

OFFICE OF THE CITY ATTORNEY  
OAKLAND

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APPROVED AS TO FORM AND LEGALITY

**DRAFT**

INTRODUCED BY COUNCIL PRESIDENT KAPLAN

CITY ATTORNEY'S OFFICE

# OAKLAND CITY COUNCIL

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

**ORDINANCE AMENDING OAKLAND'S HOMELESS COMMISSION ORDINANCE, CODIFIED IN OAKLAND MUNICIPAL CODE SECTION 4.56.060, ESTABLISHED PURSUANT TO MEASURE W, THE VACANT PROPERTY TAX MEASURE PASSED BY VOTERS IN 2018, TO ADD ADDITIONAL OVERSIGHT AND RESPONSIBILITIES**

**WHEREAS**, homelessness has long-term and serious consequences to the health and safety of those who experience it, in particular children who are at risk of health problems including life-long behavioral health challenges; and

**WHEREAS**, on September 19, 2018, the United Nations came out with a report on "adequate housing" that described Oakland's efforts to "to discourage residents from remaining in informal settlements or encampments by denying access to water, sanitation and health services and other basic necessities" as "cruel;" and

**WHEREAS**, California "does not have enough affordable housing stock to meet the demand of low-income households" and "the state's 2.2 million extremely and very low-income renter households compete for 664,000 affordable rental homes" as stated in a report by the 2018 League of California Cities Homelessness Taskforce; and

**WHEREAS**, according to the *2019 Every One Counts! Homeless Point-in-Time Count* homelessness grew 47% in the City of Oakland since 2017; and

**WHEREAS**, Oakland is suffering from a serious housing crisis as housing costs in the City increase drastically, making housing at all levels of affordability and particularly affordable housing scarce and unavailable for many Oakland residents; and

**WHEREAS**, Resolution No. 87319 C.M.S. submitted to the voters of the City a proposed ordinance to adopt a special parcel tax on vacant properties to support services for homeless people and remedies to illegal dumping (identified as "Measure W" on the November 6, 2018 ballot); and

**WHEREAS**, the vacant property tax, known as Measure W was on the November 6, 2018 ballot and passed with an overwhelming 70.04% of Oakland voters; and

**WHEREAS**, on February 26, 2019, the City Council declared in Resolution No. 87538 C.M.S., that City of Oakland finds and proclaims that a local emergency exists due to the welfare and safety concerns of those who live in homelessness or at risk of homelessness; and

**WHEREAS**, Measure W established community oversight of the Vacant Property Tax via a Homeless Commission and also authorized the Commission to make recommendations about homelessness strategies;

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

**Section 1.** This Ordinance amends Oakland Municipal Code Section 4.56.060, *Commission on Homelessness*, to add additional oversight duties and jurisdiction to the Commission's mandate, with additions indicated in double underlined text and deletions are indicated in ~~strikeout~~ text, as follows:

**Chapter 4.56.060 – COMMISSION ON HOMELESSNESS**

A. The Commission on Homelessness is hereby established for citizen oversight of the Oakland vacant property tax (2018 Measure W) and the 2020 Measure Q homelessness funds received by the City of Oakland for Homeless services, and to make recommendations to the City Council for strategies to remedy homelessness.

B. The Commission shall meet at least four (4) times per fiscal year.

C. The Commission shall review relevant financial and operational reports related to the expenditure of the homeless services fund. The Commission shall publish an annual report regarding how and to what extent the City Council and Mayor have implemented this Chapter. Additionally, the Commission shall be requested to publish reports regarding the following:

1) Recommendations from the Commission on how to prioritize the allocation of funds in accordance with the requirements of this Chapter, including for: services and programs for homeless people, reduction of homelessness, and supporting the provision of affordable housing to households qualifying as at least low-income households (those at 55% AMI or below);

2) Information, if available, concerning the impacts of programs funded by the Vacant Property Tax (2018 Measure W) and 2020 Measure Q homelessness funds subject to Commission oversight ~~this Ordinance on the occurrence of~~ homelessness and illegal dumping outcomes in the City;

3) Recommendations to the Mayor and the City Council on the Biennial Fiscal Year Budget, in accordance with the City Council's Consolidated Fiscal Policy at the time, that ensures that the Commission Chair communicates homelessness priorities to the Mayor and Council; and

4) Review and respond annually to the City's Homeless Encampment Policy and the Permanent Access to Housing (Path) Plan which shall be presented to the Commission, as well as hear reports on the housing, programs, and services for persons experiencing homelessness in the City, including, but not limited to, street outreach, homeless shelters, transitional housing, housing exits, and permanent supportive housing as needed.

The City Council may assign other duties to the Commission as provided for by ordinance. Within fifteen (15) days of receipt of a Commission report, the City Administrator or designee shall cause the report to be published on the City's Internet website and to be transmitted to the City Council. Any recommendations from the Commission on prioritization of vacant property tax funds in accordance with the requirements of this Chapter shall be approved no later than February 1 for incorporation into the City budget for the following fiscal year, and such report shall be transmitted to the Council and public for informational purposes in the budget or as an informational report at the meeting at which the City Council appropriates funds generated by the special supplemental business tax.

