

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION, PURSUANT TO AN INITIATIVE PETITION, SUBMITTING TO THE QUALIFIED ELECTORS AT THE NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION A PROPOSED AMENDMENT TO THE OAKLAND MUNICIPAL CODE ENACTING THE 2022 OAKLAND ZOO ANIMAL CARE, EDUCATION AND IMPROVEMENT ORDINANCE AND IMPOSING A PARCEL TAX TO FUND OPERATIONS, STAFFING, MAINTENANCE, AND CAPITAL IMPROVEMENTS OF THE OAKLAND ZOO; AND DIRECTING THE CITY CLERK TO TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO SUBMIT THIS INITIATIVE TO THE VOTERS AT THE NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION

WHEREAS, the City Clerk certifies to the City Council that upon examination of the petition for the proposed amendment to the Oakland Municipal Code adding Chapter 4.58 entitled “The 2022 Oakland Zoo Animal Care, Education and Improvement Ordinance”, the petition is signed by the requisite number of registered voters; and

WHEREAS, in accordance with the Oakland Municipal Code and the California Elections Code, the Alameda County Registrar of Voters requires a resolution from the City Council to place the initiative on the ballot; and

WHEREAS, such action by the City Council is mandatory and ministerial and not a discretionary act and not a statement that the City Council or its members are either for or against the initiative; now, therefore, be it

RESOLVED: That the City Council hereby authorizes and directs the City Clerk, at least 88 days prior to the general municipal election on November 8, 2022 to file with Alameda County certified copies of this resolution; and be it

FURTHER RESOLVED: That the City Council does hereby submit to the qualified voters at the November 8, 2022 General Municipal Election, a proposed amendment to the Oakland Municipal Code that reads as follows (additions are indicated by underscoring):

The people of the City of Oakland do ordain as follows:

The 2022 Oakland Zoo Animal Care, Education and Improvement Ordinance

SECTION 1. Title.

This Ordinance may be cited as the "The 2022 Oakland Zoo Animal Care, Education and Improvement Ordinance."

SECTION 2. The 2022 Oakland Zoo Animal Care, Education and Improvement Ordinance.

The City of Oakland Municipal Code is hereby amended by adding Title 4, Chapter 4.58, consisting of Sections 4.58.010 through 4.58.130.

Section 4.58.010. Title.

The Chapter shall be known and may be cited as "The 2022 Oakland Zoo Animal Care, Education and Improvement Ordinance" (hereinafter the "Ordinance").

Section 4.58.020. Necessity of Parcel Tax.

WHEREAS, the Oakland Zoo is a regional, cultural attraction that hundreds of thousands of children and families from Oakland visit and enjoy; and

WHEREAS, the Oakland Zoo hosts more than 950,000 visitors annually and has 37,000 household (169,000 and individual) members; and

WHEREAS, animals in the Zoo deserve quality humane care, the Zoo must maintain the ability to meet the basic needs of the animals, which includes providing quality food and nutrition, heating/cooling, clean and fresh watering systems, and updating/modernizing aging animal shelters and habitats for increased welfare and care capabilities; and

WHEREAS, it is essential that the Zoo retain specialists to adequately care for sick and aging animals at its veterinary hospital, as most animals live significantly longer in a zoo than they might in the wild, creating unique veterinary care needs; and to also increase our ability to treat animals who are either difficult or impossible to transport to the Zoo's veterinary hospital, such as elephants, in their own habitat and holding areas, that were not designed for that need when built many decades ago, and to accept more injured and orphaned wildlife in need of care for re-release or permanent sanctuary; and

WHEREAS, one of the essential missions of the Zoo is to provide thousands of children and youth with enhanced science education in climate change, wildlife, and nature through uniquely developed, science standards-approved curriculum developed by Zoo educators and partners such as Oakland Unified School District teachers. The Zoo offers a physical space with access to both wildlife and nature, provides hands-on-learning not possible through books or screens, and provides a space for thousands of children and youth to participate in the Zoo's educational programs annually, many of whom are Oakland residents; and

WHEREAS, with continuing State cuts to education, the Zoo must not only maintain, but also significantly expand the number of affordable and accessible education programs it offers, such as school field trips for children who are underserved due to education budget cuts, and scholarships to Zoo programs for children of financially challenged families; and

WHEREAS, with the high-cost of living in the Bay Area, and many Oakland residents living at or below the federal poverty line, the Zoo would like to significantly increase, by thousands, the number of annual free passes donated to low-income families; and

