

**CITY OF OAKLAND**  
**AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2004 MAY 13 PM 4: 15

**To:** Office of the City Administrator  
**Attn:** Ms. Deborah Edgerly  
**From:** Police Department  
**Date:** May 25, 2004

**Subject: A Report and Proposed Ordinance Amending the Oakland Municipal Code and Adding Chapter 10.57 Establishing a 200-Yard Marine Security Zone for the Waters Surrounding the Oakland International Airport**

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**SUMMARY**

The proposed ordinance would establish a 200-yard marine security zone for the waters surrounding the runway and other facilities at the Oakland International Airport. The marine security zone would be consistent with a federal security zone established in the same area and will be marked by warning buoys to be installed by the United States Coast Guard (USCG). The enactment of a local ordinance establishing the security zone is necessary for the zone to be enforced by California law enforcement officers. The fine for violating the zone would be set at \$250 for a first offense and \$500 for repeat offenses.

**FISCAL IMPACT**

The City may realize an increase in citation revenue from enforcement of this ordinance. Staff cannot project a total revenue amount.

**BACKGROUND**

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia, and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional attacks within the United States. In addition, the ongoing hostilities in Afghanistan and Iraq have made it prudent for U.S. ports to maintain a higher state of alert.

As part of its efforts, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99-399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 et seq.), and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

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On September 21, 2001, the Coast Guard issued a temporary final rule under docket Captain of the Port (COTP) San Francisco Bay 01-009, and published that rule in the Federal Register (66 FR 54663, Oct. 30, 2001). The rule (codified as 33 CFR 165.T11-095) established a security zone extending 1,800 yards seaward from the Oakland airport shoreline and a security zone extending 2,000 yards seaward from the San Francisco airport shoreline. Upon further reflection, and after discussion with airport officials and members of the public, the Coast Guard issued a new temporary rule in title 33 of the Code of Federal Regulations. That rule (67 FR 5482, Feb. 6, 2002, codified as 33 CFR 165.T11-097) reduced the size of the security zones to 1,000 yards seaward from both the Oakland and San Francisco airport shorelines. The USCG received several written comments about the 1,000-yard security zones established by that rule (33 CFR 165.T11-097). Virtually all of the comments urged a reduction in size of the security zones in order to allow increased public access to San Francisco Bay for fishing, windsurfing and similar uses. As a result, a new temporary rule (67 FR 44566, July 3, 2002) further reducing the size of the security zones to 200 yards seaward from both the Oakland and San Francisco airport shorelines was enacted. That rule (codified as 33 CFR 165.T11-086) expired on December 21, 2002.

#### **KEY ISSUES AND IMPACTS**

Since the time that the security zones were allowed to expire, there have been several security incursions involving people gaining access to the airports from boats. To address these security concerns, and to take steps to prevent the catastrophic impact that an attack against one of these airports would have on the public interest, the Coast Guard proposed to establish permanent security zones extending approximately 200 yards seaward around the Oakland and San Francisco airports. These security zones are necessary to provide for the safety of individuals and facilities within and adjacent to the San Francisco and Oakland airports and to ensure that the airports are not used as targets of, or platforms for, terrorist attacks. Due to heightened security concerns, and the catastrophic impact a terrorist attack on one of these airports would have on the public, the transportation system, and surrounding areas and communities, implementing security zones around these facilities is prudent.

In its rule, the Coast Guard established two security zones within the navigable waters of San Francisco Bay extending approximately 200 yards seaward from the shorelines of the Oakland International Airport and the San Francisco International Airport. The two security zones are designed to provide increased security for the airports, while minimizing the impact to vessel traffic, fishing, windsurfing and other activities on San Francisco Bay. Two hundred yards from the shoreline is estimated to be an adequate zone distance to provide increased security for each airport by providing a standoff distance for blast and collision, a surveillance and detection perimeter, and a margin for response time by security personnel. Buoys will be installed to indicate the perimeter of the security zone at each airport. This proposed rule, for security

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reasons, would prohibit entry of any vessel or person inside the security zone without specific authorization from the Captain of the Port or his designated representative.

Under federal law, vessels or persons violating this proposed security zone would be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192. Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed \$27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of \$250,000), and *in rem* liability against the offending vessel. Any person who violates this section, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years. Vessels or persons violating this section are also subject to the penalties set forth in 50 U.S.C. 192: Seizure and Forfeiture of the Vessel to the United States, a maximum criminal fine of \$10,000, and imprisonment up to 10 years.

The vast majority of California law enforcement officers are not cross designated as federal officers. Therefore, most state and local officers are not authorized to enforce federal law. This prompted the United States Coast Guard to ask the cities of Oakland and San Francisco to draft local ordinances, consistent with the federal law, giving local entities enforcement authority of the 200-yard marine security zone. This is similar to other recent state laws that mirror federal regulations regarding the bringing of dangerous weapons and objects into airports.

