


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

**ORDINANCE AMENDING AND REENACTING ORDINANCE NO. 13561
C.M.S. FOR THE CULTURAL AFFAIRS COMMISSION TO ENABLE
QUORUM WITH A MAJORITY OF APPOINTED MEMBERS,
ESTABLISH ITS AUTHORITY TO CREATE STANDING COMMITTEES,
ALLOW THE COMMISSION TO APPOINT THE CHAIRPERSON, AND
MAKE OTHER CLARIFYING EDITS**

WHEREAS, the Cultural Affairs Commission (the “Commission”) was established by the Oakland City Council pursuant to Section 601 of the City Charter, effective May 1, 1991, by Ordinance No. 11323 C.M.S. for the purpose of advising the Mayor, City Council, and City Administrator on matters affecting cultural development in the community; and

WHEREAS, on July 16, 2019, the City Council adopted Ordinance No. 13561 C.M.S. to redefine the duties, modify membership and quorum, and clarify the appointment process of the Cultural Affairs Commission; and

WHEREAS, to reflect the importance of the arts and cultural expressions in Oakland and our City’s size, stature, and diversity, the City of Oakland continues to merit a robust, active, and relevant cultural commission; and

WHEREAS, the current enabling legislation for the Commission requires that City Council approval must be obtained prior to the creation of any standing committee of the Commission; and

WHEREAS, there are currently no standing committees of the Cultural Affairs Commission, however the use of standing committees for City commissions allows them to leverage member skills and expertise through increased focus on specific Commissioner duties including advising on City policy and programs affecting arts and cultural development, cultural community relations and engagement, and Commission governance and membership. The Commission therefore wishes to amend the enabling legislation to allow the creation of standing committees with approval by the City Administrator; and

WHEREAS, the current enabling legislation establishes a quorum as six (6) members and amending to a simple majority of appointed members but in no case fewer than four (4) members

helps to ensure that the Commission can meet, hear items with comment from members of the public, and take action to advise the City as a body; and

WHEREAS, the current legislation requires that the Mayor appoint the chairperson of the Commission, but this has not been the previous practice and is not consistent with other advisory bodies of the City and allowing the Commission to appoint a chair directly would help with efficiency and administration of the body; and

WHEREAS, this Ordinance would therefore amend Ordinance No. 13561 C.M.S. to clarify the authority of the Cultural Affairs Commission to create standing committees subject to City Administrator approval, make other clarifying edits regarding the scope of the Commission, allow the Commission to appoint the chairperson directly, and revise quorum to a simple majority of appointed members but not fewer than four members, pursuant to the tracked changes version attached as **Exhibit 1** to this Ordinance; and

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

SECTION 1. REENACTMENT OF THE CULTURAL AFFAIRS COMMISSION ORDINANCE

Pursuant to Oakland Charter Section 212, Ordinance No. 13561 C.M.S. is hereby amended and reenacted as set forth herein.

SECTION 2. CREATION OF COMMISSION

As of May 1, 1991, pursuant to Section 601 of the Charter of the City of Oakland, there is hereby created a Cultural Affairs Commission.

SECTION 3. GOALS AND DUTIES

It shall be the function and duty of the Cultural Affairs Commission to:

- a. Advise the Mayor, City Council, and City Administrator, on matters affecting cultural development in the community;
- b. Review and comment on City and community policies, programs, and actions which affect arts and cultural development in Oakland;
- c. Advise the Mayor, City Council, and City Administrator on recommendations arising out of the Cultural Plan affecting City support for cultural development;
- d. Act as ambassadors and advocates for the people of Oakland and as such design, develop, and implement a Commission work plan after consultation

with the Cultural Affairs Manager, or other City staff as designated by the City Administrator;

- e. Encourage and assist in the development of support for artists, culture bearers, culturists, and arts and culture organizations within Oakland;
- f. Make cultural planning status reports and recommendations to the Mayor, City Council, and City Administrator regarding actions to be taken by the City to fund, assist, and encourage activities in support of artistic, cultural, and humanities activities in the City;
- g. In addition to the reporting requirements stated in this Section, the Commission shall submit an informational report to the City Council committee designated as liaison to the Commission as directed by the Chairperson of said committee;
- h. Informational reports submitted as required in this Section must include detailed descriptions of operating and staffing needs, to be developed and maintained by the department responsible for staffing and administration of the Commission;
- i. Take such other actions as may be necessary or desirable to promote public awareness of, and participation in artistic, cultural, and humanities activities in Oakland;
- j. Perform such other functions and duties pertaining to Commission members' role as advocates and ambassadors as may be directed by the Mayor, City Council, or the City Administrator;
- k. The Commission may create, modify and/or terminate standing committees of the Commission following recommendation to and approval by the City Administrator. Any committee must serve as an advisory body to the Commission and may not act inconsistent with this Ordinance.

