

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE _____

Oakland City Charter, Article II, Section 217 provides that the Council may make the violation of its ordinances a misdemeanor that may be punishable by a fine not to exceed \$1,000 or by imprisonment not to exceed one year, or by both such fine and imprisonment.

This measure would amend Section 217 to delete the \$1,000 limit on fines that may be imposed for violation of the Council's ordinances. Instead, this measure will require that the City Council establish a fine limit by ordinance adopted after a public hearing.

This measure was placed on the ballot by the Oakland City Council. Passage of this measure requires an affirmative vote of a majority of voters (i.e. more than 50% of the votes cast). A "yes" vote will approve the measure; a "no" vote will reject the measure.



BARBARA J. PARKER
City Attorney

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CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE ____

TITLE: Proposed Amendment to City Charter Section 217 to Remove the \$1,000 Limit on Fines

CITY ATTORNEY'S SUMMARY OF MEASURE ____:

Oakland City Charter, Article II, section 217 places a \$1,000 cap on fines the City may impose for violations of ordinances or the Oakland Municipal Code.

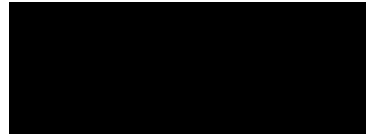
This measure would amend Section 217 to delete the \$1,000 limit in the Charter and, instead, require that the City Council establish a fine limit by ordinance adopted after a public hearing.

This measure was placed on the ballot by the Oakland City Council. The affirmative vote of a majority of (i.e., more than 50% of the votes cast) is necessary to pass this measure. A "yes" vote approves the measure; a "no" vote rejects the measure.

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BARBARA J. PARKER
City Attorney

ARGUMENT IN FAVOR OF MEASURE REMOVING FINES LIMIT

The limit on fines in the Oakland City Charter hasn't changed since 1968. Illegal dumpers and other code violators regularly break the law with impunity knowing that the financial consequences of violating the law are limited. The current tool of using fines to address and deter blighted, substandard, unsafe and public nuisance conditions is not as effective as it could and should be. That's why we put Measure RR on the ballot.

Regular economic changes in inflation, value and cost have minimized the effectiveness of the fine limit set over 50 years ago. We are fighting 2020 problems using a 1968 toolbox. This needs to change. Help us fight illegal dumping and other serious health and safety code violations by passing Measure RR. Give the City of Oakland this tool it needs to fight health and safety violations, and illegal dumping and other forms of blight!

This measure requires the City Council through an open public hearing process to set a new limit, which would be at a level that effectively enforces our laws and promotes future compliance to benefit all our neighborhoods.

Please join us in voting YES on Measure RR to eliminate the antiquated \$1000 cap on fines, so we can deter serious code violations and hold repeat illegal dumpers and other major code violators accountable.

s/ Dan Kalb
Oakland City Councilmember

s/ Ken Houston
Founder, The Beautification Council

s/ Angela Gennino
President, Golden Gate Community Association

s/ Margaret Gordon
Director, West Oakland Environmental Indicators Project

s/ Noel Gallo
Oakland City Councilmember

Argument Against Measure RR

Voters should NEVER approve the government to IMPOSE UNLIMITED FINES ON OURSELVES.

The Council Member explained that these UNLIMITED FINES will only be used against Bad Guys for offenses such as ‘illegal dumping.’ The Voters are expected to be gullible enough to believe that the City will never give you an UNLIMITED FINE for your ‘cracked sidewalk,’ ‘broken window,’ ‘tall grass,’ ‘old fence,’ ‘peeling house paint’ or ‘clunker car.’

This is the same City Council that exploits its citizens with an \$83 expired parking meter and a \$7,000/ year vacant lot fine. The Council Member explained ‘Trust us.’ The City will work out the details after Oakland’s Overlords have total power over you.

Don’t Give Away your Freedoms & Rights. Demand More Freedom with enforceable Rights.

Vote NO on this insanity.

Vote NO on UNLIMITED FINES.

s/Marcus Crawley
President- Alameda County Taxpayers Association

s/Thomas Rubin
Vice President- Alameda County Taxpayers Association

s/Steve Kauslarich
Oakland Voter

s/Terri Lutz
Oakland Voter

s/Ron Trowbridge
Oakland Voter

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE RR

BE CAREFUL WHAT YOU WISH FOR!

This Measure will allow unlimited fines on EVERYTHING. The Proponents WISH that it will stop illegal dumping. The text of the Measure never mentions ‘illegal dumping.’ The Proponents drafted this Measure so broadly that the City can attack with OVERKILL.