Violations of the local ordinance would constitute an infraction of law and would not be as severely punished as violations of the federal law. Fines for violating the local ordinance would be set at \$250 for a first offense and \$500 for subsequent offenses. Nothing in this ordinance would prevent local authorities from seeking the involvement of federal authorities in the investigation and prosecution of more serious or nefarious violations. Marine law enforcement units from the Police Department, the Alameda County Sheriff's Department and the Alameda Police Department would provide primary enforcement of this ordinance.

The Coast Guard certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities for several reasons: These security zones would not occupy an area of the San Francisco Bay that is frequently transited, small vessel traffic would be able to pass safely around the area, and vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the security zone to engage in these activities.

## **SUSTAINABLE OPPORTUNITIES**

*Economic* – The Oakland International Airport is a vital and profitable economic engine for the city and the region. The security of the facility and safety of those who work at and travel to /

from the airport are critical to the overall economic well being of Oakland.

*Environmental* – The security zone would allow an opportunity for the flora and fauna living in the aquatic environments and mud flats to flourish without the intrusion of recreational watercraft.

*Social Equity* – There are no social equity issues identified in this report

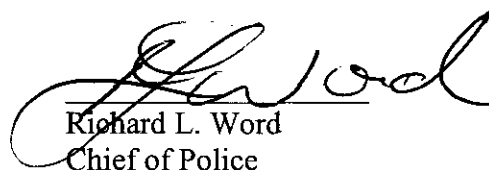
### **DISABILITY AND SENIOR CITIZEN ACCESS**

There are no ADA or senior citizen access issues contained in this report.

### **RECOMMENDATION**

Approve the proposed ordinance to amend the Oakland Municipal Code by adding Chapter 10.57, establishing a 200-yard marine security zone for the waters around the Oakland International Airport.

Respectfully submitted,



Richard L. Word  
Chief of Police

Prepared by: Lieutenant David Kozicki  
Bureau of Field Operations  
Special Operations Division  
Traffic Operations Section

APPROVED AND FORWARDED TO  
THE PUBLIC SAFETY COMMITTEE:



Cheryl P. Thompson  
Office of the City Administrator

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2004 MAY 13 PM 4:16 **ORDINANCE No. \_\_\_\_\_ C.M.S.**

**ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO  
ADD CHAPTER 10.57 ESTABLISHING A 200-YARD MARINE  
SECURITY ZONE FOR THE WATERS SURROUNDING THE  
OAKLAND INTERNATIONAL AIRPORT**

**WHEREAS**, the Oakland International Airport is a significant transportation hub and economic engine for the City of Oakland; and

**WHEREAS**, the safety of people who work at and travel to and from the airport is of paramount importance; and

**WHEREAS**, a 200-yard marine security zone for the waters surrounding the runway and other facilities at the Oakland International Airport would enhance security; and

**WHEREAS**, the marine security zone would be consistent with a federal security zone established in the same area and will be marked by warning buoys to be installed by the United States Coast Guard; and

**WHEREAS**, the establishment of a local ordinance establishing the security zone is necessary for the zone to be enforced by California law enforcement officers; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1.

The Oakland Municipal Code is hereby amended to add the following:

**CHAPTER 10.57 – Oakland International Airport 200-yard Marine Security Zone**

**10.57.010 Establishment of Security Zone**

A security zone is hereby established within the navigable waters of San Francisco Bay extending 200 yards seaward from the high tide mark of the shorelines surrounding the Oakland International Airport. The zone shall be marked by a bouy system installed and maintained by the United States Coast Guard.

**10.57.020 Entry Prohibited**

No person, vessel or boat shall enter the security zone without the express permission of the United States Coast Guard Captain of the Port.

**10.57.030 Enforcement by citation method**

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Section 10.57.010 may be enforced by the method provided for in Chapter 1.24 of this code, and by Sections 853.5 through 853.8 of the Penal Code of the State of California.

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**10.57.040 Violation – Penalties**

Violations of this chapter shall constitute an infraction punishable by a fine of \$250 for a first offense and \$500 for a second or subsequent offense.

Section 2. Severability

If any paragraph, sentence, phrase, clause, or word is found unconstitutional or unenforceable by any court of competent jurisdiction, said decision shall not affect any other portion of the ordinance. The City Council finds and declares that it would have adopted this ordinance even without said paragraph, sentence, phrase, clause, or word.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

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

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## Notice & Digest

### ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ADD CHAPTER 10.57 ESTABLISHING A 200-YARD MARINE SECURITY ZONE FOR THE WATERS SURROUNDING THE OAKLAND INTERNATIONAL AIRPORT

This ordinance will add Chapter 10.57 to the Oakland Municipal Code, establishing a 200-yard security zone within the navigable waters of the San Francisco Bay seaward from the shoreline of the Oakland International Airport. Enactment of this ordinance will also establish violations of the ordinance as infractions of law, punishable by a fine of \$250 for a first offense and \$500 for subsequent offenses.

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