



City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER KALB

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**RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE VOTERS FOR THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION PROPOSED AMENDMENT TO CITY CHARTER SECTION 217 TO REMOVE THE \$1,000 LIMIT ON FINES FOR ORDINANCE VIOLATIONS AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION, AND TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION**

**WHEREAS**, with regards to code violations, current enforcement tools may not allow for the effective resolution of blighted, substandard, public nuisance and fire safety conditions because they do not provide for sufficient sanctions against person responsible for the violations; and

**WHEREAS**, there is a need for an alternative method of code enforcement to address violations of the City of Oakland's codes; and

**WHEREAS**, the 1911 Charter had a \$500 fine limit. The 1968 Charter increased the limit to \$1,000. The fine limit has not changed since 1968; and

**WHEREAS**, due to regular economic changes in inflation, value and cost, keeping a dollar fine limit in the Charter hinders the City's ability to effectively manage blighted, substandard and public nuisance conditions; and

**WHEREAS**, eliminating the \$1,000 fine limit in the Charter will give the City the flexibility to provide sufficient sanctions necessary to address code violations in a meaningful way that addresses and deters the underlying behavior; and

**WHEREAS**, this action is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15061(b)(3) (no possible effect on the environment) and 15321 (enforcement action by regulatory agencies); now, therefore, be it

**RESOLVED:** That the City Council finds and determines the foregoing recitals are true and correct and hereby adopts and incorporates them into this Resolution; and be it

**FURTHER RESOLVED:** That City Council hereby proposes to amend Charter section 217 to add, delete, or modify sections as set forth below (section numbers and titles are indicated in capitalized bold type; added text is shown as double underscored type; deleted text is shown as ~~strikethrough~~ type; portions of the provisions not cited or not shown in underscoring or strikethrough type are not changed):

**SECTION 1. Amendment to the Charter of the City of Oakland.**

**Section 217. Penalty for Violation of Ordinances.** The Council may make the violation of its ordinances a misdemeanor, which may be prosecuted in the name of the People of the State of California or may be redressed by civil action, and may prescribe punishment for such violations by ~~a fine~~s ~~not to exceed \$1,000~~, or by imprisonment not to exceed one year, or by both such ~~fine~~s and imprisonment. The Council shall establish the fine limit by ordinance approved following a public hearing.

**SECTION 2. Severability.** If any section, subsection, sentence, clause or phrase of this Measure 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 Measure. The voters hereby declares that it would have passed this Measure 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. California Environmental Quality Act.** This action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3), since CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where, as in this case, it can be seen with certainty that there is no possibility that the activity in questions may have a significant effect on the environment, the activity is not subject to CEQA. This action is also exempt from CEQA pursuant to CEQA Guidelines section 15321, since it relates to enforcement actions that will be taken by the City.

; and be it

**FURTHER RESOLVED:** That each ballot used at said municipal election shall have printed therein, in addition to any other matter required by law the following:

**PROPOSED CHARTER AMENDMENT**

**MEASURE \_\_\_\_**

<b>Measure __. Shall the Measure amending Oakland City Charter Section 217 to eliminate the \$1,000 limit on fines for ordinance and code violations, be adopted?</b>  [FINAL BALLOT QUESTION SUBJECT TO CITY ATTORNEY APPROVAL]	<b>Yes</b>	
	<b>No</b>	

; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes and directs the Clerk of the City of Oakland (“City Clerk”) to file certified copies of this resolution with the Alameda County Board of Supervisors and the Registrar of Voters at least 88 days prior to November 3, 2020 General Municipal Election; 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 Council does hereby request that Board of Supervisors of Alameda County permit the Registrar of Voters to perform necessary services in connection with said election; and be it

**FURTHER RESOLVED:** That in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Charter amendment, and said date shall be posted by Office of the City Clerk; and be it

**FURTHER RESOLVED:** That in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed Charter amendment in the manner provided for by law; and be it

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

**FURTHER RESOLVED:** That the City Council has reviewed the proposed amendment to the Oakland City Charter to be considered by the voters and independently finds and determines that this action is exempt from CEQA pursuant to CEQA Guidelines sections 15321 (enforcement action by regulatory agencies) and 15061(b)(3) (no significant effect on the environment), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

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IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND  
PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
Acting City Clerk and Clerk of the Council  
of the City of Oakland, California