WHEREAS, additional funding is necessary to meet current and anticipated facility maintenance needs, including repairs and upgrades, that affect animal health and safety, especially considering that some of the Zoo's infrastructure is over 60 years old, including heating and cooling, drainage, and sewer systems; seismic upgrades are also warranted, and lighting and electrical systems need improvements for energy efficiency and added safety, including fire safety; and

WHEREAS, with the increased risk of wildfires in California, and the Zoo located in the drought-ridden foothills of 500-acre Knowland Park, additional funding is necessary to enhance infrastructure by installing fire-safety systems to protect the more than 850 animal residents; including making animal shelters fire-defensible, improving access and exit roads, enhancing emergency communication systems, adding irrigation/sprinkler systems, and purchasing animal transport vehicles and equipment; and

WHEREAS, investments in the Zoo allow it to partner with and support wildlife conservation and animal rescue organizations to help save, re-populate, protect and care for vulnerable and endangered wildlife, including giving sanctuary to orphaned or injured wildlife not re-releasable into the wild, including mountain lions, grizzly bears, black bears, endangered species such as the California condor, animals seized from the illegal wildlife and exotic pet trades and retired circus animals; and

WHEREAS, the amount of revenue available to the Zoo from existing revenue sources is inadequate to meet the costs of providing for the advancement of humane animal care and veterinary treatment programs, maintenance of quality animal and visitor services, including children/youth educational and wildlife preservation programs, and repairing and improving animal enclosures and facilities; and

WHEREAS, this special tax will provide the Zoo with necessary additional funding to continue to provide and maintain quality programs and services to visitors from throughout the region, including but not limited to:

- Meeting the basic needs of the animals, including food and clean, fresh watering systems.
- Ensuring animals are safe and enclosures/housing are modernized for optimum humane animal care conditions and fire resistance.
- Providing essential medical care to sick and aging animals, and preventative care for all animals.
- Upgrading, repairing, and replacing the Zoo's deteriorating sewage, drainage and plumbing systems, heating and cooling systems, and making important electrical system improvements for energy efficiency and safety.
- Increasing access to educational programs and school field trips for children who are already underserved by education budget cuts.
- Maintaining the veterinary hospital and a staff of skilled animal healthcare providers.
- Providing important science education to school children who often have none in public schools, including inspiring children to become more science-savvy on topics such as wildlife, nature, and climate change.
- Keeping entrance fees affordable for all Zoo visitors.
- Ensuring Zoo visitor safety.
- Continuing to work with wildlife conservation and animal rescue organizations to provide Zoo care for animals wounded in the wild and sanctuary to endangered species such as the California Condor and retired circus animals;
- Expanding free community access programs to the Zoo annually;
- Expand Zoo capacity for rescuing wildlife from wildfires and human-wildlife conflict situations; and
- Preparing the Zoo to navigate, financially, operationally, and otherwise, through any future economic crisis, pandemic, or other emergency.

Section 4.58.030. Definitions.

A. "Oakland Zoo" or "Zoo" means the zoological park known as the Oakland Zoo, owned by the City of Oakland and located in Knowland Park, currently managed by the Conservation Society of California, a California nonprofit corporation.

B. "Oakland Zoo Fund" or "Fund" means the separate, special account or accounts created in the City treasury into which the proceeds of the special tax shall be deposited.

C. "Oakland Zoo Special Tax," "special tax" or "parcel tax" means the tax authorized and imposed pursuant to this Ordinance.

D. "Zoo Operator" means the operator of the Oakland Zoo. The Conservation Society of California is currently the Zoo Operator pursuant to a management agreement with the City of Oakland.

Section 4.58.040. Purpose.

The Oakland Zoo Special Tax imposed under this Ordinance are solely for the purpose of raising revenue necessary to maintain, protect and improve the Oakland Zoo and to pay for certain administrative expenses related to the Oakland Zoo Special Tax. Because the proceeds of the parcel tax will be deposited into one or more special funds restricted for the services, programs and facilities specified herein, the tax is a special tax.

Section 4.58.050. Special Fund.

A. All funds collected by the City from the parcel tax imposed by this Ordinance shall be deposited into one or more separate, special funds in the City treasury and appropriated and expended only for the purposes and uses authorized by this Ordinance. This fund, or these funds, shall be known as the "Oakland Zoo Fund."

B. Funds in the Oakland Zoo Fund shall be distributed to the Zoo Operator for the purposes and uses listed herein as they are deposited into the Fund, after deducting amounts necessary to pay the fees charged by the County of Alameda to collect and remit the special tax.