In prescribing the above duties and functions of the Cultural Affairs Commission, it is not the intent of the Council to duplicate or overlap the functions, duties, or responsibilities heretofore or hereafter assigned to any other City board or commission or to a City department. As to such functions or responsibilities of another board or commission or of a department of the City, the Cultural Affairs Commission will render assistance and advice to such board, commission, or department as may be requested.

SECTION 4. AUTHORITY

The Cultural Affairs Commission shall directly report to and advise the Mayor, City Council, and the City Administrator.

SECTION 5. MEMBERSHIP

- a. The Commission shall consist of eleven (11) members, who shall serve without compensation. Appointments shall be made pursuant to Section 601 of the Charter.
- b. A majority of appointed commissioners shall constitute a quorum, but in no case shall be fewer than four (4).
- c. To the extent practicable, appointments to the Cultural Affairs Commission shall be made using the guiding principles of cultural equity to help reflect the diversity of the City.
- d. To the extent practicable, appointments to the Cultural Affairs Commission shall reflect the geographical diversity of the City.
- e. In making appointments to the Cultural Affairs Commission, the Mayor shall request recommendations for appointments by each Councilmember and by the Commission.
- f. The Commission shall include at least one (1) member of the Public Art Advisory Committee (PAAC) to be selected by the Mayor and appointed pursuant to Section 601 of the Charter. If no PAAC member agrees to accept an appointment to serve, the Mayor may appoint another member pursuant to Section 601 of the Charter.

SECTION 6. APPOINTMENT

- a. Terms of Appointment. All terms shall commence on October 1 and end on September 30. For the initial appointment only, four (4) members shall be appointed for a three-year term, four (4) members shall be appointed for a two-year term, and three (3) members shall be appointed for a one-year term. Thereafter, all appointments shall be for three (3) years, except that an appointment made to fill a vacancy created by the premature departure of a Commission member shall be for the unexpired portion of the departed Commission member's term only.
- b. Limit on Consecutive Terms. Commencing with the effective date of this Ordinance, no person shall be appointed to serve as a member of the Cultural Affairs Commission for more than two (2) consecutive three-year terms plus

any initial term of less than two years. A former member of the Commission can be appointed to the Commission for another two consecutive terms only after a full term of three (3) years has passed after the completion of the member's second term or date of resignation, whichever comes first.

Holdover. In the event an appointment to fill a vacancy has not occurred by the conclusion of a Commission member's term, that member may continue to serve as a member of the Commission in a holdover capacity for a period not to exceed one year, to allow for the appointment of a new Commission member. The newly appointed member shall be appointed pursuant to Section 6a, above, notwithstanding any holdover period.

- c. Removal. To assure participation of Commission members, attendance by the members of the Commission to all regularly scheduled and special meetings of the Commission shall be recorded, and such record shall be provided semi-annually to the Office of the Mayor for review. A member may be removed pursuant to Section 601 of the City Charter. Among other things, conviction of a felony, misconduct, incompetence, inattention to or inability to perform duties, or absence from three (3) consecutive regular meetings except on account of illness or when absent from the City by permission of the Commission, may constitute cause for removal.

SECTION 7. VACANCIES

A vacancy on the Cultural Affairs Commission will exist whenever a member dies, resigns, or is removed, whenever an appointee fails to be confirmed by the Council within thirty (30) days of appointment, or as provided in Charter Section 601. An appointment to fill a vacancy shall be for the unexpired portion of the term only.

SECTION 8. OFFICERS AND MEETINGS

At the meeting before the Commissioners' annual terms begin, the members shall elect a chair and a vice chairperson or shall otherwise provide for the elections of these positions in its bylaws. The Cultural Affairs Commission shall establish the date, time and location for its regular meetings in its bylaws, and shall conduct its regular and special meetings in accordance with the state and local open meeting laws.

SECTION 9. RULES AND REPORT

The Commission shall establish reasonable rules for the conduct of its business and a copy of said rules and any amendments thereto shall be delivered to the City Administrator for review and approval. Voting shall be required to pass any motion or resolution. An affirmative vote of the majority of the members present is required to pass any motion or resolution. The Cultural Affairs Commission shall make cultural planning status reports,

findings, and recommendations either to the Mayor, the City Council, or the City Administrator, as appropriate. The Cultural Affairs Commission shall submit an informational report to the City Council committee designated as liaison to the Commission as directed by the Chairperson of the City Council committee to which the Commission reports. Recommendations from the Cultural Affairs Commission shall be carefully and fully considered by the City Administrator. If rejected by the City Administrator, the Commission may submit recommendations to the Council for consideration, as appropriate.

