

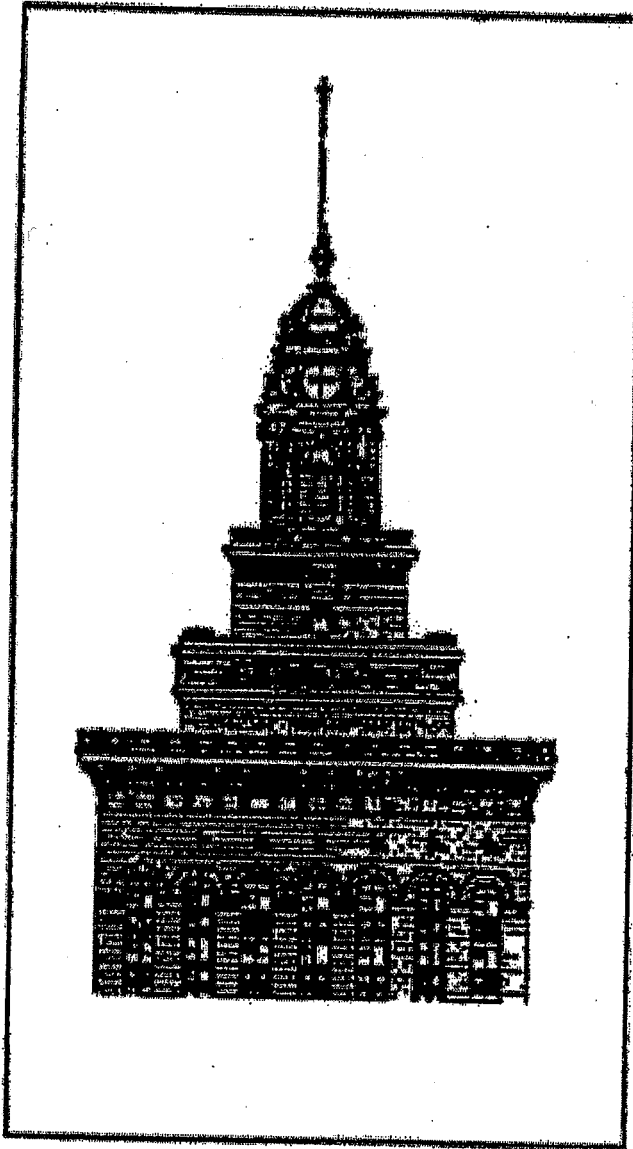
ADOPTED BY THE PEOPLE OF THE  
CITY OF OAKLAND ON NOVEMBER 5, 1968

**ITEM 3**

RATIFIED BY THE SECRETARY OF STATE  
OF THE STATE OF CALIFORNIA AND  
IN EFFECT JANUARY 28, 1969

**HANDOUT**  
**By Speaker Gene Hazzard**

AS AMENDED THROUGH AND INCLUDING  
NOVEMBER, 2016



Charter Table of Contents

THE CHARTER	
I.	Powers and Form of Government

for inflation using the Consumer Price Index. The City Council shall allocate the pro rata share of the total estimated cost beginning in year 2015 and each year ending in two (2) thereafter, in anticipation of the redistricting year.

(Added by: Stats. November 2014.)

## ARTICLE III - THE MAYOR

**Section 300. The Mayor.** The Mayor shall be nominated and elected from the City at large and shall receive an annual salary payable in equal monthly installments, and without any additional compensation or fees provided for in Section 202 of this Charter. The salary shall be set by the Council, which shall be not less than 70% nor more than 90% of the average salaries of City Managers'/Chief Executive Officers of California cities within the three immediate higher and the three immediate lower cities in population to Oakland, The Mayor's salary shall be reviewed by the City Council in odd-numbered years and may be adjusted by the Council as provided for herein.

(Amended by: Stats. November 1988 and March 2004.)

**Section 301. Qualifications.** No person shall be eligible for or continue to hold the Office of Mayor, either by election or appointment, unless he is a citizen of the United States, a qualified elector and resident for at least thirty days of the City or a territory lawfully annexed or consolidated.

(Amended by: Stats. November 1988.)

**Section 302. Term of Office, the Mayor.** The Mayor shall be elected to a term of four years beginning at 11:00 a.m. on the first Monday of January following his election. The Mayor elected to Office to serve a term beginning in 1985 shall serve in Office until 11:00 a.m. on the Monday following January 1 in 1991. In 1990 municipal elections will be held to select City Officers for four year terms, including the Office of Mayor. No person shall be elected to the office of Mayor for more than two consecutive terms, and no person who has held the office of Mayor, or acted as Mayor, for more than two years of a term for which some other person was elected Mayor may be elected to more than one more consecutive term as Mayor.

(Amended by: Stats. November 1988, November 1998 and March 2004.)