C. Funds in the Oakland Zoo Fund shall be used exclusively to pay for the operations, staffing, maintenance and capital improvements of the Oakland Zoo and direct and indirect administrative expenses associated with this special tax, as defined herein. If this Ordinance or the use of special tax funds is legally challenged, special tax funds may be used to reimburse the City, County and the Zoo Operator for their costs of legal defense, including attorneys' fees and other expenses.

Section 5.48.060. Use of Proceeds.

The tax proceeds raised by the special tax created by this Ordinance may be used only to pay for the following specific purposes and uses. Except as otherwise expressly authorized by this Ordinance, the special taxes authorized and collected pursuant to this Ordinance shall be used only for:

A. The operations, staffing, maintenance and capital improvements of the Oakland Zoo, including but not limited to:

1. Caring for and acquiring resident animals;
2. Veterinary care and rehabilitation of wildlife rescues;
3. Increasing and enhancing educational and conservation programs relating to animals, native habitats, nature, climate change, etc.;
4. Other Zoo-related programs;
5. Improving access to all Zoo programs;
6. Improving transportation for Zoo visitors and employees;
7. Community outreach;
8. Partnering with nonprofit organizations, schools, research institutions and governmental entities;
9. Maintaining and operating facilities;
10. Constructing, expanding, remodeling, renovating, furnishing, equipping, or financing of existing or new facilities and infrastructure;
11. Keeping visitor fees affordable for all and increasing free admission opportunities for low-income children and families;
12. Maintaining and improving visitor services; and
13. Increase fire prevention and safety, and other emergency preparedness.

B. The direct and indirect administrative expenses associated with the special tax, including but not limited to:

1. Paying fees charged by the County of Alameda to collect and remit the special tax;
2. Paying costs related to an audit and financial monitoring of the special tax, costs necessary to levy the special tax, costs to implement a performance tracking system, and to conduct an evaluation of the effectiveness of services, programs and facilities which are funded by the special tax;
3. Paying costs required to implement the services, programs and facilities authorized by this special tax; and
4. Paying costs incurred to conduct an election to seek voter approval of this parcel tax.

C. Expenditures for "Central Services Overhead," as that term is defined in the City's Budget, may not be recovered from any special fund or funds created to collect funds from this parcel tax.

D. In adopting this Parcel Tax, the People of the City of Oakland choose to provide additional City resources to complement, and not supplant, current funding for the Oakland Zoo provided by City, State, Federal, and other funding sources. The annual amounts allocated for the operations, staffing, maintenance and capital improvements of the Oakland Zoo in the City's budget (not including the proceeds from this parcel tax) shall not be reduced at a greater rate or increased at a lesser rate relative to the overall annual budget of the City's general fund as a result of monies available from this parcel tax.

Section 4.58.070. Planning and Accountability.

The following accountability measures shall apply to this special tax:

A. One or more separate, special accounts shall be created in the City treasury into which the proceeds of the special tax must be deposited.

B. The Zoo Operator shall comply with all of the following as conditions of receiving moneys from the Oakland Zoo Fund:

1. Retain an independent auditor to prepare an annual report which includes the amounts collected and expended from the proceeds of the parcel tax and the status of any project required or authorized to be funded. The Zoo Operator shall forward this annual report to the City Auditor and City Council.

2. Maintain the Zoo's accreditation by the Association of Zoos and Aquariums, or its nationally recognized successor.

3. Hold harmless, defend and indemnify the City of Oakland, City

Council, employees, officers, and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of the administration of this parcel tax, the Oakland Zoo Fund, and this Ordinance.

C. The City Auditor shall prepare an annual report to ensure accountability and proper disbursement of all revenue collected by the City from the parcel tax in accordance with the purposes and uses stated herein, including the amount of funds collected and expended from the proceeds of the parcel tax and the status of any project required or authorized to be funded by this Ordinance, and shall provide this annual report to the City Council and the Oakland Parks and Recreation Advisory Commission.

D. Citizen Oversight.

1. The responsibility for citizen oversight of this Ordinance shall reside with the Oakland Parks and Recreation Advisory Commission ("Commission").

2. The Commission is charged with the following responsibilities:

a. verifying that an independent auditor retained by the Zoo Operator has prepared an annual report as provided above;

b. verifying that the Zoo Operator remains accredited as provided above;

c. verifying that the Zoo Operator has executed a valid indemnification agreement as provided above; and

d. confirming these verifications in writing to the City Council, City Auditor and Zoo Operator on an annual basis.

