



AGENDA REPORT

TO: Members on the City Council and
Members of the Public

FROM: President Pro Tem **Dan
Kalb**

SUBJECT: Charter Amendment eliminating the
\$1000 fine limit on Ordinance
violations

DATE: July 6, 2020

RECOMMENDATION

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

EXECUTIVE SUMMARY

The \$1000 Charter fine limit has not changed since 1968. This bill will request the voters of Oakland to consider eliminating the Charter limit and require the City Council to establish the fine limit by ordinance approved following a public hearing.

BACKGROUND

With regards to code violations, current enforcement tools may not allow for the effective resolution of blighted, substandard and public nuisance conditions because they do not provide for sufficient sanctions against responsible persons. There is a need for a more robust array of code enforcement tools to address violations of the City of Oakland's codes. The 1911 Charter had a \$500 fine limit. The 1968 Charter increased the limit to \$1000. The fine limit has not changed since 1968. 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.

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ANALYSIS

Eliminating the \$1000 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.

This action is exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines sections 15061(b)(3) because there is no effect on the environment and section 15321 because it involves enforcement action by the City of Oakland.

The Charter Amendment directs the City Council to establish the fine limit by ordinance following a public hearing.

This measure will authorize the Clerk of the City of Oakland to file copies of this resolution with the Alameda County Board of Supervisors and the Registrar of Voters. It will also request that the measure be placed on the general election ballot to be voted on November 3, 2020.

PLANNING AND BUILDING DEPT. ANALYSIS

Over the years that the Planning and Building Department’s Office of Code Enforcement has cited violations and levied fines on properties falling outside of compliance with building or land-use codes. One of the most critical tools to be used for that purpose are fines.

However, the fine structure for the City of Oakland has been fixed at a limit of \$1000 since 1968, which has proven to be insufficient in many instances whenever violators may simply determine that they benefit financially from paying a fine fixed at \$1,000 compared to whatever financial benefit they are accruing through the non-conformity or and avoiding the cost of compliance.

It is therefore the considered opinion by the Director of the Planning and Building Department and the Chief Building Official that the delegation of authority for fine increases would be a more effective tool for code enforcement if the delegation of authority to change the fine amounts rested with the Oakland City Council. In addition to being able to adjust the fines to apply contemporary opportunity costs for bringing property owners into code compliance enforcement, the Council receives quarterly reports on code enforcement through its Community and Economic Development Committee.

In addition to these periodic submittals, the Planning and Building Department can inform the Administration and Council on the effectiveness of existing fines and make recommendations that may then be readily adopted to more effective enforcement. Given the prescriptive constraint in the current City Charter, is the recommendation by the Director of the Planning and Building Department and the Chief Building Official that the City of Oakland consider advancing for the voter’s consideration an amendment to the City Charter, which would remove the \$1000 fine limit and delegate the authority for establishing that limit to the Oakland City Council.

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Upon approval of this recommended change to the City Charter by the voters, the Planning and Building Department would bring forth specific recommendations for a schedule of fines to be applied toward effective code enforcement based upon findings of violation. Also, the Planning and Building Department would propose any necessary amendments for the Oakland Municipal Code to the Oakland City County to be able to fully implement the authority that the revision to the City Charter would allow with the removal of the \$1000 fine limit.

COORDINATION & PUBLIC OUTREACH

Councilmember Kalb worked with multiple City staff and the City Attorney’s office regarding this legislation. We have reviewed publicly available information regarding fine data. We have and will continue to engage with stakeholders—including the citizens of Oakland, to move this forward.

ACTION REQUESTED BY THE CITY COUNCIL

We respectfully request that the City Council: Adopt a Resolution submitting to the voters for the November 3, 2020 General Election a proposed amendment to City Charter Section 217 to remove the \$1000 limit on fines for ordinance violations.

For questions regarding this report, please contact Seth Steward, Chief of Staff to Councilmember Kalb, at 510-238-7013.

Respectfully submitted,



Dan Kalb
Council President Pro Tem
Councilmember, District 1