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2008 JUN 26 PM 5:00

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July 10, 2008

Rules and Legislation Committee
Oakland City Council
Oakland, California

Re: Resolution Submitting, On The City Council's Own Motion, To The Electors At The November 4, 2008 Statewide General Election, A Proposed Ordinance Creating A Special Parcel Tax for To Increase Police Personnel; Consolidating The Election With The Statewide General Election; And Directing The City Clerk To Fix The Date For Submission Of Arguments And Provide For Notice And Publication In Accordance With The November 4, 2008, Statewide General Election

Dear President De La Fuente and Members of the Rules Committee:

I respectfully submit this report to describe my proposed 2008 Oakland Police Services Expansion Measure, a ballot initiative for the November 4, 2008 election.

SUMMARY

The 2008 Oakland Police Services Expansion Measure is designed to provide voters the opportunity to determine future growth of the Oakland Police Department. This year, the Oakland Police Department (OPD) is on track to reach its current authorized and budgeted strength of 803 officers. Many residents continue to express concern that Oakland needs additional police services beyond the current strength to efficiently impact high rates of crime and violence. This initiative outlines a strategy for expanding police services in Oakland through the creation of an annual parcel tax that will pay for additional police officers and police service technicians. 35 police officers and 25 police services technicians will be added each year for three years, for a total addition of 105 police officer and 75 police services technician positions.

BACKGROUND

The City of Oakland has been experiencing both high crime rates and strained police staffing for many years. With a population of 420,183 residents and 31,489 Part I crimes

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reported in 2007 alone, many observers believe that the current size of the police department is inadequate to efficiently and effectively impact crime and violence.

The Oakland Police Department's staffing challenges have particularly affected key aspects of the department. Today, OPD's investigative capacity is severely hampered by limited staffing. Each year, thousands of reported crimes are not assigned to an investigator because there are too few officers to handle the incredible demand. Currently, cases are assigned only after a determination is made that there are enough factors present in the preliminary police report to justify a follow up investigation.

This unfortunate situation leads to several unacceptable realities. One investigator may have anywhere from 25-300 assigned cases at any one time. This situation results in deficient investigations and missed opportunities for arrests. In some instances, victims may not ever be contacted to discuss their case. This results in victims losing confidence in the police and it limits their desire to report crimes in the future. Investigators struggle to thoroughly conduct follow up investigations before cases are charged. Their capacity to take supplemental statements, canvass the scene, thoroughly examine evidence, and take other investigative steps is limited due to the demand for investigative services on multiple cases.

In addition to limited investigations capacity, the Oakland Police Department also has limited resources for data analysis. Data analysis is a critical function for today's police departments. Not only does it encourage strategic deployment and faster response times, it also allows police departments to identify emerging trends and employ preventative policing strategies before small problems become overwhelming. Currently, there are only two crime analysts to handle the department's copious requests for data analysis regarding murders, shootings, robberies, assaults, and burglaries. Limited staffing significantly impedes the command staff and area captains' ability to quickly and thoroughly analyze crime and to readily report on crime trends to public officials and the general public.

Not only has limited resources strained the Oakland Police Department, the violent crime rates have generally trended upwards over the last three decades. In 1970, Oakland experienced 66 homicides and nearly 2,500 robberies. While there have been some spikes and dips in the intervening years, the overall rates for homicide, rape, robbery, and assault are notably higher today, despite only a sixteen percent increase in the overall population. Oakland's homicide rate has surpassed 100 murders per year in 20 of the last 30 years. Crime reached a height in the 1990's, when homicides rose to 165 in 1992. Declines occurred in intervening years, but major crimes in Oakland and other mid-sized cities have trended upwards again in the last three years. Last year in 2007, Oakland ended the year with 120 homicides and nearly 3,500 robberies.

KEY ISSUES AND IMPACTS

Residents and merchants continually raise concerns about the size of Oakland's police force. Many desire to see the police force grow in order to improve police visibility, response times, and investigations, and to reduce the overall crime rates for the city. Many fear that without a significant reduction in crime and violence, Oakland will lose families, economic opportunities, and community stability.

