



2020 JAN -2 PM 3: 29

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Date: January 2, 2019
To: Members of City Council and Members of the Public
From: Council President Kaplan
Re: File No. 18-2516
Ordinance Amending Chapter 2.29 Of The Oakland Municipal Code Entitled "City Agencies, Departments And Offices" So That The Department Of Transportation's Power Shall Not Include The Power To Review, Approve, Or Disapprove Of Encroachments Which Are More Than 12 Feet Above The Right-Of-Way

Dear Colleagues on the City Council and Members of the Public,

RECOMMENDATION

I am asking my colleagues to adopt an Ordinance amending the Oakland Municipal Code, Chapter 2.29, entitled "city agencies, departments and offices," so that the Department of Transportation's power shall not include the power to review, approve, or disapprove of encroachments which are more than 12 feet above the right-of-way.

LEGISLATIVE SUMMARY

This legislation simply clarifies that the power to review, approve, or disapprove of encroachments which are more than 12 feet above the right-of-way shall not be in the purview of the City's Department of Transportation ("DOT"). This move aligns us to existing state policies and procedures and simplifies our somewhat burdensome city processes. This legislation does not change the City Council's responsibilities.

ANALYSIS

One of the factors that has been named by developers as a hindrance to swift construction is the City of Oakland's permitting process and particularly the minor encroachment process. Development is key to the growth of a City, and for Oakland it not only provides a much needed tax base and impact fees but also delivers needed commercial and residential space for the City to expand. In a 2019 Oakland Chamber of Commerce poll revealed 48% of Oakland residents "thought the rate of development was too slow."¹

¹ Oakland Chamber 2019 Voter Poll Key Results (October 2019)



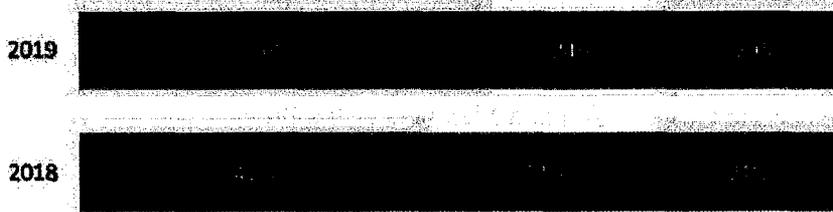
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Voters tend to think the rate of housing development is too slow.

Do you think the rate of housing development in Oakland is...?

■ Too Slow ■ About Right ■ Too Fast



*Oakland Chamber 2019 Voter Poll Key Results (October 2019)

For this reason, the proposed legislation is necessary, to speed up development, in particular housing development. This legislation seeks to clarify that unless an encroachment permit has a direct nexus to transportation related matters it should not be also sent to the Department of Transportation for approval, to not slow down the process. Among developers there is confusion about the process, and anecdotal evidence speaks to a duplication of efforts across different departments that lead to a waste of city resources. By creating a simpler approval process for encroachments, we are not only encouraging good governance, supporting the building of much needed affordable housing, and building our tax base, but also encouraging transit-oriented development which is in turn good for the environment. This legislation aims to avoid the duplication of efforts so that Planning and Building, Public Works, and DOT are not using their limited resources on the same tasks and there are clear divisions of work.

FISCAL IMPACT

Speedy development of projects will result in an increase to the city’s tax base and spurring economic growth.

PUBLIC OUTREACH

Retrieved from https://chambermaster.blob.core.windows.net/userfiles/UserFiles/chambers/1392/CMS/Chamber-2019-Voter-Poll-Key-Results_Final.pdf

CITY OF OAKLAND



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We worked with stakeholders closely involved with permit issuance on this legislation. We look forward to a robust discussion in committee and are doing outreach to the community to attend this hearing.

COORDINATION

The City Attorney's office and the City Administration were consulted in the development of the legislation. Council President Kaplan's office reached out to the Department of Building and Planning and to the Department of Public Works to seek input.

SUSTAINABLE OPPORTUNITIES

Economic. Fixing the encroachment process by removing unnecessary bureaucratic barriers will ensure faster construction of affordable housing construction and incentivize much needed job growth.

Environmental: There are environmental opportunities associated with this report as transit-oriented development helps address our climate crisis.

Social Equity: Fixing the encroachment process by removing bureaucratic barriers to construction will bring to the city the much needed the second installment of affordable, transit, and jobs housing impact fees and thereby increasing the City's ability to provide and support housing at all economic levels.

For questions regarding this report, please email Bobbi Lopez, Policy Director for the Council President, at blopez@oaklandca.gov or call at 510.238.7082.

Sincerely,

Rebecca Kaplan
Oakland City Council President

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APPROVED AS TO FORM AND LEGALITY

DRAFT

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

INTRODUCED BY COUNCIL PRESIDENT KAPLAN

ORDINANCE AMENDING CHAPTER 2.29 OF THE OAKLAND MUNICIPAL CODE ENTITLED "CITY AGENCIES, DEPARTMENTS AND OFFICES" SO THAT THE DEPARTMENT OF TRANSPORTATION'S POWER SHALL NOT INCLUDE THE POWER TO REVIEW, APPROVE, OR DISAPPROVE OF ENCROACHMENTS WHICH ARE MORE THAN 12 FEET ABOVE THE RIGHT-OF-WAY

WHEREAS, encroachment permits a broad range of activities in using the public right-of-way by privately owned items or facilities; and

WHEREAS, Ordinance No. 13325 C.M.S. established the Department of Transportation under Chapter 2.29.160; and

WHEREAS, anecdotal evidence by business owners, developers, and other stakeholders have pointed to concerns about the City of Oakland's encroachment process that has resulted in delays to projects; and

WHEREAS, a 2019 Oakland Chamber of Commerce poll revealed 48% of Oakland residents "thought the rate of development was too slow" and many believe "the best step toward addressing housing needs is to speed up the development process;" and

WHEREAS, facilitating and removing burdensome and duplicative bureaucratic processes for development in the City of Oakland will provide much needed housing and commercial space and stimulate economic growth; and

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

SECTION 1. Recitals. The City Council finds and determines the foregoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

SECTION 2. Amendments. Chapter 2.29.160 of the Oakland Municipal Code is hereby amended to read as follows (additions are indicated by underscoring and deletions are indicated by ~~strike-through-type~~; any portions not cited or not shown in underscoring or strike-through type are not changed):

2.29.160 - Department of Transportation.

There is established in the City government a Department of Transportation which shall be under the supervision and administrative control of the City Administrator. The powers, functions, and duties of said Department shall be those assigned, authorized and directed by the City Administrator, but shall not include the power to review, approve, or disapprove of encroachments which are more than 12 feet above the right-of-way. The management and operation of the Department of Transportation shall be the responsibility of the Director of Transportation, subject to the direction of the City Administrator.

SECTION 3. 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 4. Effective Date. 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.

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: _____

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

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE AMENDING CHAPTER 2.29 OF THE OAKLAND MUNICIPAL CODE ENTITLED "CITY AGENCIES, DEPARTMENTS AND OFFICES" SO THAT THE DEPARTMENT OF TRANSPORTATION'S POWER SHALL NOT INCLUDE THE POWER TO REVIEW, APPROVE, OR DISAPPROVE OF ENCROACHMENTS WHICH ARE MORE THAN 12 FEET ABOVE THE RIGHT-OF-WAY

The powers, functions, and duties of the Department of Transportation shall be those assigned, authorized and directed by the City Administrator, but shall not include the power to review, approve, or disapprove of encroachments which are more than 12 feet above the right-of-way.