3. The Commission shall meet at least once annually to fulfill its responsibilities under this Ordinance.

E. If the City Council determines that the Zoo Operator has used, or is currently using, funds from the Oakland Zoo Fund in a manner that is not consistent with this Ordinance, then the City Council may suspend disbursements from the Oakland Zoo Fund. Suspension of disbursements may continue until the Zoo Operator spends funds from other sources on services and projects at an amount equal to the amount determined to have been misspent. A determination of misspending shall be based upon a report prepared by an independent auditor retained by the City, taking into consideration the findings of the City Auditor. The City's reasonable costs of investigating misspending may be reimbursed by the Oakland Zoo Fund.

F. In the event that the Conservation Society of California ceases to operate the Oakland Zoo or the City of Oakland contracts with another entity for the operation of the Zoo, the City shall inform the City Administrator regarding the new operator selected prior to entering into a new management agreement. Any new management agreement shall be

consistent with the accountability measures specified herein, and shall be a prerequisite to the successor operator being eligible to receive parcel tax proceeds.

G. If the Oakland Zoo ceases to operate, the parcel tax shall terminate automatically. The special tax shall continue if the City conveys the Zoo and its assets to another public agency. That public agency shall be required to satisfy all of the Zoo Operator's requirements under this Ordinance in order to continue to receive moneys from the Oakland Zoo Fund. In the event that the City conveys some of the Zoo assets to the Zoo Operator, the tax shall continue. If the City conveys the Zoo property and all of the Zoo assets to a nonprofit corporation, continued use of the special tax to support the Zoo's operations shall be contingent upon that nonprofit corporation executing a separate agreement with the City related to the operation of this Ordinance.

Section 4.58.080. Parcel Tax.

A. Definitions. For purposes of this section only, the following terms shall be defined as follows:

1. "Building" shall mean any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind. The word "Building" includes the word "structure."

2. "City" shall mean the City of Oakland, California.

3. "Family" shall mean one (1) or more persons related by blood, marriage, domestic partnership, or adoption, legal guardianship, who are living together in a single residential unit and maintaining a common household. Family shall also mean all unrelated persons who live together in a single Residential Unit and maintain a common household.

4. "Hotel" shall be as defined by Oakland Municipal Code section 4.24.020.

5. "Multiple Residential Unit Parcel" shall mean a Parcel zoned for a Building, or those portions thereof, that accommodates or is intended to contain two (2) or more residential units, whether or not developed.

6. "Non-Residential" shall mean all Parcels that are not classified by this Ordinance as Single-Family Residential or Multiple Residential Unit Parcels, and shall include, but not be limited to, Parcels for industrial, commercial and institutional improvements, whether or not developed.

7. "Occupancy" shall be as defined by Oakland Municipal Code section 4.24.020.

8. "Operator" shall be as defined by Oakland Municipal Code section 4.24.020.

9. "Owner" shall mean the Person having title to real estate as shown on the most current official assessment role of the Alameda County Assessor.

10. "Parcel" shall mean a unit of real estate in the City of Oakland as shown on the most current official assessment role of the Alameda County Assessor.

11. "Person" shall mean an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

12. "Possessory Interest" as it applies to property owned by any agency of the government of the United States, the State of California, or any political subdivision thereof, shall mean possession of, claim to, or right to the possession of, land or Improvements and shall include any exclusive right to the use of such land or Improvements.

13. "Residential Unit" shall mean a Building or portion of a Building designed for or occupied exclusively by one Family.

14. "Single-Family Residential Parcel" shall mean a Parcel zoned for single family residences, whether or not developed.

15. "Tax" shall mean the parcel tax created by this Ordinance and further described in section B below.

16. "Transient" shall mean any individual who exercises Occupancy of a Hotel or is entitled to Occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any individual so occupying space in a Hotel shall be deemed to be a Transient until the period of thirty (30) consecutive days has elapsed.

B. Imposition of Tax.

1. There is hereby imposed a special non-ad valorem parcel tax on all Owners of Parcels in the City of Oakland for the privilege of using municipal services and the availability of such services. The Tax imposed by this Ordinance shall be assessed on the Owner unless the Owner is by law exempt from taxation, in which case, the tax imposed shall be assessed to the holder of any Possessory Interest in such Parcel, unless such holder is also by law exempt from taxation. The Tax is imposed as of July 1 of each year on the person who owned the Parcel on that date. The Tax shall be collected at the same time, by the same officials, and pursuant to the same procedures as the one percent tax imposed pursuant to Article XIII A of the California Constitution.