The key issue this ballot measure seeks to address is future growth of the Oakland Police Department. With continued high crime and violence rates, this measure seeks to give residents the opportunity to determine their interest in levying a parcel tax to allow for the expansion of police services. This initiative gives voters the opportunity to make that decision based both on accurate information on the financial cost of an increased force and an understanding of the potential significant benefits of a larger police department.

PROGRAM DESCRIPTION

The 2008 Police Services Expansion Measure seeks to increase the Oakland Police Department by 35 Police Officers and 25 Police Service Technicians each year for three years by levying a parcel tax to raise the funds, beginning in Fiscal Year 2009 – 10. The proposed parcel tax will be proportionally distributed based on estimates of typical use and benefit from these municipal services. The proceeds of the tax will be used for the cost of additional police personnel, including salaries and benefits, as well as recruitment, training, support staff, equipment, infrastructure expansion, and other indirect costs.

Increasing the number of officers will go a long way to improving police services in Oakland. With 105 new officers, the Oakland Police Department will be able to reduce response times to calls for service, eliminate the significant backlog in investigations, and conduct more efficient investigations leading to an increased number of arrests and convictions of those responsible for committing crimes. These increased resources will be particularly important for improving child abuse, sexual assault, gang-related violence, and juvenile crime investigations.

What is more, police will be better equipped to focus on high impact, data-driven strategies geared to significantly reduce homicides and violent crimes. Police will have increased capacity to utilize real-time data and information to prevent crimes as well as quickly respond to crimes in progress. Additional crime analysts would help the area commanders and investigators identify the trends, series, and patterns of criminal behavior. This will in turn allow for more focus on prevention and apprehension efforts in these areas. Additional analysts would assist investigators in preparation for interviews with suspects and provide information that could lead to the recovery of stolen property. More police officers will also allow more resources to be dedicated to prevention and education to keep communities safe and keep youth away from violence and crime.

While increasing the number of sworn officers on the streets will achieve significant improvements in response times, investigations, and data-driven policing strategies, the initiative also aims to increase the number of Police Services Technicians (PSTs) on staff. PSTs are particularly important for cost-effective and efficient police services. PSTs can be highly cost effective in supporting and performing many of the responsibilities of sworn officers. Increasing these positions will allow Oakland to focus sworn officers on street duties, violence, and complex operations.

Police Services Technicians are trained to carry out a tremendous amount of tasks for the police department. PSTs can operate computerized data systems, compile statistics, obtain evidentiary material in support of the investigations division, such as witness statements, document retrieval, and the collection of physical evidence, issue citations for certain automobile violations, handle all abandoned auto problems, respond to vandalism, petty theft, and other non-hazardous crime complaints, process licenses and permits, make crime prevention presentations and attend community meetings, maintain filing and record keeping systems, and perform crowd control duties at major gatherings, among other essential police department responsibilities. PSTs must pass a rigorous background investigation and are thoroughly trained for the position.

As of today, the Oakland Police Department has 53 Police Services Technician positions. These individuals are invaluable to the department's operations. With another 75 Police Services Technicians on staff, policing services will dramatically improve. PSTs can assist in timely responsiveness to resident complaints, more efficient follow up investigations on open criminal cases, data analysis, and the dissemination of crime prevention information for the general public.

In each of the first three years of tax collection, the Police Department will add 35 new Police Officer positions and 25 new Police Services Technician positions, for a total of 105 new officer and 75 new PST positions by the fourth year of the tax.

FISCAL IMPACT

It is estimated that the cost to hire and maintain these additional positions will be approximately \$40 million by the fourth year of collecting this parcel tax. This includes the salary and benefits for 105 new Police Officers and 75 new Police Services Technicians (PSTs), as well as the cost of recruitment, academies, ongoing training, vehicles, equipment, supplies, facility expansion, support staff and central services overhead.

Table 1 provides the estimated parcel tax for each year of increased staffing.