SECTION 10. STAFF

The City Administrator shall provide the Cultural Affairs Commission with staff assistance to support the effective functioning of the Commission.

SECTION 11. 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 12. 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 - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG AND
PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

NOTICE AND DIGEST

ORDINANCE AMENDING AND REENACTING ORDINANCE NO. 13561 C.M.S. FOR THE CULTURAL AFFAIRS COMMISSION TO ENABLE QUORUM WITH A MAJORITY OF APPOINTED MEMBERS, ESTABLISH ITS AUTHORITY TO CREATE STANDING COMMITTEES, ALLOW THE COMMISSION TO APPOINT THE CHAIRPERSON, AND OTHER CLARIFYING EDITS

This Ordinance would amend and restate Ordinance No. 13561 C.M.S. to update the enabling legislation of the Cultural Affairs Commission. The Ordinance would clarify the authority of the Cultural Affairs Commission to create standing committees subject to City Administrator approval, make other clarifying edits regarding the scope of the Commission, allow the Commission to appoint the chairperson directly, and revise quorum to a simple majority of appointed members but no fewer than four members.

EXHIBIT 1

This Exhibit 1 indicates the amendments to Ordinance No. 13561 C.M.S., as adopted pursuant to this Ordinance. Amended 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.

SECTION 1. ~~The City Council of the City of Oakland hereby determines that the preceding recitals are true and correct and hereby adopts and incorporates them into this ordinance~~ Reenactment Of The Cultural Affairs Commission Ordinance

Pursuant to Oakland Charter Section 212, Ordinance No. 13561 C.M.S. is hereby amended and reenacted as set forth herein.

~~**SECTION 2.** The provisions governing the Commission as set forth in Ordinance No. 11323 C.M.S. and Ordinance No. 11778 C.M.S. are hereby amended and restated to add, delete or modify sections as set forth below; additions are indicated by a double underscoring and deletions are indicated by a strike through type.~~

SECTION 23. CREATION OF COMMISSION

As of May 1, 1991, pursuant to Section 601 of the Charter of the City of Oakland, there is hereby created a Cultural Affairs Commission.

SECTION 34. GOALS AND DUTIES

It shall be the function and duty of the Cultural Affairs Commission to:

- a. Advise the Mayor, City Council, and City Administrator, on matters affecting cultural development in the community;
- b. Review and comment on City and community policies, programs, and actions which affect arts and cultural development in Oakland;
- c. Advise the Mayor, City Council, and City Administrator on recommendations arising out of the Cultural Plan affecting City support for cultural development;
- d. Act as ambassadors and advocates for the people of Oakland ~~through the~~ and as such design, develop~~ment~~, and implement~~ation of~~ a Commission work plan after consultation with the Cultural Affairs Manager, or other City staff as designated by the City Administrator;
- e. Encourage and assist in the development of support for ~~individual~~ artists,

culture bearers, culturists, and traditional artists and nonprofit arts and culture organizations within Oakland;

- f. Make cultural planning status reports and recommendations to the Mayor, City Council, and City Administrator regarding actions to be taken by the City to fund, assist, and encourage activities in support of artistic, cultural, and humanities activities in the City;
- g. In addition to the reporting requirements stated in this Section, the Commission shall submit an informational report to the City Council committee designated as liaison to the Commission as directed by the Chairperson of said committee;
- h. Informational reports submitted as required in this Section must include detailed descriptions of operating and staffing needs, to be developed and maintained by the department responsible for staffing and administration of the Commission;
- i. Take such other actions as may be necessary or desirable to promote public awareness of, and participation in artistic, cultural, and humanities activities in Oakland;
- j. Perform such other functions and duties pertaining to Commission members' role as advocates and ambassadors as may be directed by the Mayor, City Council, or the City Administrator;
- k. City Council approval must be obtained prior to the creation of any standing committee of the Commission. A proposal to create a standing committee of the Commission must include information regarding the costs of complying with noticing and reporting requirements resulting from the establishment of any such standing committee of the Commission. The Commission may create, modify and/or terminate standing committees of the Commission following recommendation to and approval by the City Administrator. Any committee must serve as an advisory body to the Commission and may not act inconsistent with this Ordinance.

In prescribing the above duties and functions of the Cultural Affairs Commission, it is not the intent of the Council to duplicate or overlap the functions, duties, or responsibilities heretofore or hereafter assigned to any other City board or commission or to a City department. As to such functions or responsibilities of another board or commission or of a department of the City, the Cultural Affairs Commission will render assistance and advice to such board, commission, or department as may be requested.

SECTION ~~4~~5. AUTHORITY

The Cultural Affairs Commission shall directly report to and advise the Mayor, City Council, and the City Administrator.