D. The Commission may appoint a member as a liaison to communicate with the City Administrator's Homeless Encampment Team.

D-E. The Commission shall consist of nine (9) members who are all residents of the City. No less than half of the members must be residents of heavily impacted neighborhoods. No less than two (2) members must be currently homeless, formerly homeless or low-income, as the term "low income" is defined by the United States Department of Housing and Urban Development. No less than three (3) members must have professional expertise in, or be providers of, homeless services or housing with priority given to individuals with a background in affordable housing, shelter management, or public health. No less than one (1) representative must have financial expertise. Members may fulfill more than one (1) of these criteria for the purposes of meeting these requirements. City Councilmembers shall make recommendations for members to the Mayor. Members of the Commission shall be appointed by the Mayor and confirmed by the City Council in accordance with City Charter Section 601. Members of the Commission shall receive no salary for serving.

E. F. Members shall serve three (3) year terms, as provided for in this subsection. No member shall serve more than two (2) consecutive three (3) year terms. Of the initial members of the Commission, three (3) appointments shall be for one-year terms, three (3) appointments shall serve for two-year terms, and three (3) appointments shall be for three-year terms. Thereafter, all terms shall be for three (3) years. All terms of members shall begin as of the date that six (6) members have been appointed, which is when the Commission may begin its work. All future terms shall begin and end on that date. A quorum of the Commission shall be a majority of appointed members shall never be fewer than three (3) members. A member may be removed for cause pursuant to City Charter Section 601. Absence from three (3) consecutive regular meetings, or four (4) non-consecutive regular meetings during a single fiscal year, may constitute cause for removal from the Commission, in accordance with City Charter Section 601. Any cause for removal shall be referred to the City Council.

F. G. The City Administrator or designee shall provide clerical assistance and administrative support and technical assistance to the Commission and the City Administrator or designee shall be present at the Commission meetings.

H. The Commission may hold at least one (1) meeting per year at a location outside of City Hall but within the City of Oakland.

I. The Commission may convene community meetings to solicit community testimony and other input in discussions regarding homelessness and illegal dumping policy, to build trust between the unhoused community, impacted neighborhoods and the City, and to address other similar and relevant subjects as determined by the Commission within its jurisdiction.

J. The Commission may invite subject matter experts and individuals to provide informational presentations, including but not limited to representatives from faith-based groups, affordable housing developers, homelessness advocates, youth groups, LGBT, veteran, racial equity experts, and other members of the community.

K. The Commission may establish by a majority vote, working groups and sub-committees.

L. Commissioners shall be provided and shall attend training on the following:

- 1) the City's Homelessness policies and procedures;
- 2) basic principles of Roberts Rules of Order and meeting procedures;
- 3) the legal requirements of California's Political Reform Act (Cal. Gov. Code section 81000, et seq.), Oakland's Conflict of Interest Code (Oakland Municipal Code, Ch. 3.16), Oakland's Government Ethics Act (Oakland Municipal Code Section Ch. 2.25), California's Brown Act (Cal. Gov. Code section 54950, et seq.), Oakland's Sunshine Ordinance (Oakland Municipal Code Ch. 2.20), and California's Public Records Act (Cal. Gov. Code section 6250, et seq.); and
- 4) bias and equity from the Department of Race and Equity.

**Section 5. 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 6. California Environmental Quality Act Requirements.**

The City Council hereby determines that this Ordinance is not in-and-of-itself a "project" pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq., including without limitation CEQA Guidelines 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the adoption of the ordinance itself may have a significant effect on the environment. To the extent that vacant property tax revenues generated by the Ordinance may in the future be used to fund the construction of capital improvements, the Ordinance may assist in the financing of future "projects" that

will be subject to environmental review pursuant to CEQA at the "earliest feasible time" prior to "approval" consistent with CEQA Guidelines Sections 15004 and 15352.

**Section 7. Effective Date.** Pursuant to Charter Section 216, this Ordinance shall be 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 by the City Council.

2900391v4

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'S HOMELESS COMMISSION ORDINANCE, CODIFIED IN OAKLAND MUNICIPAL CODE SECTION 4.56.060, ESTABLISHED PURSUANT TO MEASURE W, THE VACANT PROPERTY TAX MEASURE PASSED BY VOTERS IN 2018, TO ADD ADDITIONAL OVERSIGHT AND RESPONSIBILITIES**

This Ordinance amends Oakland Municipal Code Section 4.56.060, *Commission on Homelessness*, that established Oakland's Homeless Commission pursuant to Measure W, the Vacant Property Tax measure passed by voters in 2018. This ordinance will add additional oversight to the Commission's mandate, among other things, such as broader oversight of vacant property taxes and other funds the City receives for homelessness services, will establish that the Commission should provide recommendations to the City regarding strategies to remedy homeless, to communicate the Commission's homelessness priorities to the Mayor and City Council in the budget process, and to annually review the and respond to the City's Homeless Encampment policies. This ordinance will also add priority for persons with a background in affordable housing, shelter management or public health for three (3) seats on the Commission, and will establish training requirements for Commissioners regarding the City's homelessness policies and procedures, public meeting and procedural laws and procedures, public ethics and conflict laws and the City's bias and equity policies/principles.