Table 1:

	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>
Single Family	\$106.66	\$177.40	\$266.96
Multi-Family	\$72.87	\$121.19	\$182.38
Non-Residential	\$54.63	\$90.86	\$136.73
<u>Estimated Revenue</u>	<u>\$15,885,700</u>	<u>\$26,420,700</u>	<u>\$39,760,000</u>

Additionally, approval of the proposed resolution will authorize the expenditure of approximately \$250,000 dollars for cost associated with this election. Funds are available within the General Purpose Fund (1010); Emergency Contingency Reserve Organization (90611).

ACTION REQUESTED OF THE CITY COUNCIL

Approve placing the 2008 Oakland Police Services Expansion Measure on the November 4, 2008 ballot and the allocation of the associated election costs.

Respectfully submitted,



Ronald V. Dellums
Mayor

Prepared by:

Lenore Anderson
Public Safety Director
Office of the Mayor

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OFFICE OF THE CITY CLERK
OAKLAND
APPROVED AS TO FORM AND LEGALITY
CITY ATTORNEY

INTRODUCED BY COUNCILMEMBER _____

2008 JUN 26 PM 5:00

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

Resolution Submitting, On The City Council's Own Motion, To The Electors At The November 4, 2008 Statewide General Election, A Proposed Ordinance Creating A Special Parcel Tax for To Increase Police Personnel; Consolidating The Election With The Statewide General Election; And Directing The City Clerk To Fix The Date For Submission Of Arguments And Provide For Notice And Publication In Accordance With The November 4, 2008, Statewide General Election

WHEREAS, the Mayor and the City Council of the City of Oakland are committed to provide a safe and peaceful environment for all Oakland residents; and

WHEREAS, the City of Oakland has been experiencing unacceptable rates of crime and violence that are impacting families, businesses, and city's overall quality of life; and

WHEREAS, preventing violence and ensuring public safety requires that police services be adequately staffed; and

WHEREAS, the first challenge Oakland faces once the current authorized strength is reached this year is to sustain that level of police staffing, and

WHEREAS, for many residents additional police staffing is a matter of significant interest and concern; and

WHEREAS, limited police staffing services detrimentally impact the Oakland Police Department's ability to rapidly respond to calls for service, thoroughly investigate crimes, and engage in data-driven policing strategies; and

WHEREAS, at the general election of November 2, 1996, the voters of the State of California amended the state constitution, adding Article XIII C, which requires that all new or increased special taxes be submitted to the voters prior to becoming effective.

NOW, THEREFORE BE IT RESOLVED:

That the City Council of the City of Oakland does hereby submit to the voters at the November 4, 2008 general election, an Ordinance, which reads as follows:

PART 1. GENERAL

Section 1. TITLE AND PURPOSE.

(A) Title. This Ordinance may be cited as the "The 2008 Oakland Police Services Expansion Measure."

(B) Purpose. The tax, imposed under this Ordinance, is solely for the purpose of raising revenue necessary to maintain and enhance police services and programs to prevent crime in the City of Oakland.

This parcel tax is not an ad valorem tax on real property, nor a transaction tax or sales tax on the sale of real property. It is an excise tax on the privilege of using and use of municipal services. Such municipal services increase and provide a greater benefit to Owners of Parcels when programs aimed at preventing crime in the City are enhanced. Because the proceeds of the tax will be deposited in a special fund *restricted for the services and programs specified herein, the tax is a special tax.*

Section 2. FINDINGS

1. Investing in adequate police services will significantly reduce the economic and social costs associated with crime and violence and be a cost-effective use of taxpayer dollars.

2. Crime occurs in all areas within the Oakland community and is a concern to residents of the City of Oakland.

3. Crime in Oakland tears apart families and destabilizes communities.

4. Crime in Oakland disrupts local commercial activity, reduces business and industrial productivity, deters tourism and outside financial investments, and reduces the value of real estate.

5. Limited police services results in too few officers on the streets, inadequate support for victims, deficient investigations, slow response times, insufficient data analysis and unaddressed community issues.

6. Police services technicians can be cost effective in supporting and performing many of the sworn police officer responsibilities, including significant investigative and data analysis activities as well as responding to non-dangerous calls for service.

7. Adding additional police officers and police services technicians is a matter of significant interest to residents of the City of Oakland.