SECTION ~~5~~6. MEMBERSHIP

- a. The Commission shall consist of eleven (11) members, who shall serve without compensation. Appointments shall be made pursuant to Section 601 of the Charter.
- b. ~~Six (6) members shall constitute a quorum, and any decision by the Commission shall require a majority of those members present~~A majority of appointed commissioners shall constitute a quorum, but in no case shall be fewer than four (4).
- c. To the extent practicable, appointments to the Cultural Affairs Commission shall be made using the guiding principles of cultural equity to help reflect the diversity of the City.
- d. To the extent practicable, appointments to the Cultural Affairs Commission shall reflect the geographical diversity of the City.
- e. In making appointments to the Cultural Affairs Commission, the Mayor shall ~~consider~~ request recommendations for appointments ~~offered~~ by each Councilmember and by the Commission. ~~Councilmembers must submit recommendations to the Mayor for consideration at least 30 days prior to expiration of an existing Commission member's term.~~
- f. ~~The Commission shall recommend to the Mayor at least one (1) member for appointment.~~
- ~~g.~~f. The Commission shall include at least one (1) member of the Public Art Advisory Committee (PAAC) to be selected by the Mayor and appointed pursuant to Section 601 of the Charter. If no PAAC member agrees to accept an appointment to serve, the Mayor may appoint another member pursuant to Section 601 of the Charter.

SECTION ~~6~~7. APPOINTMENT

- a. Terms of Appointment. All terms shall commence on October 1 and end on September 30. For the initial appointment only, four (4) members shall be appointed for a three-year term, four (4) members shall be appointed for a two-

year term, and three (3) members shall be appointed for a one-year term. Thereafter, all appointments shall be for three (3) years, except that an appointment made to fill a vacancy created by the premature departure of a Commission member shall be for the unexpired portion of the departed Commission member's term only.

- b. Limit on Consecutive Terms. Commencing with the effective date of this Ordinance, no person shall be appointed to serve as a member of the Cultural Affairs Commission for more than two (2) consecutive three-year terms plus any initial term of less than two years. A former member of the Commission can be appointed to the Commission for another two consecutive terms only after a full term of three (3) years has passed after the completion of the member's second term, or date of resignation, whichever comes first.

Holdover. In the event an appointment to fill a vacancy has not occurred by the conclusion of a Commission member's term, that member may continue to serve as a member of the Commission in a holdover capacity for a period not to exceed one year, to allow for the appointment of a new Commission member. The newly appointed member shall be appointed pursuant to Section 6a7-a, above, notwithstanding any holdover period.

- c. Removal. To assure participation of Commission members, attendance by the members of the Commission to all regularly scheduled and special meetings of the Commission shall be recorded, and such record shall be provided semi-annually to the Office of the Mayor for review. A member may be removed pursuant to Section 601 of the City Charter. Among other things, conviction of a felony, misconduct, incompetence, inattention to or inability to perform duties, or absence from three (3) consecutive regular meetings except on account of illness or when absent from the City by permission of the Commission, may constitute cause for removal.

SECTION 78. VACANCIES

A vacancy on the Cultural Affairs Commission will exist whenever a member dies, resigns, or is removed, ~~or~~ whenever an appointee fails to be confirmed by the Council within thirty (30) days of appointment, or as provided in Charter Section 601. An appointment to fill a vacancy shall be for the unexpired portion of the term only.

SECTION 89. OFFICERS AND MEETINGS

~~The Mayor shall appoint the chairperson of the Commission. At the first regular meeting of each year~~ At the meeting before the Commissioners' annual terms begin, the members shall elect a chair and a vice chairperson or shall otherwise provide for the elections of these positions in its bylaws. The Cultural Affairs Commission shall establish the date,

time and location for its regular meetings in its bylaws, and shall conduct its regular and special meetings in accordance with the state and local open meeting laws.

SECTION ~~9~~10. RULES AND REPORT

The Commission shall establish reasonable rules for the conduct of its business and a copy of said rules and any amendments thereto shall be delivered to the City Administrator for review and approval. Voting shall be required to pass any motion or resolution. An affirmative vote of the majority of the members present is required to pass any motion or resolution. The Cultural Affairs Commission shall make cultural planning status reports, findings, and recommendations either to the Mayor, the City Council, or the City Administrator, as appropriate. The Cultural Affairs Commission shall submit an informational report to the City Council committee designated as liaison to the Commission as directed by the Chairperson of the City Council committee to which the Commission reports. Recommendations from the Cultural Affairs Commission shall be carefully and fully considered by the City Administrator. If rejected by the City Administrator, the Commission may submit recommendations to the Council for consideration, as appropriate.

SECTION ~~10~~11. STAFF

The City Administrator shall provide the Cultural Affairs Commission with staff assistance to support the effective functioning of the Commission~~as needed~~.

SECTION ~~1~~12. 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 ~~12~~13. 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.