2. The tax hereby imposed shall be set as follows subject to adjustment as provided in this Ordinance:

a. For owners of all Single-Family Residential Parcels, the Tax

shall be at the annual rate of \$68.00 per Parcel.

- b. For owners of all Multiple Residential Unit Parcels, the Tax shall be at the annual rate of \$68.00 per Residential Unit.
- c. The tax for Non-Residential Parcels is calculated using both frontage and square footage measurements to determine total single-family residential unit equivalents (SFE). A frontage of eighty (80) feet for a commercial institutional Parcel, for example, is equal to one (1) SFE. (See matrix.) An area of six thousand four hundred (6,400) square feet for the commercial institutional Parcel is equal to one (1) SFE. For tall buildings (more than five (5) stories), the SFE computation also includes one (1) SFE for every five thousand (5,000) square feet of net rentable area. The Tax is the annual rate \$68.00 multiplied by the total number of SFEs (determined by the frontage and square footage).

| LAND USE CATEGORY | FRONTAGE | AREA(SF) | BUILDING AREA (SF) |
|----------------------------|-----------------|-----------------|---------------------------|
| .. | | | |
| Commercial/Institutional | 80 | 6,400 | N/A |
| Industrial | 100 | 10,000 | N/A |
| Public Utility | 1,000 | 100,000 | N/A |
| Golf Course | 500 | 100,000 | N/A |
| Quarry | 1,000 | 250,000 | N/A |
| Tall Buildings > 5 stories | 80 | 6,400 | 5,000 |

Example: assessment calculations for a Commercial Institutional Parcel with a Frontage of 160 feet and an Area of 12,800 square feet:

| | |
|-----------------|---|
| <u>Frontage</u> | <u>160 feet + 80 = 2 SFE</u> |
| <u>Area</u> | <u>12,800 square ÷ feet 6,400 = 2 SFE</u> |
| | <u>2 SFE + 2 SFE = 4 SFE</u> |
| | <u>4 SFE x \$68.00 = \$272.00 tax</u> |

3. The Tax imposed by this Ordinance shall be imposed on each Hotel within the City as follows:

a. Residential Hotels. Rooms in a Hotel occupied by individuals who were not Transients for eighty percent (80%) or more of the previous fiscal year shall be deemed Residential Units and the Parcel on which they are located shall be subject to the Tax imposed on Multiple Residential Unit Parcels. The remainder of the Building shall be subject to the applicable tax computed in accordance with the single-family residential unit equivalent formula set forth in Section 4.58.080(B) of this Ordinance.

b. Transient Hotels. Notwithstanding paragraph (1) of this subdivision, if eighty percent (80%) or more of the Operator's gross receipts for the previous Fiscal Year were reported as rent received from Transients on a return filed by the Operator in compliance with Section 4.24.010 of the Oakland Municipal Code (commonly known as the Uniform Transient Occupancy Tax of the City of Oakland), such Hotel shall be deemed a Transient Hotel. The entire Building shall be deemed a Non-Residential Parcel, categorized as commercial/institutional, and shall be subject to the applicable tax computed in accordance with the single-family residential unit equivalent formula set forth in Section 5.58.080(B) of this Ordinance, and the Tax imposed on Multiple Residential Units shall not apply.

4. The Tax enacted by this Ordinance shall be imposed and levied for a period of twenty (20) years commencing on July 1, 2023. The City shall place delinquencies on subsequent tax bills.

C. Exemptions.

1. Very-Low income household exemption. The following is exempt from this tax: an Owner of a Single-Family Residential Unit (1) who resides in such unit, and (2) whose combined family income, from all sources for the previous year, is at or

below the income level qualifying as sixty percent (60%) of area median income for a Family of such size under Section 8 of the United States Housing Act of 1937 (42 U.S.C.A. sections 1437 et seq.), or successor legislation, for such year. The Director of Finance shall set forth procedures for annual applications from Owners for the exemption, which may require information such as federal income tax returns and W-2 forms of owner occupants eligible for the exemption, or procedures for an alternative process.

2. Senior household exemption. The following is exempt from this tax: an Owner of a Single-Family Residential Unit (1) who resides in such unit, (2) who is sixty-five (65) years of age or older, and (3) whose combined family income, from all sources for the previous year, is at or below the income level qualifying as eighty percent (80%) of area median income for a Family of such size under section 8 of the United States Housing Act of 1937 (42 U.S.C.A. sections 1437 et seq.), or successor legislation, for such year. The Director of Finance shall set forth procedures for annual applications from Owners for the exemption, which may require information such as federal income tax returns and W-2 forms of owner occupants eligible for the exemption, or procedures for an alternative process.