8. Adding additional police officers and police services technicians is crucial to effectively impacting all crime and violence in Oakland, especially drug and gang related homicides, domestic violence, sexual assault, child abuse, and juvenile crime.

9. With the addition of police personnel:

- the Oakland Police Department will be able to reduce response times to calls for service and provide more police in our neighborhoods,
- the Oakland Police Department will be able to better serve crime victims and conduct more efficient and thorough investigations leading to the arrests and convictions of those responsible for committing crimes,
- the Oakland Police Department will be able to improve crime data collection and analysis, enhancing data-driven policing strategies to rapidly identify emerging trends and employ preventative policing,
- the Oakland Police Department will have significantly more capacity focused on reducing homicides and violent crimes, and
- the Oakland Police Department will have more resources to dedicate to prevention and education to keep communities safe and keep youth out of gangs, violence and crime.

10. This special tax is based on a community assessment of the need to increase public services and is intended to be proportional to and based on estimates of typical use and benefit from these municipal services.

11. The apportionment of the parcel tax to various types of properties is based, in part, on the intensity of policing needed for different kinds of land uses and on the average number of occupants of a parcel of each type of property. Users of residential property typically generate more calls for service to the police department, and the intensity of use of police services increases as the number of residential units on a parcel increases. On the other hand, because of the typically large size of commercial and industrial parcels, and because the employees who work for businesses located on such parcels and the customers who visit such businesses generally outnumber the residents of even a similarly sized parcel of residential property (partly because non-residentially developed real property often has more than one business operating on it), the tax on commercial/industrial properties is calculated based on Single Family Residential Unit Equivalent units.

12. As the density of residential development increases, the cost of providing policing services also increases. The differing tax rates accurately reflect the differing costs of providing services to the different densities of residential development.

13. The parcel tax rates established in this Ordinance are intended to be proportional to and based on estimates of typical use of and benefit to occupants of different residential parcels of policing services.

14. Each occupant of a parcel derives value from the availability of policing services. The value of such services is in their availability and benefit to all residents, and it would be unfair to charge their costs only to those persons who actually use the services. Even if such services are not presently used by an occupant, they may be

used in the future and, in any event, their availability benefits each occupant. The City's policing services enhance the health, safety and welfare of all occupants of property in the City and improve their quality of life both directly and indirectly. Reducing crime is vitally important to the health, safety, and welfare of the occupants.

15. Nothing in this Ordinance is intended to preclude owners from recovering the tax from occupants. Whether an occupant is charged depends on the occupancy agreement and the requirements of the Residential Rent Adjustment Program.

16. It is not feasible for the City to collect the tax from the non-owner occupants on whom it is imposed because the records available to the City do not include the names of non-owner occupants. Therefore, the only practical way to collect a tax imposed on occupants is to collect it from the owners of the occupied properties.

17. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

Section 3. USE OF PROCEEDS

The City of Oakland budget currently authorizes 740 police officers ("police officers"). Measure Y (the Violence Prevention and Public Safety Act of 2004) authorizes at least 63 Measure Y officers ("Measure Y officers"). The tax proceeds raised by this Ordinance may only be used as part of the following, in accordance with the following specific purposes:

Increased Police Personnel for Fiscal Years 2009-10, 2010-11 and 2011-12:

- a. An additional 35 police officers and additional 25 police services technicians in Fiscal Year 2009-10.
- b. An additional 35 police officers and additional 25 police services technicians in Fiscal Year 2010-11.
- c. An additional police 35 officers and additional 25 police services technicians in Fiscal Year 2011-12.

The proceeds of this parcel tax may be used for the direct and indirect cost of additional police officers and police services technicians including, but not limited to, the cost of salary and benefits, recruitment, police academy and training, support staff (payroll and accounting staff, dispatchers, secretarial / administrative / human resources staff, police records specialists, field training officers), vehicles, equipment, supplies, furnishings, facility and infrastructure expansion and central services overhead. Administrative costs shall be limited to 20 percent of the total annual appropriation of the tax proceeds raised by this Ordinance.

PART 2. OVERSIGHT AND TERM OF TAX IMPOSITION

Section 1. AUDIT AND ENGINEER.

