whether the applicant had conducted a bicycle establishment prior to the current filing. If so, the applicant shall specify each and every such business, its location and dates of operation.~~

~~B. The application shall be made on forms provided by the Chief of Police and filed in duplicate with the Chief of Police. (Ord. 4957-NS § 24, 1976)~~

14.68.230 Permit--Not transferable.

~~No person having a bicycle establishment permit under the provisions of this chapter shall transfer, sell, assign, loan or permit any person to have or use such permit. (Ord. 4957-NS § 25, 1976)~~

14.68.240 Weekly secondhand buy report required.

~~A. All persons operating a bicycle establishment are required to make a weekly report to the Chief of Police upon forms provided for that purpose by the Chief of Police, giving the true name and address of the person from whom each bicycle or bicycle part is purchased, and a description of each bicycle, its frame number and the number of any license found thereon, if any. If the bicycle does not have a license, the buyer shall require the seller to obtain the approval of the Chief of Police to complete such sale or exchange. This report shall be known as the "secondhand buy report," and shall be made in triplicate. The original shall be mailed or delivered to the Chief of Police, the duplicate shall remain with the dealer, and the triplicate shall be given to the seller. It shall be the duty of the dealer to mail or deliver to the Chief of Police all reports at the close of each business week.~~

~~B. This section shall not apply to new bicycles or bicycle parts purchased at wholesale. (Ord. 4957-NS § 26, 1976)~~

~~**14.68.250 Dealer's report of sale required weekly.**~~

~~All persons operating a bicycle establishment shall make a weekly report to the Chief of Police upon forms provided for that purpose by the Chief of Police, to report all sales made, including the name and address of each person to whom a bicycle is sold, together with the make, frame number and license number found thereon, if any. These reports shall be known as the "dealer's report of sale," and shall be made in triplicate. The original shall be mailed or delivered to the Chief of Police, the duplicate shall be retained by the dealer, and the triplicate shall be given to the seller. It shall be the duty of the dealer to make or deliver all reports to the Chief of Police at the close of each business week. (Ord. 4957-NS § 27, 1976)~~

~~**14.68.260 Holding period for bicycles and parts.**~~

~~No person operating a bicycle establishment shall alter, repair or dispose of any bicycle or bicycle part purchased or taken in exchange as secondhand bicycle or bicycle part thereof until after the expiration of thirty days from the date of purchase or exchange, and during those thirty days the bicycle or bicycle part so obtained shall remain without alteration on the premises of such bicycle establishment, shall be kept separate from bicycles or bicycle parts previously purchased, and shall be subject to inspection at any time during business hours by the Chief of Police, or any police officer or other person designated by the Chief of Police. (Ord. 4957-NS § 28, 1976)~~

~~**14.68.270 Bicycle register--Required--Contents.**~~

~~A. The Chief of Police shall furnish free of charge to every person operating a bicycle establishment a book known as the "bicycle register" in which shall be entered in plain and legible handwriting a record of all bicycles or bicycle parts purchased or taken in exchange. The entry must be made at the time of purchase or immediately thereafter and shall include, in addition to the date and hour of purchase, a full description of the bicycle or bicycle part, the price paid therefor, and the name, address, age, height, weight and complexion of the seller. In entering the description of the bicycle, the name of the manufacturer and the factory serial number thereof shall in every case be recorded if known or if it can be ascertained.~~

~~B. This section shall not apply to new bicycles or bicycle parts purchased at wholesale. (Ord. 4957-NS § 29, 1976)~~

~~**14.68.280 Bicycle register--Disposition of purchased items.**~~

~~The operator of a bicycle establishment shall also enter in the bicycle register a record showing the disposition of each bicycle purchased, indicating whether such bicycle was resold or dismantled. (Ord. 4957-NS § 30, 1976)~~