3. Fifty percent reduction for affordable housing projects. Rental housing owned by nonprofit corporations and nonprofit-controlled partnerships for senior, disabled and low-income households that are exempt from ad valorem property tax pursuant California Revenue and Taxation Code 214(f), (g) and (h) shall be liable for only fifty percent (50%) of the Tax. The exemption shall apply in the same proportion that is exempted from ad valorem property tax.

4. Rebate to tenants in foreclosed single-family homes. The City will provide a rebate of one-half (1/2) of the Tax and subsequent increases thereto to tenants in single-family homes that have been foreclosed upon who have paid a passed through Parcel Tax. To qualify for this rebate, a tenant must: (1) have lived in the unit before foreclosure proceedings commenced; and (2) be at or below the income level qualifying as sixty percent (60%) of area median income for a Family of such size under Section 8 of the United States Housing Act of 1937 (42 U.S.C.A. sections 1437 et seq.), or successor legislation, for such year. The City will provide this rebate for every month that the Tax was applied and the tenant occupied the unit. The City will provide this rebate at the end of each year, or when the tenant vacates the unit, whichever is earlier. The City Administrator will promulgate regulations to effectuate this subdivision.

5. Real property owned by a religious organization or school that is exempt from property taxes under California law is exempt from this Tax. To qualify for this exemption, each religious organization or school seeking such exemption shall submit such information required to determine eligibility for such exemption.

D. Reduction in Tax Rate; Rate Adjustment.

1. Subject to paragraph 2 of this section, the tax rates imposed by this Ordinance are maximum rates and may not be increased by the City Council above such maximum rates.

2. The City Council shall increase the Tax on an annual basis by a percentage that is up to the greater of:

a. The percentage change in the cost of living in the immediate San Francisco Bay Area, as determined by the twelve-month (12) Annual Percentage Change in the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor Statistics; or

b. The percentage change in California per capita personal income, as determined by the California State Department of Finance and shown in the Price Factor and Population Information Report issued each May.

E. Duties of the Director of Finance; Notice of Decisions.

1. It shall be the duty of the Director of the Finance to collect and receive all taxes imposed by this Ordinance. The Director of Finance is charged with the enforcement of this Ordinance and may adopt rules and regulations relating to such enforcement.

2. The Director of Finance or the Director of Finance's designee is hereby authorized to examine assessment rolls, property tax records, records of the Alameda County Recorder and any other records of the County of Alameda deemed necessary in order to determine ownership of Parcels and computation of the Tax imposed by this Ordinance.

3. The Director of Finance or the Director of Finance's designee is hereby authorized to examine the books, papers and records of any person subject to the Tax imposed by this Ordinance, including any person who claims an exemption, for the purpose of verifying the accuracy of any petition, claim or return filed and to ascertain the Tax due. The Director of Finance or the Director of Finance's designee is hereby authorized to examine any person, under oath, for the purpose of verifying the accuracy of any petition, claim or return filed or to ascertain the Tax due under this Ordinance and for this purpose may compel the production of books, papers and records, whether as parties or witnesses, whenever the Director of Finance believes such persons have knowledge of such matters. The refusal of such examination by any person subject to the Tax shall be deemed a violation of this Ordinance and of the Oakland Municipal Code and subject to any and all remedies specified therein.

F. Collection of Tax; Interest and Penalties.

1. The tax shall be delinquent if the City does not receive it on or before the delinquency date set forth in the notice mailed to the Owner's

address as shown on the most current assessment roll of the Alameda County Tax Collector; and the Tax shall be collected in such a manner as the City Council may decide. The City may place delinquencies on a subsequent tax bill.

2. A one-time penalty at a rate set by the City Council, which in no event shall exceed twenty-five percent (25%) of the Tax due per fiscal year, is hereby imposed by this Ordinance on all taxpayers who fail to timely pay the Tax provided by this Ordinance. In addition, the City Council may assess interest at the rate of one percent (1%) per month on the unpaid tax and the penalty thereon.

3. Every penalty imposed and such interest as accrues under the provisions of this Ordinance shall become a part of the Tax herein required to be paid.

4. The City may authorize the County of Alameda to collect the Taxes imposed by this Ordinance in conjunction with and at the same time and in the same manner as the County collects property taxes for the City. If the City elects to authorize the County of Alameda to collect the Tax, penalties and interest shall be those applicable to the nonpayment of property taxes.