An independent audit shall be performed annually to ensure accountability and proper disbursement of the proceeds of this tax in accordance with the objectives stated herein as provided by Government Code sections 50075.1 and 50075.3. The City will, from time to time, retain an engineer for services pertaining to this parcel tax. Tax proceeds may be used to pay for audit and engineering services.

Section 2. SPECIAL FUND

All funds collected by the City from the tax imposed by this Ordinance shall be deposited into a special fund in the City treasury and appropriated and expended only for the purposes authorized by this Ordinance.

Section 3. TERM OF TAX IMPOSITION

The tax imposed by this Ordinance shall become effective on July 1, 2009.

Section 4. SAVINGS CLAUSE.

If any provision, sentence, clause, section or part of this Ordinance is found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, such unconstitutionality, illegality, or invalidity shall affect only such provision, sentence, clause, section or part of this Ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared that the City would have adopted this Ordinance had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.

If any tax imposed by this Ordinance is found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, the amounts, services, programs and personnel (as set forth in Part 3) required to be funded from such tax shall be reduced proportionately by any revenues lost due to such unconstitutionality, illegality or invalidity.

Section 5. REGULATIONS.

The City Council is hereby authorized to promulgate such regulations or Ordinances as it shall deem necessary in order to implement the provisions of this Ordinance.

Section 6. NO AMENDMENT.

The tax rates may not be increased by action of the City Council without the applicable voter approval but the City Council may make any other changes to this Ordinance as are consistent with its purpose.

PART 3. PARCEL TAX

Section 1. DEFINITIONS.

For purposes of this part only, the following terms shall be defined as set forth below:

(A) "Administrative Costs" shall mean overhead costs, including central services, departmental and/or divisional.

(B) "Building" shall mean any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind. The word "Building" includes the word "structure."

(C) "Family" shall mean one or more persons related by blood, marriage, domestic partnership, or adoption, who are living together in a single residential unit and maintaining a common household. Family shall also mean all unrelated persons who live together in a single Residential Unit and maintain a common household.

(D) "Hotel" shall mean as defined by Oakland Municipal Code section 4.24.020.

(E) "Multiple Residential Unit Parcel" shall mean a parcel zoned for a Building, or those portions thereof, which accommodates or is intended to contain two or more residential units.

(F) "Non-Residential" shall mean all parcels that are not classified by this Ordinance as Residential Parcels, and shall include, but not be limited to, parcels for industrial, commercial and institutional improvements, whether or not currently developed.

(G) "Occupancy" shall be as defined by Oakland Municipal Code section 4.24.020.

(H) "Officer" shall mean a position in the Oakland Police Department for sworn police personnel at the rank of officer or sergeant.

(I) "Operator" shall be as defined by Oakland Municipal Code section 4.24.020.

(J) "Owner" shall mean the Person having title to real estate as shown on the most current official assessment role of the Alameda County Assessor.

(K) "Parcel" shall mean a unit of real estate in the City of Oakland as shown on the most current official assessment role of the Alameda County Assessor.

(L) "Person" shall mean an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(M) "Police Services Technician" shall mean a position in the Oakland Police Department for non-sworn personnel who performs the functions of Police Services Technician I or II.

(N) "Possessory Interest" as it applies to property owned by any agency of the government of the United States, the State of California, or any political subdivision thereof, shall mean possession of, claim to, or right to the possession of, land or Improvements and shall include any exclusive right to the use of such land or Improvements.

(O) "Residential Unit" shall mean a Building or portion of a Building designed for or occupied exclusively by one Family.

(P) "Single Family Residential Parcel" shall mean a parcel zoned for single-family residences, whether or not developed.

(Q) "Transient" shall mean any individual who exercises Occupancy of a hotel or is entitled to Occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any individual so occupying space in a Hotel shall be deemed to be a Transient until the period of thirty (30) consecutive days has elapsed.

Section 2. IMPOSITION OF PARCEL TAX.