~~14.68.290 Bicycle register--Safekeeping--Inspection.~~

~~The operator of a bicycle establishment shall keep the bicycle register in a safe place and see that it is not mutilated or destroyed. The bicycle register shall remain the property of the City, and shall be opened to inspection by the Chief of Police or any police officer at any time the establishment is open for business, and it may be taken by such police officer from the possession of the operator of a bicycle establishment if deemed necessary. (Ord. 4957-NS § 31, 1976)~~

~~14.68.300 Permit--Revocation conditions.~~

~~A. Bicycle establishment licenses issued pursuant to this chapter may be revoked by the Chief of Police after notice and hearing for any of the following reasons:~~

- ~~1. Fraud, misrepresentation, or any false statement contained in the application for a permit;~~
- ~~2. Any violation of any provision of this chapter or any provisions of any other chapter or law relating to and regulating the bicycle establishment;~~
- ~~3. Conviction of the permit holder of any felony or lesser crime reasonably related to the purposes of this chapter.~~

~~B. Any hearing on revocation or suspension conducted by the Chief of Police shall be conducted pursuant to written rules of procedure adopted by the City Council. (Ord. 4957-NS § 32, 1976)~~

Article III. General Regulations

14.68.12310 Provisions supersede other regulations.

The provisions of this chapter with reference to bicycles and motorized scooters shall supersede and be in lieu of any other ordinance or section of any other ordinance which is in conflict with the provisions of this chapter. (Ord. 4957-NS § 40, 1976)

~~14.68.320 License transfer prohibited.~~

~~It is unlawful to transfer a bicycle license from one bicycle or motorized bicycle to another. (Ord. 4957-NS § 34, 1976)~~

14.68.330 Dismantled or junked bicycles--Return of registration certificate.

~~Upon dismantling or disposing of a bicycle or motorized bicycle as junk, the licensee shall turn in the registration certificate for such bicycle or motorized bicycle to the Chief of Police within ten days of the date of said disposal indicating that the bicycle or motorized bicycle was junked. (Ord. 4957-NS § 35, 1976)~~

14.68.340 Bicycle rental agency--Licensing requirements.

~~All persons engaged in operating a bicycle rental agency for the purpose of renting or lending bicycles or motorized bicycles to patrons shall first obtain a bicycle license and registration certificate for each bicycle or motorized bicycle prior to renting or lending such bicycle or motorized bicycle. (Ord. 4957-NS § 36, 1976)~~

14.68.13350 Abandoned or unidentified bicycles and motorized scooters.

All bicycles ~~and motorized bicycles~~and motorized scooters that are abandoned or unidentified remaining in the hands of the Chief of Police shall at the end of six months be sold at auction and the proceeds therefrom deposited in the general fund of the City. (Ord. 4957-NS § 37, 1976)

14.68.14360 Violation of provisions by persons under eighteen--Penalty.

Where this chapter has been violated by juveniles under the age of eighteen years, in lieu of such fine ~~and imprisonment~~ provided in Section 14.68.150370, and in lieu of filing charges in the juvenile court, the Chief of Police may prohibit the operation upon the streets, alleys and public places in the City for a period not to exceed thirty days of a bicycle or motorized scooter so used in such violation, in which event the bicycle or motorized scooter so used in such violation shall be impounded by the Chief of Police and retained by them during the period of the operation which is prohibited, ~~and the owner's registration card shall be held for a like period.~~ (Ord. 4957-NS § 39, 1976)

14.68.15370 Violations Generally--Penalty.

Any person found to be in violation of any of the provisions of this chapter, ~~except for Section 14.68.130, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in Chapter 1.20 of this code. Any person found to be in violation of Section 14.68.130~~ shall be deemed guilty of an infraction and upon conviction thereof shall be punished as set forth in Chapter 1.20 of this code. (Ord. 6921-NS § 1, 2006; Ord. 5716-NS § 3 (part), 1986; Ord. 4957-NS § 38, 1976)

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall

be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

From: Bryce Nesbitt
Sent: Tuesday, November 28, 2023 11:38 AM
To: Budnick, Noah <NBudnick@berkeleyca.gov>
Subject: TIC: Request to pass to members SB 712

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear TIC members;

In October 2023 Governor Newsom signed **SB 712** Portantino, relevant to our mission.

