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OAKLAND

2019 DEC -6 AM 8:08

# AGENDA REPORT

**TO:** The Oakland City Council

**FROM:** Sabrina B. Landreth  
City Administrator

**SUBJECT:** Repeal of O.M.C. Sections  
5.70.020, 5.70.030 and 5.70.040

**DATE:** December 5, 2019

City Administrator Approval

Date:

12/5/19

## RECOMMENDATION

**Staff Recommends That The City Council Adopt The Ordinance Amending Oakland Municipal Code Title 5, Chapter 5.70, To Remove Outdated And Obsolete Sections 5.70.020, New Business Reports, 5.70.030, Pickling Manufacturing, And 5.70.040, Sand And Gravel Sales.**

## BACKGROUND / LEGISLATIVE HISTORY

On December 22, 1932, the City Council adopted Ordinance 278 C.M.S., which revised, consolidated, and codified regulatory ordinances of the City into a Municipal Code, including Sections 5-9.24, 5-13.03, and 5.15-02, now codified at Sections 5.70.020, 5.70.030, and 5.70.040, that respectively require police to report new businesses, regulate pickle storage and regulate the sale of rock, sand or gravel; and

In the 87 years since these Sections were codified, the commercial activity and regulatory needs of the City have changed dramatically; and

With regard to Section 5.70.020, the demands on City police officers are different from what they were in 1932, with police officers now patrolling 35 beats averaging more than ten thousand residents and one thousand businesses per beat; and

With regard to Section 5.70.020, it is in the best interest of the City and its residents that patrol officers focus their attention and resources on preventing and responding to crime rather than searching for new businesses; and

With regard to Section 5.70.030, storage of more than one thousand gallons of pickles in unsealed containers in urban areas is no longer a realistic public concern or enforcement priority, and many of the boundary lines delineating permissible and

Item: \_\_\_\_\_

City Council

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impermissible pickle manufacturing zones no longer exist or do not meaningfully divide urban areas from non-urban areas; and

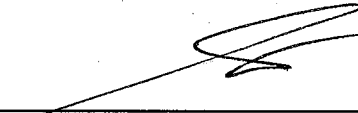
With regard to Section 5.70.040, the requirement that any sale of rock, sand, or gravel within the City be accompanied by a certificate of weighing on a scale inspected and sealed by the Sealer of Weights and Measures is no longer practical or necessary; and

The City wishes to avoid unnecessarily confusing businesses, the public and City staff responsible for enforcing City law.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council adopt the Ordinance amending Oakland Municipal Code Title 5, Chapter 5.70, to remove outdated and obsolete sections 5.70.020, New Business reports, 5.70.030, Pickling Manufacturing, and 5.70.040, Sand and Gravel Sales.

Respectfully submitted,



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Sabrina B. Landreth  
City Administrator

2019 DEC -6 AM 8:49

APPROVED AS TO FORM AND LEGALITY

  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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**ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE 5, CHAPTER 5.70, TO REMOVE OUTDATED AND OBSOLETE SECTIONS 5.70.020, NEW BUSINESS REPORTS, 5.70.030, PICKLE MANUFACTURING, AND 5.70.040, SAND AND GRAVEL SALES**

**WHEREAS**, On December 22, 1932, the City Council adopted Ordinance 278 C.M.S., which revised, consolidated, and codified regulatory ordinances of the City into a Municipal Code, including Sections 5-9.24, 5-13.03, and 5.15-02, now codified at Sections 5.70.020, 5.70.030, and 5.70.040, that respectively require police to report new businesses, regulate pickle storage and regulate the sale of rock, sand or gravel; and

**WHEREAS**, in the 87 years since these Sections were codified, the commercial activity and regulatory needs of the City have changed dramatically; and

**WHEREAS**, with regard to Section 5.70.020, the demands on City police officers are different from what they were in 1932, with police officers now patrolling 35 beats averaging more than ten thousand residents and one thousand businesses per beat; and

**WHEREAS**, with regard to Section 5.70.020, it is in the best interest of the City and its residents that patrol officers focus their attention and resources on preventing and responding to crime rather than searching for new businesses; and

**WHEREAS**, with regard to Section 5.70.030, storage of more than one thousand gallons of pickles in unsealed containers in urban areas is no longer a realistic public concern or enforcement priority, and many of the boundary lines delineating permissible and impermissible pickle manufacturing zones no longer exist or do not meaningfully divide urban areas from non-urban areas; and

**WHEREAS**, with regard to Section 5.70.040, the requirement that any sale of rock, sand, or gravel within the City be accompanied by a certificate of weighing on a scale inspected and sealed by the Sealer of Weights and Measures is no longer practical or necessary; and

**WHEREAS**, the City wishes to avoid unnecessarily confusing businesses, the public and City staff responsible for enforcing City law.