There is hereby imposed a special tax on all Owners of parcels in the City of Oakland for the privilege of using municipal services and the availability of such services. The tax imposed by this Section shall be assessed on the Owner unless the Owner is by law exempt from taxation, in which case, the tax imposed shall be assessed to the holder of any Possessory Interest in such parcel, unless such holder is also by law exempt from taxation. The tax is imposed as of July 1 of each year on the person who owned the parcel on that date. The tax shall be collected at the same time, by the same officials, and pursuant to the same procedures as the one percent property tax imposed pursuant to Article XIII A of the California Constitution.

Base Amount of Tax. The tax hereby imposed shall be set as follows subject to adjustment as provided in Section 5 below:

(A) For owners of all Single Family Residential Parcels, the tax shall be at the annual rate as follows:

Fiscal Year 2009-10: \$106.66

Fiscal Year 2010-11: \$177.40

Fiscal Year 2011-12 and each subsequent Fiscal Year: \$266.96

(B) For owners of all Multiple Residential Unit Parcels, the tax shall be at the annual rate of per occupied Residential Unit as follows:

Fiscal Year 2009-10: \$72.87
 Fiscal Year 2010-11: \$121.19
 Fiscal Year 2011-12 and each subsequent Fiscal Year: \$182.38

Owners of units that are vacant for six months or more per year may apply to the Director of Finance to have the rate reduced by 50% per vacant Residential Unit located on the Parcel as follows:

Fiscal Year 2009-10: \$36.44
 Fiscal Year 2010-11: \$60.60
 Fiscal Year 2011-12 and each subsequent Fiscal Year: \$91.19

(C) The tax for a Non-Residential Parcels is calculated using both frontage and square footage measurements. To calculate the tax for a non-residential parcel, first determine the land use category of the parcel. Second, take the parcel's frontage measurement and divide that number by the frontage denominator for the parcel's land use category (see matrix). This number will be the Single Family Residential Unit Equivalent for the parcel's frontage. Third, take the parcel's square footage measurement and divide that number by the area denominator for the parcel's land use category (see matrix). This number will be the Single Family Residential Unit Equivalent for the parcel's area. Add the Single Family Residential Unit Equivalent for the parcel's frontage to the Single Family Residential Unit Equivalent for the parcel's area. This number will be the parcel's total Single Family Residential Unit Equivalent. Multiply the total Single Family Residential Unit Equivalent times the tax rate for the year. This number will be the annual tax for the parcel.

The tax on a Non-Residential Parcel is the annual rate as follows multiplied by the total number of Single Family Residential Unit Equivalents (determined by the frontage and square footage) is as follows:

Fiscal Year 2009-10: \$54.63
 Fiscal Year 2010-11: \$90.86
 Fiscal Year 2011-12 and each subsequent Fiscal Year: \$136.73

The following measurements are equal to 1 (one) Single Family Residential Unit Equivalent:

LAND USE CATEGORY	FRONTAGE DENOMINATOR	AREA DENOMINATOR (SF)
Commercial/Institutional	80	6,400
Industrial	100	10,000
Public Utility	1,000	100,000
Golf Course	500	100,000
Quarry	1,000	250,000

Example: assessment calculation for an owner of a commercial parcel with a frontage of 160 feet and an area of 12,800 square feet:

Frontage: $160/80 \text{ ft} = 2 \text{ SFE}$

Area: $12,800 / 6400 \text{ sq ft} = 2 \text{ SFE}$

$2 \text{ SFE} + 2 \text{ SFE} = 4 \text{ SFE}$

$4 \text{ SFE} \times \$54.63 = \$218.52 \text{ total tax for Fiscal Year 2009-10}$

(D) An Owner of An Undeveloped Parcel is exempt from this parcel tax if the owner can prove that the parcel was undeveloped for at least six months of the year in question.

Section 3. HOTELS

The tax imposed by this Ordinance shall be imposed on each Hotel within the City as follows:

1. Residential Hotels. Rooms in a Hotel occupied by individuals who were not Transients for 80% or more of the previous Fiscal Year shall be deemed Residential Units and the parcel on which they are located shall be subject to the Parcel tax imposed on Multiple Residential Unit Parcels. The remainder of the Building shall be subject to the applicable tax computed in accordance with the Single Family Residential Unit Equivalent formula set forth in Section 2(C).