**Section 303. Vacancy, Filling of.** Upon the declaration of vacancy in the office of the Mayor, the office of the Mayor shall be filled by the Vice-Mayor of the Council. Except as otherwise provided in this Section, when the Vice-Mayor of the Council assumes the office of Mayor upon declaration of a vacancy, she/he shall serve for the unexpired term if such term is less than one year; otherwise she/he shall serve until the vacancy is filled as provided herein. Whenever the period of vacancy in a Mayor's term of office is less than one year and the Vice Mayor notifies the Council in writing that she/he does not wish to serve as Mayor for the unexpired term, the vacancy shall be filled by appointment through a majority vote of the remaining Councilmembers; provided the appointee shall be ineligible to be a candidate for

the next full term of the Office of Mayor. If at the time of a vacancy declaration the unexpired term is one year or more, the vacancy occurring in the office of Mayor shall be filled by special election within 120 days of such vacancy. An extension of up to 60 days may be allowed for the express purpose of consolidating the special election with the next Municipal Election or Statewide Election. If the special election is to take place before the first use of ranked choice voting in a Municipal Election, the Council shall have the authority to provide for a ranked choice voting election by ordinance. Otherwise, the following procedures shall be used: if no candidate receives the majority of the votes cast in the special election, then a run-off election shall be held for the two candidates who received the highest number of votes no later than 60 days after the date of the special election; provided that all persons receiving a number of votes equal to the highest number of votes received by any candidate shall also be candidates at such run-off election. The candidate receiving the highest number of votes cast for all candidates for the office at the run-off election shall be declared elected. Special elections for the office of Mayor that take place during or after the first use of ranked choice voting in a Municipal Election shall be conducted using the same ranked choice voting procedures used to elect the Mayor in General Municipal Election. The candidate elected to fill the vacancy shall hold office for the balance of the unexpired term. Alternative legal voting procedures shall be used to the greatest extent feasible to increase voter participation in special elections including but not limited to mail ballot voting, electronic voting, and extended voting period.

(Amended by: Stats. November 1988, March 2002 and February 2007.)

**Section 304. Vacancy: What Constitutes.** The office of Mayor shall be declared vacant by the Council when the person elected or appointed thereto fails to qualify within ten days after his term is to begin, dies, resigns, ceases to be a resident of the City or absents himself/herself continuously from the City for a period of more than thirty days without permission from the Council, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of his office, forfeits his office under any provision of this Charter, or is removed from office by judicial procedure. A finding of disability shall require the affirmative vote of at least six members of the Council after considering competent medical evidence bearing on the physical or mental capability of the Mayor.

(Amended by: Stats. November 1988 and March 2004.)

**Section 305. Functions, Powers and Duties.** The Mayor shall be the chief elective officer of the City, responsible for providing leadership and taking issues to the people and marshalling public interest in and support for municipal activity. The Mayor shall have the following powers, duties, and responsibilities:

- (a) The Mayor shall be responsible for the submission of an annual budget to the Council which shall be prepared by the City Administrator under the direction of the Mayor and Council. The Mayor shall, at the time of the submission of the budget,

submit a general statement of the conditions of the affairs of the City, the goals of the administration, and recommendations of such measures as he may deem expedient and proper to accomplish such goals.

- (b) Recommend to the Council such measures and legislation as he deems necessary and to make such other recommendations to the Council concerning the affairs of the City as he finds desirable.
- (c) Encourage programs for the physical, economic, social and cultural development of the City.
- (d) Actively promote economic development to broaden and strengthen the commercial and employment base of the City.
- (e) Appoint the City Administrator, subject to confirmation by the City Council, remove the City Administrator and give direction to the City Administrator. The Mayor shall advise the Council before removing the City Administrator.
- (f) Serve as ceremonial head of the City.
- (g) Represent the City in inter-governmental relations as directed by the Council.
- (h) Provide community leadership.

The Mayor shall, at the first meeting of the City Council in October, appear before the Council to deliver a general address on the State of the City, and recommend the adoption of such measures as he/she may deem expedient and proper. The Mayor and such staff as he/she may designate shall also conduct four additional public meetings during the year to solicit and respond to comments, concerns, or questions from the public. These meetings shall be noticed to the public not less than two weeks in advance, and shall be scheduled approximately three months apart.

The Mayor shall devote his full time and attention to the duties of the Office of the Mayor and shall not engage in outside employment while in office. However, nothing shall prevent the Mayor from the receipt of income earned from business(s) or investment(s) in which he is not actively engaged and which are not in conflict with the performance of his duties and responsibilities.

(Amended by: Stats. November 1988, November 1998 and March 2004.)

**Section 306. Duties of Vice-Mayor.** In the absence or temporary disability of the Mayor, the Vice-Mayor shall perform the duties of the office.

(Amended by: Stats. November 1988.)

## ARTICLE IV - CITY OFFICERS

**Section 400. Designation as Officer.** In addition to the Councilmembers and the Mayor, the officers of the City shall be the City Administrator, the City Attorney, the City Clerk, the City Auditor, and such department heads, members of boards or commissions and executive officers of such boards and



# **OFFICE OF THE CITY ATTORNEY CITY OF OAKLAND**

## **Frequently Asked Questions (FAQs) Regarding City Charter Amendment Creating the Oakland Police Commission (Effective January 10, 2017 - Voter- approved ballot initiative, Measure LL, November 2016 election)**

**Issued: October 10, 2017**

**Revised:**

**Issued by: Barbara J. Parker, Oakland City Attorney**

---

### **I. INTRODUCTION**

In November 2016, Oakland voters overwhelmingly passed Measure LL, an amendment to the Oakland City Charter adding new section 604 to Article VI, which establishes a seven-member Oakland Police Commission ("Commission") and the Community Police Review Agency ("Agency"). The Agency replaces the Citizens' Police Review Board (the "CPRB").