The City should develop a plan to stop illegal dumping. However, this Measure is NOT a plan against illegal dumping. The Measure and Resolution never mention illegal dumping. The Proponents are BLIND to the fact that this Charter Amendment will create a bigger mess than the problem than they are trying to solve.

Voters must reject this half-baked plan. The Proponents must develop a plan to solve the illegal dumping problem without creating a WORSE problem that attacks all citizens. The Proponents argue that UNLIMITED fines will only apply to ‘repeat dumpers’ and ‘major code violators.’ The Proponents are simply making up facts. The City’s Resolution makes no such promise. The Proponents require us to guess what will be a ‘major code violation’ or even what is a ‘major code’ as opposed to a ‘minor code.’ The rash legislation is shifting the burden of correction onto the Oakland Citizens to untangle the mess that the City Council creates from its fuzzy thinking.

If, the City wants to increase the fines for illegal dumping, the City should state EXACTLY what it wants. Don’t invite government overreach to solve a single problem.

Vote NO on UNLIMITED Fines.

s/ Marcus Crawley
Pres. Alameda County Taxpayers Association., Inc./ Author

s/ Thomas Rubin
V. P. Alameda County Taxpayers Association., Inc.

s/ Steve Kauzlarich
Oakland Voter

s/ Terri Lutz
Oakland Voter

s/ Ron Trowbridge
Oakland Voter

REBUTTAL TO ARGUMENT AGAINST MEASURE RR

Opponents of RR appear to have misconstrued the point of the measure leading them to make a false argument. Measure RR does NOT impose or authorize unlimited fines. Look at the facts!

Specific fines for specific violations are structured and set in the Municipal Code. Measure RR would eliminate the antiquated limit on fines enacted back in 1968. The new cap must be set using a public hearing process as required by this measure. The argument against Measure RR would falsely have you believe that this public process does not exist.

Sadly, fear tactics are common in politics. Opponents argue about your freedoms and rights. We ask which freedoms? What rights? The freedom to enjoy illegal dumping? The right to experience blight and public nuisance over and over again? The reality is that these are abuses that wreak havoc on our communities. And we need Measure RR to fight back.

We ask you to join us to improve our beloved City. Measure RR gives Oakland the 21st Century tool it needs to combat blight, illegal dumping, and ongoing public nuisances, and to fight back against serious code violators breaking the law.

Please vote YES on Measure RR.

s/Deborah Shefler
President, League of Women Voters of Oakland

s/ Ken Houston
Founder, The Beautification Council

s/ Angela Gennino
President, Golden Gate Community Association

s/ Margaret Gordon
Director, West Oakland Environmental Indicators Project

s/ Dan Kalb
Oakland City Councilmember

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PROPOSED CHARTER AMENDMENT

MEASURE ____

<p>Measure __. Shall the Measure amending Oakland City Charter Section 217 to eliminate the \$1,000 limit on fines for ordinance and code violations, be adopted? (23)</p> <p>[FINAL BALLOT QUESTION SUBJECT TO CITY ATTORNEY APPROVAL]</p>	Yes	
	No	

; and be it

FURTHER RESOLVED: That the City Council hereby authorizes and directs the Clerk of the City of Oakland ("City Clerk") to file certified copies of this resolution with the Alameda County Board of Supervisors and the Registrar of Voters at least 88 days prior to November 3, 2020 General Municipal Election; 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 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 the City Council does hereby request that Board of Supervisors of Alameda County permit the Registrar of Voters to perform necessary services in connection with said election; 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 fix and determine a date for submission of arguments for or against said proposed Charter amendment, and said date shall be posted by Office of the City Clerk; 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 Charter amendment in the manner provided for by law; and be it

FURTHER RESOLVED: That the City Clerk and City Administrator hereby are authorized and directed to take any and all actions necessary under law to prepare for and conduct the next municipal election and appropriate all monies necessary for the City Administrator and City Clerk to prepare for and conduct the next municipal election, consistent with law; and be it

CERTIFIED COPY
 I certify that this is a true and correct copy of this document.

 Office of the City Clerk
 Date 8/7/20

FURTHER RESOLVED: That the City Council has reviewed the proposed amendment to the Oakland City Charter to be considered by the voters and independently finds and determines that this action is exempt from CEQA pursuant to CEQA Guidelines sections 15321 (enforcement action by regulatory agencies) and 15061(b)(3) (no significant effect on the environment), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

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IN COUNCIL, OAKLAND, CALIFORNIA,

JUL 14 2020

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN *-8*

NOES - *0*

ABSENT - *0*

ABSTENTION - *0*

ATTEST:



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

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Approved as to Form and Legality

City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. 88228 C.M.S.