2. Transient Hotels. Notwithstanding the previous subsection, if 80% or more of the Operator's gross receipts for the previous Fiscal Year were reported as rent received from Transients on a return filed by the Operator in compliance with section 4.24.010 of the Oakland Municipal Code (commonly known as the Uniform Transient Occupancy Tax of the City of Oakland), such Hotel shall be deemed a Transient Hotel. The entire Building shall be deemed a Non-Residential Parcel, categorized as Commercial/Institutional, and shall be subject to the applicable tax computed in accordance with the Single Family Residential Unit Equivalent formula set forth in Section 2(C), and the parcel tax imposed on Multiple Residential Units shall not apply.

Section 4. EXEMPTIONS.

Low income household exemption. Exempt from this tax are owners of single family residential units in which they reside whose combined family income, from all sources for the previous Fiscal Year, is at or below the income level qualifying as "very low income" for a Family of such size under Section 8 of the United States Housing Act of 1937 (42 U.S.C.A. Sections 1437 et. seq.) for such year. Owners must apply for the exemption provided for in this section annually by petition to the Director of the Finance and Management Agency of the City of Oakland ("Director of Finance") in the manner and time set forth in procedures established by the Director of Finance. Such petitions shall be on forms provided by the Director of Finance and shall provided such information as the Director of Finance shall require, including, but not limited to, federal income tax returns and W-2 forms of owner-occupants eligible for this exemption.

Section 5. REDUCTION IN TAX; RATE ADJUSTMENT.

(A) Subject to paragraph (B) of this section, the tax rates imposed by this Ordinance are maximum rates which may not be exceeded by the City Council without additional voter approval. The tax imposed by the Ordinance may be suspended, reduced or eliminated by the City Council for a subsequent Fiscal Year upon a vote of the City Council on or before June 30th in any year in which the City Council determines that after such suspension, reduction or elimination there will be sufficient revenues available to balance the City Council's Adopted Policy Budget and to provide the services and programs described in Section 3 of Part 1 above. Such suspension, reduction or elimination shall be effective for the Fiscal Year following such vote.

(B) Beginning in Fiscal Year 2009-10 and each year thereafter, the City Council may increase the tax imposed hereby only upon a finding that the cost of living in the immediate San Francisco Bay Area has increased in the previous year, as shown by the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor Statistics or any successor to that index (CPI). The percentage increase of the tax imposed hereby shall not exceed such increase, using Fiscal Year 2009-10 as the index year and in no event shall any annual adjustment exceed 7% (seven percent).

Section 6. DUTIES OF THE DIRECTOR OF FINANCE; NOTICE OF DECISIONS.

It shall be the duty of the Director of the Finance and Management Agency ("Director of Finance") to collect and receive all taxes imposed by this Ordinance, and to keep an accurate record thereof.

The Director of Finance is charged with the enforcement of this Ordinance, except as otherwise provided herein, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this Ordinance, including provisions for the re-examination and correction of returns and payments. The Director of Finance may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

Upon disallowing any claims submitted pursuant to this Ordinance, the Director of Finance shall mail written notice thereof to the claimant at his/her address as shown on the Alameda County Assessor's property tax rolls.

Section 7. EXAMINATION OF BOOKS, RECORDS, WITNESSES; PENALTIES.

The Director of Finance or his/her designee is hereby authorized to examine assessment rolls, property tax records, records of the Alameda County Recorder and any other records of the County of Alameda deemed necessary in order to determine ownership of Parcels and computation of the tax imposed by this Ordinance.

The Director of Finance or his/her designee is hereby authorized to examine the books, papers and records of any person subject to the tax imposed by this Ordinance for

the purpose of verifying the accuracy of any petition, claim or return filed and to ascertain the tax due. The Director of Finance, or his/her designee is hereby authorized to examine any person, under oath, for the purpose of verifying the accuracy of any petition, claim or return filed or to ascertain the tax due under this Ordinance and for this purpose may compel the production of books, papers and records before him/her, whether as parties or witnesses, whenever s/he believes such persons have knowledge of such matters. The refusal of such examination by any person subject to the tax shall be deemed a violation of this Ordinance and of the Oakland Municipal Code and subject to any and all remedies specified therein.