In short it requires that rental unit owners allow charging fuel containing electric bikes and scooters inside living spaces, *unless* the "bike room" has provision for charging. There is presently no specific fire safety rule for the "bike room", only protection from rain.

We're not reducing carbon intensity, if we burn up our buildings:

In March and April [2023] alone, firefighters in Berkeley responded to six fires sparked by mobility devices around the city and in a university dormitory. One fire alone, a two-alarm attack, caused an estimated \$150,000 in damage.

<https://www.berkeleyside.org/2023/06/20/berkeley-fire-department-lithium-ion-battery-fires>

The issue is partially fake UL certifications, and partially the presence of the fuel itself even if the fire starts elsewhere.

SECTION 1. Section 1940.41 is added to the Civil Code:

(a) For purposes of this section:

(1) "Personal micromobility device" means a device with both of the following characteristics:

(A) It is powered by the physical exertion of the rider **or an electric motor.**

(B) It is designed to transport one individual or one adult accompanied by up to three minors.

(2) "Secure, long-term storage" means a location with all of the following characteristics:

(A) Access is limited to residents of the same housing complex.

(B) It is located on the premises.

(C) It is reasonably protected against precipitation.

(D) It has a minimum of one standard electrical connection for each personal micromobility device that will be stored and recharged in that location.

(E) Tenants are not charged for its use.

(b) A landlord shall not prohibit a tenant from either of the following:

(1) Owning personal micromobility devices.

(2) (A) **Storing and recharging up to one personal micromobility device** in their dwelling unit for each person occupying the unit if the personal micromobility device meets one of the following:

(i) Is not powered by an electric motor.

(ii) Complies with the following safety standards:

(I) For e-bikes, UL 2849, the Standard for Electrical Systems for E-bikes, as recognized by the United States Consumer Product Safety Commission, or EN 15194, the European Standard for electrically powered assisted cycles (EPAC Bicycles).

(II) For e-scooters, UL 2272, the Standard for Electrical Systems for Personal E-Mobility Devices, as recognized by the United States Consumer Product Safety Commission, or EN 17128, the European Standard for personal light electric vehicles (PLEV).

(iii) Is insured by the tenant under an insurance policy covering storage of the device within the tenant's dwelling unit. The owner may prohibit the tenant from charging a device in the unit if the device does not meet the standards in subclauses (I) and (II) of clause (ii).

(B) Subparagraph (A) **does not apply if the landlord provides the tenant secure, long-term storage for the tenant's personal micromobility devices.**

(C) Subparagraphs (A) and (B) do not apply to circumstances in which an occupant of the unit requires the use of a personal micromobility device as an accommodation for a disability.

(c) This section does not require a landlord to modify or approve a tenant's request to modify a rental dwelling unit for the purpose of storing a micromobility device inside of the dwelling unit.

(d) This section does not prohibit a landlord from doing any of the following:

(1) (A) Prohibiting repair or maintenance on batteries and motors of personal micromobility devices within a dwelling unit.

(B) Subparagraph (A) does not prohibit a tenant from changing a flat tire or adjusting the brakes on a personal micromobility device within the unit.

(2) Requiring a tenant to store a personal micromobility device in compliance with applicable fire code.

(3) Requiring a tenant to store a personal micromobility device in compliance with the Office of State Fire Marshal Information Bulletin 23-003 regarding lithium-ion battery safety, issued April 3, 2023, or any updated guidance issued by the Office of the State Fire Marshal regarding lithium-ion battery safety, if such bulletin or guidance is provided to the tenant by the landlord.

(e) This section does not limit the rights and remedies available to disabled persons under federal or state law.