Measure LL grants the Commission certain powers and duties related to the oversight of the Oakland Police Department (the "OPD"). Measure LL does not authorize the Commission to hold evidentiary hearings in matters related to police discipline. However, it does authorize the Agency to independently (and simultaneously with the OPD's Internal Affairs Division) investigate certain complaints of police misconduct or failure to act, and to propose the Agency's own findings and level of discipline. If the Agency and the Chief of Police ("Police Chief") agree on the findings and level of discipline for a particular complaint, their findings and level of discipline will be final and the Commission will have no role in the disciplinary decision. If the Agency and the Chief of Police ("Police Chief") disagree on the appropriate findings and level of discipline for a particular complaint, their findings and proposed discipline will be

The Commission has the power to review the Mayor's proposed budget for the OPD, and is required to conduct one public hearing on the OPD's budget per two-year budget cycle. The Commission has the authority to require that the Police Chief submit an annual report to the Commission addressing matters it specifies. The Commission is required to report annually to the City Council regarding matters addressed in the Police Chief's report, and any other matters relevant to the Commission's functions and duties.

**2. Can the Commission issue subpoenas?**

**Answer:** Yes. Measure LL gives the Commission the power and authority to issue subpoenas to compel the production of documents and compel the appearance of witnesses to testify on any matter pending before the Commission.

**3. What is the Commission's role in hiring a new Police Chief when there is a vacancy?**

**Answer:** Measure LL gives the Commission a key role in the appointment of a new, permanent Police Chief. When there is a vacancy, the Commission, with the assistance of the City Administrator, prepares and distributes a job announcement, and then prepares a list of four candidates to submit to the Mayor for consideration. The Mayor makes the hiring decision but must hire a Police Chief from the Commission's list of candidates.

**4. What happens if an Interim Chief is needed, before the appointment of a permanent Chief?**

**Answer:** Measure LL requires the Mayor to work in consultation with the Chairperson of the Commission in appointing any Interim Chief of Police. The appointment of an Interim Chief may not exceed six months unless approved by a majority of the Commissioners, which is four (4) or more votes.

**5. Will the Police Chief report to the Commission?**

**Answer:** The Commission has the authority to require the Police Chief to submit annual reports to the Commission. The Police Chief will continue to report to the City Administrator.

**6. Can the Commission fire the Chief of Police?**

**Answer:** Yes, the Commission may fire the Chief by an affirmative vote of five (5) Commissioners but only after finding cause for termination. ("Cause" will be defined by City ordinance.) The Commission may act jointly with the Mayor to fire the Police Chief by an affirmative vote of five (5)

Commissioners. If the Commission acts jointly with the Mayor, a finding of cause is not required.

**7. Does the Mayor retain independent authority to terminate the Police Chief?**

**Answer:** Yes. The Mayor retains authority to terminate the Police Chief at any time without cause, i.e., the Mayor does not have to show cause for termination. The only limitation on the Mayor's terminating authority is that s/he cannot terminate for any reason that violates law. For example, the Mayor could terminate the Police Chief because she no longer has confidence in the Police Chief or because she does not have a positive rapport with the Police Chief, or because there is a public outcry regarding the Police Chief or because she wants new leadership. The Mayor, of course, cannot terminate the Police Chief for any reason that violates law, such as termination based on the Police Chief's gender or race. To summarize, the Police Chief can be terminated in the following ways: (1) by the Commission for cause, (2) by the Mayor and the Commission without showing cause, or (3) by the Mayor without showing cause.

**8. Will the Commission, Agency or OPD decide matters involving police officer discipline?**

**Answer:** The Commission as a whole will not decide matters involving police officer discipline.

Both the Agency and the OPD will investigate certain types of complaints of police officer misconduct, as described in more detail in response to Question Number VI (3) below. If the Police Chief agrees with the Agency's findings and proposed discipline, the Police Chief will send a notice of the findings and intent to impose the proposed discipline to the subject officer. If the Police Chief and Agency disagree on the findings and proposed discipline, they both must submit their findings and proposed discipline to the Commission's Discipline Committee.<sup>3</sup>

**9. What is the Discipline Committee?**

**Answer:** The Discipline Committee, consisting of three Commissioners, will be formed anytime the Chief and the Agency Director disagree on an investigation's findings and/or the proposed discipline to be imposed on the

---

<sup>3</sup> Measure LL makes significant changes to the process of disciplining police officers. The City Administrator will no longer review and approve the findings and proposed discipline issued by the Department, nor will the City Administrator have any authority to review and approve the Agency's findings and proposed discipline.