Section 8. REFUND OF TAX, PENALTY, OR INTEREST PAID MORE THAN ONCE; OR ERRONEOUSLY OR ILLEGALLY COLLECTED.

Whenever the amount of any tax, penalty, or interest imposed by this Ordinance has been paid more than once, or has been erroneously or illegally collected or received by the City it may be refunded provided a verified claim in writing therefore, stating the specific ground upon which such claim is founded, is filed with the Director of Finance within one (1) year from the date of payment. The claim shall be filed by the person who paid the tax or such person's guardian, conservator of the executor of her or his estate. No claim may be filed on behalf of other taxpayers or a class of taxpayers. The claim shall be reviewed by the Director of Finance and shall be made on forms provided by the Director of Finance. If the claim is approved by the Director of Finance, the excess amount collected or paid may be refunded or may be credited against any amounts then due and payable from the Person from who it was collected or by whom paid, and the balance may be refunded to such Person, his/her administrators or executors. Filing a claim shall be a condition precedent to legal action against the City for a refund of the tax.

Section 9. MISDEMEANOR VIOLATION.

Any Owner who fails to perform any duty or obligation imposed by this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable as provided in Chapter 1.28 of the Oakland Municipal Code.

The penalties provided in this section are in addition to the several remedies provided for violations of the Oakland Municipal Code, or as may otherwise be provided by law.

Section 10. BOARD OF REVIEW.

Any person dissatisfied with any decision adversely affecting the rights or interests of such person made by the Director of Finance under the authority of this Ordinance, may appeal therefrom in writing to the Business Tax Board of Review (the "Board") within sixty (60) days from the date of mailing such decision by the Director. All filings with the Board relating to appeals or otherwise shall be made to the Chairperson of the Business Tax Board of Review in care of the Revenue Department, 250 Frank Ogawa Plaza, 1st Floor, Oakland, CA 94612. The Board may affirm, modify or reverse such decision or dismiss the appeal therefrom, as may be just, and shall prescribe such rules and regulations relating to appeals as it may deem necessary. The Board's decision on appeal will

become final upon mailing notice thereof to the Person appealing the Board's decision at such Person's last known address shown on the Tax Records.

Any tax, penalty or interest found to be owed is due and payable at the time the Board's decision becomes final.

The Board shall approve, modify or disapprove all forms, rules and regulations prescribed by the Director of Finance in administration and enforcement of this tax. Such forms, rules and regulations shall be subject to and become effective only on such approval.

All decisions rendered by the Board shall be final, and no further administrative appeal of these decisions is provided or intended.

FURTHER RESOLVED: That the City Council of the City of Oakland does hereby request that the Board of Supervisors of Alameda County order the consolidation of the Oakland Municipal election with the statewide general election of November 4, 2008, consistent with provisions of State Law; and be it

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to November 4, 2008, to file with the Alameda County Clerk certified copies of this resolution; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Board of Supervisors of Alameda County include on the ballots and sample ballots recitals and measure language to be voted on by the voters of the qualified electors of the City of Oakland; and be it

FURTHER RESOLVED: That the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Oakland, the Government Code and the Elections Code of the State of California; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election; and be it

FURTHER RESOLVED: That the City Clerk is hereby directed to obtain printing, supplies and services as required; and be it

FURTHER RESOLVED: That the City Clerk is hereby authorized to provide such other services and supplies in connection with said election as may be required by the Statutes of the State of California and the Charter of the City of Oakland; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 11 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Ordinance and rebuttals, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED: That the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the 2008 general election and appropriate all monies necessary for the City Administrator and City Clerk to prepare and conduct the November 4, 2008, general election, consistent with law and be it

FURTHER RESOLVED: That certain sections of this Ordinance may be codified into the City of Oakland Municipal Code at the direction of the City Clerk:

IN COUNCIL, OAKLAND, CALIFORNIA _____, 2008

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES
ABSENT
ABSTENTION

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council
Of the City of Oakland, California