G. Collection of Unpaid Taxes. The amount of any tax, penalty, and interest imposed under the provisions of this Ordinance shall be deemed a debt to the City. Any person owing money under the provisions of this Ordinance shall be liable to an action brought in the name of the City for the recovery for such amount.

H. Refund of Tax, Penalty, or Interest Paid More than Once, or Erroneously or Illegally Collected. Whenever the amount of any tax, penalty, or interest imposed by this Ordinance has been paid more than once, or has been erroneously or illegally collected or received by the City it may be refunded provided a verified written claim for refund, stating the specific ground upon which such claim is founded, is received by the Director of Finance within one (1) year of the date of payment. The claim shall be filed by the person who paid the Tax or such person's guardian, conservator, or the executor of her or his estate. No representative claim may be filed on behalf of a taxpayers or a class of taxpayers. The claim shall be reviewed by the Director of Finance and shall be made on forms provided by the Director of Finance. If the claim is approved by the Director of Finance, the excess amount collected or paid may be refunded or may be credited against any amounts then due and payable from the person from whom it was collected or by whom paid, and the balance may be refunded to such person, or such person's administrators or executors. Filing a claim shall be a condition precedent to legal action against the City for a refund of the tax.

I. This Ordinance and the special tax authorized herein are authorized by and adopted pursuant to Article XI, section 5 of the California Constitution and applicable provisions of the Oakland City Charter.

J. This Ordinance and the special tax authorized herein are exempt

from the California Environmental Quality Act, Public Resources Code sections 21000 et seq. ("CEQA") because, in accordance with CEQA Guidelines, 14 California Code of Regulations section 15061(b)(3), it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

K. To the extent that the revenue from the Parcel Tax is in excess of the spending limit for the City, as provided for in applicable provisions of the California Constitution and state law, the approval of the Ordinance by the voters shall constitute approval to increase the City's spending limit in an amount equal to the revenue derived from the Parcel Tax for the maximum period of time as allowed by law.

Section 4.58.090. Statement of Facts.

This true and impartial Statement of Facts explicitly and affirmatively identifies each tax in this Ordinance and the specific limitation on how the revenue therefrom can be spent. This Ordinance establishes a non-ad valorem parcel tax of \$68.00 per parcel on each parcel of taxable real property within the boundaries of the City, unless the owner and holder of possessory interest is by law exempt from taxation. The revenue collected from the levy of the non-ad valorem parcel tax set established by this Ordinance shall be specifically used for the operations, staffing, maintenance and capital improvements of the Oakland Zoo and direct and indirect administrative expenses associated with the special tax, as defined herein.

Section 4.58.100. Severability.

If any provision of this Ordinance, or section, phrase or word thereof, or the applicability of any provision, section, part, phrase or word to any person or circumstances, including any exemption to the Parcel Tax or defined term, is for any reason held to be invalid or unconstitutional, the remaining provisions, sections, parts, phrases or words shall not be affected, but shall remain in full force and effect, and to this end the provisions, sections, parts, phrases and words of this Ordinance are severable.

The voters hereby declare that this Ordinance, and each section, provision, part, phrase and word, including any exemption to the Parcel Tax or defined term, would have been adopted irrespective of whether any one or more provisions, sections, parts, phrases or words are found to be invalid or unconstitutional.

If any tax or surcharge imposed by this Ordinance is found to be unconstitutional, illegal or invalid, the amounts, operations, staffing, maintenance and capital improvements required to be funded from such taxes and surcharges shall be reduced proportionately by any revenues lost due to such unconstitutionality, illegality or invalidity.

Section 4.58.110. Regulations.

The City Administrator may promulgate appropriate regulations to

implement the provisions of this Ordinance.

Section 4.58.120. Amendment.

Except as otherwise expressly provided herein, the tax rates set forth herein may not be increased by action of the City Council without the applicable voter approval, but the City Council may make any other changes to this Ordinance which are consistent with its purpose.

Section 4.58.130. Challenge to Tax.

Any action to challenge the taxes imposed by this Ordinance shall be brought pursuant to Government Code section 50077.5 and Code of Civil Procedure sections 860 et seq.

SECTION 3. Legal Defense.