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

**Section 1. Oakland Municipal Code Title 5, Chapter 5.70 Amended to Delete Sections 5.70.020, 5.70.030, and 5.70.040.** Oakland Municipal Code Title 5, Chapter 5.70 is hereby amended to delete Sections 5.70.020 - *Police Officers to Report New Businesses*, 5.70.030 - *Pickle Manufacturing*, and 5.70.040 - *Sale of Sand and Gravel*. This removal shall operate retroactively and shall apply to all claims based on alleged violations occurring prior to the effective date of this Ordinance. Oakland Municipal Code Title 5, Chapter 5.70 is amended to add, delete or modify sections as set forth below (section numbers and titles are indicated in bold type; additions are indicated by underscoring and deletions are indicated by strike-through type.) Portions of regulations not cited or not shown in underscoring or strike-through are not changed.

**Chapter 5.70 - MISCELLANEOUS BUSINESS REGULATIONS**

**~~5.70.020 - Police officers to report new businesses.~~**

~~All patrol officers in the Police Department of the city shall render a full and complete report to the Chief of Police of all new stores opening for business on beats within their patrol, giving data as to the license number, date of opening, nature of the business, owner's name, former place of business, and such other information as may be required by the Chief of Police.~~

**~~5.70.030 - Pickle manufacturing.~~**

~~It is unlawful for any person to store within the limits of any one block in the city, more than one thousand (1,000) gallons of pickles or vegetables produced in the course of preparation therefor, unless the same be kept in water-tight casks, tanks, bottles or jars securely closed; or for any person to engage in the business, or assist in the business, of manufacturing pickles within the limits of the city; provided, that the provisions of this section shall not apply to the storage or manufacture of pickles within the limits of that portion of the city bounded on the south and west by the southern and western boundary lines of the city, and on the north and east by a line running along the northern line of the Southern Pacific mole from the western boundary of the city to an intersection with the northern line of the lands of the Central Pacific Railroad Company; thence along the northern line of the lands of the Central Pacific Railroad Company to its intersection with the centerline of Third Street; thence along the centerline of Third Street to the centerline of Lewis Street; thence along the centerline of Lewis Street, extended southerly to the centerline of First Street extended westerly; thence easterly along the centerline of First Street extending westerly and along the centerline of First Street to the centerline of Oak Street; thence southerly along the centerline of Oak Street extended southerly to the southern boundary line of the city.~~

**5.70.040 – Sale of sand and gravel.**

~~It is unlawful for any person to engage in the business of selling rock, sand or gravel, or any admixture thereof, within the city, or to sell the same in any way other than any avoirdupois net weight and weighed on a scale that has been duly inspected and sealed by the Sealer of Weights and Measures, or to fail to furnish to the purchaser thereof, with each lot of said materials, a certificate showing the date of the weighing, gross weight, tare weight and the next weight of said materials, the name and address of the seller and purchaser of said materials, and the number of the conveyance in which said materials are delivered, if such conveyance be numbered, and the name of the person in charge of such conveyance. In case such conveyance contains or transports more than one kind of the aforementioned materials, said certificate shall show the next weight of each kind of material being sold, transported or carried; and~~

...

**Section 2. Recitals.** The recitals in this Ordinance are true and correct and are an integral part of the Council’s decision.

**Section 3. 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.

**Section 4. Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by 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, sentence, clause, or phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

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 OAKLAND MUNICIPAL CODE TITLE 5, CHAPTER 5.70, TO REMOVE OUTDATED AND OBSOLETE SECTIONS 5.70.020, NEW BUSINESS REPORTS, 5.70.030, PICKLE MANUFACTURING, AND 5.70.040, SAND AND GRAVEL SALES**

The amendments will remove outdated and obsolete provisions of the Oakland Municipal Code. In the 87 years since these Sections were codified, the commercial activity and regulatory needs of the City have changed drastically. Accordingly, the amendments will avoid unnecessarily confusing businesses, the public and City staff responsible for enforcing City law.