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CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

ORDINANCE NO. 13085 C.M.S.

INTRODUCED BY VICE MAYOR REBECCA KAPLAN

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**ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ADD CHAPTER 1.06 TO TITLE 1, GENERAL PROVISIONS, TO ESTABLISH THE REQUIREMENTS FOR AN OFFICIAL NEWSPAPER AND THE PROCEDURES FOR THE CITY COUNCIL TO DESIGNATE ONE OR MORE OFFICIAL NEWSPAPERS IN ACCORDANCE WITH CHARTER SECTION 1205.**

**WHEREAS**, Article XII, Section 1205 of the Oakland Charter requires that City Council designate the time and conditions for providing public notice through publication of City matters, such as proposed ordinances, contract bid solicitations, public hearings and other matters as required by state or local law; and

**WHEREAS**, Section 1205 also states that publication, if required, shall be in an official newspaper designated by City Council; and

**WHEREAS**, the American media landscape has changed dramatically in recent years and continues to change resulting in significant reductions in daily newspaper circulation; and

**WHEREAS**, the printed news format has been impacted the most as more and more Americans consume news digitally from a variety of online and app-based sources; and

**WHEREAS**, the City Council determined that the City's requirements for providing notice through publication needed to be updated to keep up with the continuously changing media landscape, and, on November 19, 2019, approved Resolution No. 87942 C.M.S., which submitted to the voters at the March 3, 2020 election a ballot measure (Measure R) to amend Article XII, Section 1205 of the Oakland Charter to allow City Council establish procedures for designating one or more official newspapers by ordinance; and

**WHEREAS**, on March 3, 2020, 73.88% of Oakland voters approved Measure R; and

**WHEREAS**, the City of Oakland is a diverse city with many ethnic groups living and doing business within the City; and

**WHEREAS**, Oakland is building on the principles of inclusion and equity by ensuring all ethnic groups are represented and informed of City matters through a variety of media outlets; and

**WHEREAS**, the official newspaper is vitally important to the daily business of the City of Oakland since it is where items essential to the functioning of the City, such as proposed ordinances, contract bid solicitations, public hearings, real estate listings, and Maddy Act notices, are published for the communities' information and use; and

**WHEREAS**, the City Council wishes to amend the Oakland Municipal Code to establish the requirements and procedures for designating one or more newspapers as the City's official newspaper for the purpose of providing notice by publication of City matters when required by federal, state or local law;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Title 1 of the Oakland Municipal Code is amended to add, Chapter 1.06 - Publication and Advertising, as set forth below (section numbers and titles are indicated in bold type; additions are indicated by underscoring and deletions are indicated by strike-through.).

**SECTION 2. Code Amendments.**

Title 1, Chapter 1.06 is added to the Oakland Municipal Code as follows:

**Chapter 1.06 - Publication and Advertising**

**1.06.010. Purpose.** This Chapter establishes the requirements for an Official Newspaper and procedures for City Council to designate one or more Official Newspapers for the purpose of publishing public notices. This Chapter also requires the creation of a City website or webpage on which any notice that is required by law to be published in an Official Newspaper shall be posted. This Chapter is not intended to and shall not require the City to publish any notice in an Official Newspaper when publication in an Official Newspaper is not otherwise required by separate federal, state or local law.

**1.06.020. Definitions.** The following words and phrases when used in this Chapter shall have the following meaning:

- A. Print Publication - Any written work that is regularly distributed or made available to the public in printed hardcopy format within the City of Oakland.
- B. Publication - Any written work in any medium or format, including Print Publications, digital newspapers, digital media platforms, websites, or other online publications, that is regularly distributed or made available to the public within the City of Oakland.
- C. Official Newspaper - Any Publication designated as an official newspaper by City Council resolution.

D. Readership – The verified average number of Oakland residents that are digital subscribers or have a subscription (paid or unpaid) to a Publication plus the number of average weekly sales of the Publication within the City of Oakland.

**1.06.050. Official Newspapers Requirements.** The City Council shall select Official Newspapers based on the following requirements and criteria:

- A. An Official Newspaper must have a weekly Readership of at least 5,000;
- B. At least one of the Official Newspapers must be available in both digital format and as a Print Publication;
- C. All Official Newspapers must possess a valid City of Oakland business license.

**1.03.060. Designation.** The City Council shall designate by Resolution one or more Official Newspapers. Any Publication that is designated by Council Resolution as an Official Newspaper shall remain an Official Newspaper unless City Council amends the Resolution to remove the Publication from the list of Official Newspapers. The City Council may direct the City Administrator to solicit applications from qualified media outlets and make Official Newspaper recommendations to the City Council. Nothing in this Section shall prevent or prohibit the City Council from designating additional Official Newspapers by Resolution at any time.

**1.03.070. City Website Publication.** The City of Oakland shall establish a website, or a webpage on the City's official website, for the purpose of posting public notices, which is accessible to the public at no cost. Any notice that is posted in an Official Newspaper shall also be posted by the City Administrator (or designee) on the City's website or webpage established pursuant to this section.

**1.03.080. Construction and Applicability.** In the event of conflict between the Official Newspaper or public notice requirements established by this Chapter and any Official Newspaper or public notice requirements established by State law that is applicable to Charter Cities, State law shall govern unless State law is less restrictive. If the State law requirements are less restrictive the more restrictive requirements of this Chapter shall apply when publication in an Official Newspaper is required.

**1.03.090. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 3. Effective Date:** That this Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

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IN COUNCIL, OAKLAND, CALIFORNIA,

APR 19 2022

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND PRESIDENT FORTUNATO BAS - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



ASHA REED

City Clerk and Clerk of the Council of the  
City of Oakland, California

Introduction Date

DEC 21 2021

Date of Attestation:

April 25, 2022

## NOTICE AND DIGEST

### **ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ADD CHAPTER 1.06 TO TITLE 1, GENERAL PROVISIONS, TO ESTABLISH THE REQUIREMENTS FOR AN OFFICIAL NEWSPAPER AND THE PROCEDURES FOR THE CITY COUNCIL TO DESIGNATE ONE OR MORE OFFICIAL NEWSPAPERS IN ACCORDANCE WITH CHARTER SECTION 1205.**

On March 3, 2020, voters approved Measure R, amending the Oakland City Charter to allow the City Council to establish official newspaper criteria via ordinance. This ordinance allows the City Council to designate digital publications or platforms as the newspaper industry continues to evolve and Oaklanders increasingly receive their news from digital sources, while still preserving traditional printed newspapers as a method of advertisement for official City notices. This ordinance establishes the criteria and procedures for the City Council to designate by resolution newspapers to be used for the advertising of official City of Oakland notices. This ordinance also directs the City Administrator to establish a City website where all official City of Oakland notices will be viewable.