December 18, 2023

Dear City of Berkeley Transportation and Infrastructure Commission,

My name is Estrella Sainburg. I utilize Gilman from San Pablo westward to regularly to walk down to Avis and occasionally, when coming off the offramp. I do not own a vehicle so I depend on sidewalk infrastructure and bike lane infrastructure mostly. Occasionally, I have a rental vehicle. I am excited about the improved bicycle infrastructure along Gilman and connectivity to the Bay Trail and the pedestrian bridge. These are all wonderful improvements. I write to you with a couple concerning limitations that have come with the improvements that I am confident can be rectified. We can prevent deaths by doing so.

I noticed that in one of the changes, the train pedestrian crosswalk signage and infrastructure became more confusing. Whereas before I could cross safely by looking both ways on the Southern sidewalk (Image C), now the sign on the gate says Do Not Enter on the South Side of Gilman (Image B). The Northern sidewalk has easy crossing access that was also improved (Image A). However, the new Do Not Enter sign leaves a pedestrian confused and technically, unable to cross on the South Side. Instead of saying Do Not Enter, the sign could say proceed with caution as it does at a crossing in Los Angeles (Image D).

I next want to bring up an even more urgent matter. I realize that there is much important and necessary construction taking place. However, the temporary signage and road blockages are not easily visible at night and clear to understand in the day. Last night, when turning left off the 580 onto Gilman, a car was coming straight at our vehicle from East to West. See the arrows meeting each other in Image E. With cones and other construction materials on our right side, we barely had anywhere to turn to. Luckily, with my boyfriend blinking his lights, the oncoming car was able to veer. In looking at how this street used to be set up prior to the changes, as we can see in Google Maps, the middle lane was for turning. One is accustomed to driving down this lane and without reflectors and signage directing traffic, this underpass will be even that much more dangerous.

I request the Commission take action on both of these issues – the pedestrian crossing on the Southern sidewalk at the train station and the general temporary construction signage, reflectors, and guidance. Thank you for your service on the Commission. I appreciate your time and attention to this matter.

Sincerely,
Estrella Sainburg
8183197180
Esainburg1016@gmail.com



Image A)



Image B)

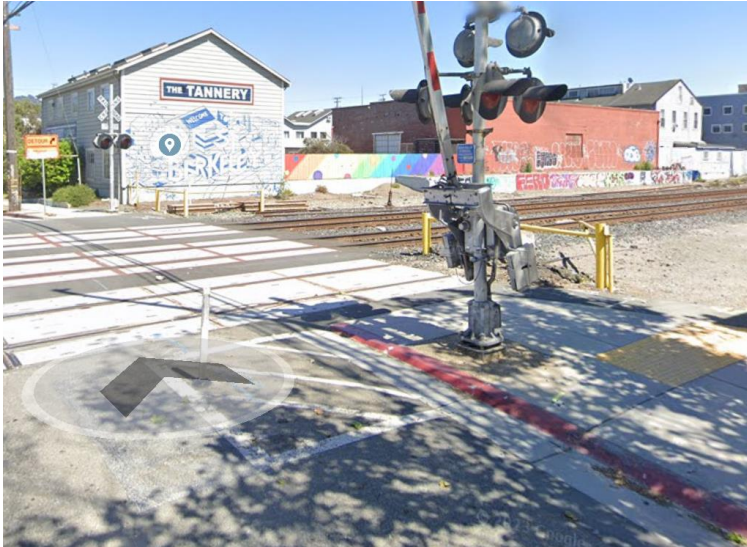


Image C)