The People of the City of Oakland desire that this Ordinance, if approved by the voters and thereafter challenged in court, be defended by the City. The People, by approving this Ordinance, hereby declare that the proponent(s) of this Ordinance have a direct and personal stake in defending this Ordinance from constitutional or statutory challenges to the Ordinance's validity or implementation. In the event the City fails to defend this Ordinance, or the City fails to appeal an adverse judgment against the constitutionality, statutory permissibility or implementation of this Ordinance, in whole or in part, in any court of law, the Ordinance's proponents shall be entitled to assert their direct personal stake by defending the Ordinance's validity and implementation in any court of law and shall be empowered by the People through this Ordinance to act as agents of the People. The City shall indemnify the proponents for reasonable expenses and any losses incurred by the proponents, as agents, in defending the validity and/or implementation of the challenged Ordinance. The rate of indemnification shall be no more than the amount it would cost the City to perform the defense itself.

SECTION 4. Conflicting Measures.

A. In the event that this Ordinance and one or more conflicting measures appear on the same City ballot, the provisions of the measure that receives the greater number of affirmative votes shall prevail in their entirety, and the other measure or measures shall be null and void.

B. If this Ordinance is approved by the voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this Ordinance shall be self-executing and given full force and effect.

SECTIONS. Liberal Construction.

This Ordinance shall be liberally construed to effectuate its purposes.

SECTION 6. **Effective Date.**

This Ordinance shall become effective upon its approval by a simple majority of electors voting on the Ordinance.

SECTION 7. **Municipal Affairs.**

The People of the City of Oakland hereby declare that providing additional funding the operations, staffing, maintenance and capital improvements of the Oakland Zoo through a parcel tax for the purposes set forth in this Ordinance constitutes a municipal affair. The People hereby further declare their desire for this Ordinance to coexist with any similar tax measures adopted at the city, county or state levels.

SECTION 8. **Home Rule.**

The authority to pass this Ordinance is derived from Oakland's home rule powers outlined in the City Charter and Article XI, section 5 of the California Constitution. The People of the City of Oakland declare their intent that this citizen initiative be enacted, and the parcel tax be collected for the entire uninterrupted time period described herein, if this Ordinance is approved by a simple majority of voters pursuant to California Cannabis Coalition v. City of Upland (2017) 3 Cal.5th 924, City of Fresno v. Fresno Building Healthy Communities (2020) 59 Cal.App.5th 220 and Jobs & Housing Coalition v. Oakland (12/30/21) Case. No. A158977. To the extent that the California Constitution or state law is amended on or after the date that this Ordinance is passed by voters to change or create additional voting requirements in order to implement or to continue to implement this Ordinance, the People of the City of Oakland declare their intent that such amendments should be applied prospectively only and not apply to, or in any way affect, this parcel tax or this Ordinance.

; and be it

FURTHER RESOLVED: That in accordance with applicable law, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed initiative, and said date shall be posted in accordance with legal requirements; 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 initiative in the manner provided by law; and be it

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

**PROPOSED AMENDMENT TO THE OAKLAND MUNICIPAL CODE
ENACTING THE 2022 OAKLAND ZOO ANIMAL CARE, EDUCATION
AND IMPROVEMENT ORDINANCE AND IMPOSING A PARCEL TAX
TO FUND OPERATIONS, STAFFING, MAINTENANCE, AND CAPITAL
IMPROVEMENTS OF THE OAKLAND ZOO**

| | | |
|---|------------|--|
| <p>Measure ____. Shall the measure to amend Oakland’s Municipal Code to fund operations, staffing, maintenance and capital improvements for the Oakland Zoo, including but not limited to animal care and rehabilitation, educational and conservation programs, fire prevention, accessibility, and visitor services, by imposing an annual \$68 parcel tax for single-family parcels, and other parcels as specified, for 20 years, raising approximately \$12,000,000 annually with exemptions for low-income households and others, and citizen oversight, be adopted?</p> <p>[BALLOT QUESTION SUBJECT TO CITY ATTORNEY APPROVAL]</p> | Yes | |
| | No | |

; and be it

FURTHER RESOLVED: That the City Clerk and the City Administrator are hereby authorized and directed to take any and all action necessary under law to prepare for and conduct the November 8, 2022 election, consistent with law; 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 the foregoing 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 upon approval by the voters of this initiative it will be codified into the Oakland Municipal Code at the direction of the City Clerk; and be it

FURTHER RESOLVED: That this resolution shall be effective immediately upon approval by five members of the City Council.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

- AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND PRESIDENT FORTUNATO BAS
- NOES –
- ABSENT –
- ABSTENTION –

ATTEST: _____
ASHA REED
 City Clerk and Clerk of the Council of the
 City of Oakland, California