INTRODUCED BY COUNCILMEMBER KALB

RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE VOTERS FOR THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION PROPOSED AMENDMENT TO CITY CHARTER SECTION 217 TO REMOVE THE \$1,000 LIMIT ON FINES FOR ORDINANCE VIOLATIONS AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION, AND TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION

WHEREAS, with regards to code violations, current enforcement tools may not allow for the effective resolution of blighted, substandard, public nuisance and fire safety conditions because they do not provide for sufficient sanctions against person responsible for the violations; and

WHEREAS, there is a need for an alternative method of code enforcement to address violations of the City of Oakland's codes; and

WHEREAS, the 1911 Charter had a \$500 fine limit. The 1968 Charter increased the limit to \$1,000. The fine limit has not changed since 1968; and

WHEREAS, due to regular economic changes in inflation, value and cost, keeping a dollar fine limit in the Charter hinders the City's ability to effectively manage blighted, substandard and public nuisance conditions; and

WHEREAS, eliminating the \$1,000 fine limit in the Charter will give the City the flexibility to provide sufficient sanctions necessary to address code violations in a meaningful way that addresses and deters the underlying behavior; and

WHEREAS, this action is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15061(b)(3) (no possible effect on the environment) and 15321 (enforcement action by regulatory agencies); now, therefore, be it

CERTIFIED COPY
I certify that this is a true and authentic
Copy of this document
Office of the City Clerk
Date 8/7/20

RESOLVED: That the City Council finds and determines the foregoing recitals are true and correct and hereby adopts and incorporates them into this Resolution; and be it

FURTHER RESOLVED: That City Council hereby proposes to amend Charter section 217 to add, delete, or modify sections as set forth below (section numbers and titles are indicated in capitalized bold type; added text is shown as double underscored type; deleted text is shown as ~~strikethrough~~ type; portions of the provisions not cited or not shown in underscoring or strikethrough type are not changed):

SECTION 1. Amendment to the Charter of the City of Oakland.

Section 217. Penalty for Violation of Ordinances. The Council may make the violation of its ordinances a misdemeanor, which may be prosecuted in the name of the People of the State of California or may be redressed by civil action, and may prescribe punishment for such violations by ~~a fine not to exceed \$1,000~~, or by imprisonment not to exceed one year, or by both such fines and imprisonment. The Council shall establish the fine limit by ordinance approved following a public hearing.

SECTION 2. Severability. If any section, subsection, sentence, clause or phrase of this Measure 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 Measure. The voters hereby declares that it would have passed this Measure 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 3. California Environmental Quality Act. This action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3), since CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where, as in this case, it can be seen with certainty that there is no possibility that the activity in questions may have a significant effect on the environment, the activity is not subject to CEQA. This action is also exempt from CEQA pursuant to CEQA Guidelines section 15321, since it relates to enforcement actions that will be taken by the City.

; and be it

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

CERTIFIED COPY
I certify that this is a true and accurate
Copy of this document.
[Redacted Signature]
Office of the City Clerk
Date 8/7/20

Proposed Amendment to City Charter Section 217 to Remove the \$1,000 Limit on Fines
Ballot Measure Nov 2020
Impartial Financial Analysis
Office of the City Auditor

Proposed Amendment to City Charter Section 217 to Remove the \$1,000 Limit on Fines

Summary

Currently, the Oakland City Charter, Article II, Section 217, Penalty for Violation Ordinances, places a \$1,000 cap on fines the City may impose for violations of ordinances of the Oakland Municipal Code.

This Measure, if adopted by more than 50 percent of the votes cast, would amend Section 217 of the City Charter to delete the \$1,000 limit on fines and authorizes the Oakland City Council to establish a new fine limit by ordinance adopted after a public hearing.

The fine structure for the City of Oakland has been fixed at a limit of \$1,000 since 1968. Due to regular economic changes in inflation, value and cost, keeping a dollar fine limit in the City Charter may hinder the City's ability to effectively enforce blighted, substandard, and public nuisance conditions. The current limit has been deemed insufficient in certain circumstances to effectively enforce non-compliance, which in turn, negatively impacts the beautification of the community.

Fiscal Impact

This Measure, if approved, merely removes the \$1,000 current cap on fines the City may impose for violations of ordinances in the Oakland Municipal Code. The Oakland City Council may approve any new fine limits by ordinance after a public hearing. Thus, we are unable to quantify the fiscal impact of this since the Measure, by itself, does not establish new limits on fines. It is reasonable to assume, however, that the City's fine revenue may be impacted if City Council adopts new limits by ordinance. It is important to note that the impetus for removing the \$1,000 limit is not to increase fine revenue, but to strengthen the City's enforcement tools to obtain corrective action on code violations in a meaningful way that addresses and deters the underlying behavior.

References to information in our independent analysis represents the best information at the time of this analysis.

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