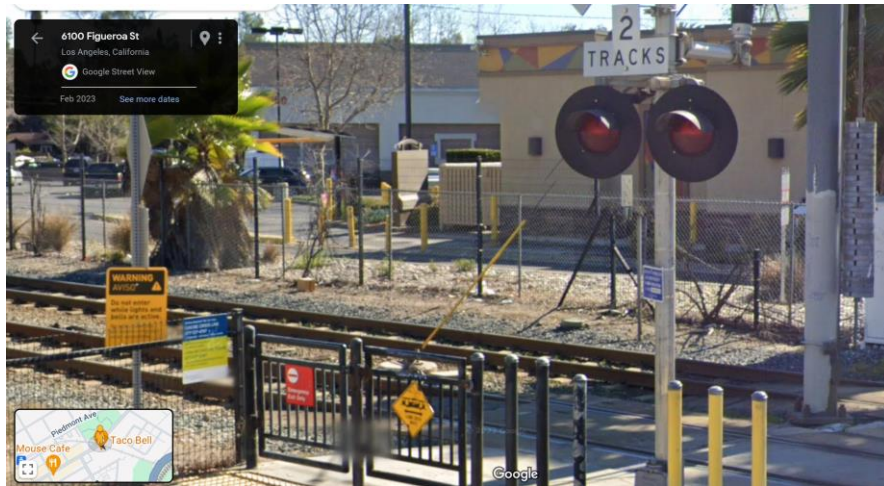


Image D)

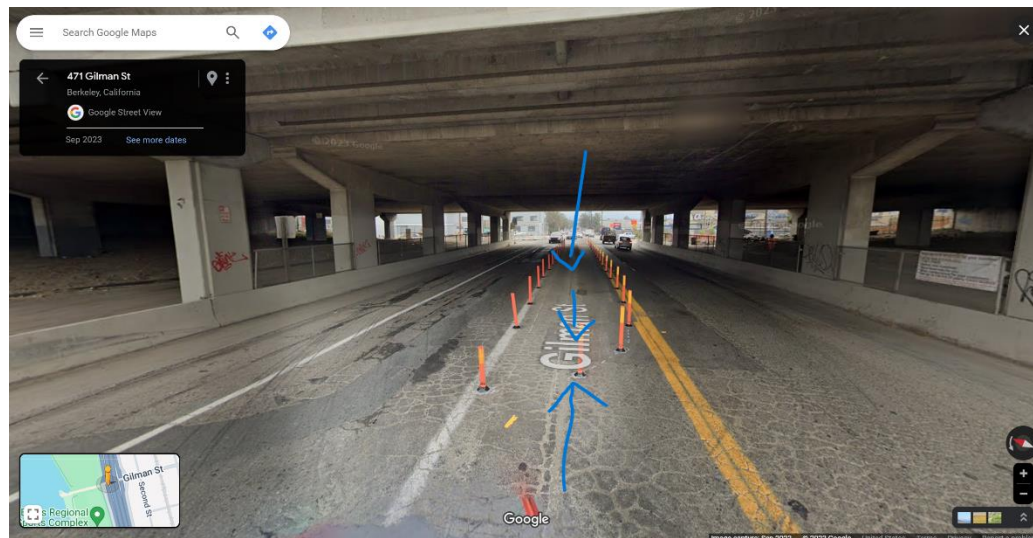


Image E)

From: Bryce Nesbitt
Sent: Thursday, December 21, 2023 1:24 AM
To: Budnick, Noah <NBudnick@berkeleyca.gov>
Subject: For the TIC: Scooter Fire News (Relevant to SB712)

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

<https://www.cnn.com/2023/11/14/us/brooklyn-fire-family-killed-lithium-battery-scooter/index.html>

brooklyn new york fire 11 12 2023

Three people were killed after a three-alarm fire broke out in a Brooklyn home Sunday, November 12, 2023.

This fatal blaze puts the city on track for a "staggering and devastating" number of fire deaths this year, according to New York City Fire Department Commissioner Laura Kavanagh.

An e-scooter with a lithium-ion battery was charging in the doorway and staircase of a Brooklyn brownstone home Sunday when it exploded and caused a wall of fire that killed Albertha West and her two relatives, according to fire officials. The blaze also left a firefighter badly injured.