OAKLAND CITY COUNCIL
RESOLUTION NO. 85149 C.M.S.

INTRODUCED BY COUNCILMEMBERS GIBSON MCELHANEY, GALLO, KERNIGHAN, REID

RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE NOVEMBER 4, 2014 STATEWIDE GENERAL ELECTION, A PROPOSED ORDINANCE TO MAINTAIN THE CURRENT SPECIAL PARCEL TAX AND THE PARKING TAX SURCHARGE FOR POLICE SERVICES AND VIOLENCE PREVENTION STRATEGIES, TO ADDRESS VIOLENT CRIME AND TO IMPROVE PUBLIC SAFETY IN THE CITY OF OAKLAND; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE NOVEMBER 4, 2014 STATEWIDE GENERAL ELECTION

WHEREAS, the City of Oakland has established public safety as one of its highest priorities and has determined that safety is essential for a thriving economy, healthy community and quality of life for all Oakland residents; and,

WHEREAS, the City of Oakland, like many other urban cities, continues to experience budget constraints due to impacts from the global, national, state, and regional recession causing Oakland to fund basic police and fire services at levels below those of similar-sized cities throughout the country; and,

WHEREAS, maintaining a well-equipped and appropriately staffed fire department is a necessary component to public safety including the critical paramedic services and other first responder needs related to acts of violence; and,

WHEREAS, investing in a coordinated system of early intervention, community policing and violence-prevention efforts before injury occurs will reduce economic and emotional costs and will be a fiscally responsible use of taxpayer dollars; and,

WHEREAS, in 2004, voters approved funding to augment basic police and fire services and funded violence prevention and intervention programs in a coordinated effort, now commonly known as “Oakland Unite” that invests in strategic violence prevention and intervention work that has been demonstrated to reduce recidivism, retaliatory violence and interrupt the cycle of violence by focusing efforts on the individuals who are likely to cause or be victims of violence; and
WHEREAS, findings from the California Legislative Analyst's Office reveal that investment in prevention and intervention strategies like those funded by Oakland Unite is fiscally responsible because it costs less than the average annual cost of incarceration and has demonstrated improved safety without increasing incarceration; and,

WHEREAS, the Oakland City Council determines it is in the best interests of the City of Oakland to submit to the voters this proposed ordinance to retain the existing tax structure approved by voters in 2004 to sustain funding for these critical efforts to address violent crime through targeted prevention, intervention and policing strategies, and improve emergency response; now therefore be it

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

FURTHER RESOLVED: That the Oakland City Council does hereby submit to the voters, at the November 4, 2014, Statewide General Election, an Ordinance which reads as follows:

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

PART 1. GENERAL

Section 1. TITLE AND PURPOSE.

(A) Title. This Ordinance may be cited as the "The 2014 Oakland Public Safety and Services Violence Prevention Act."

(B) Purpose. The taxes imposed under this Ordinance are solely for the purpose of raising revenue necessary to maintain police and fire services and violence prevention and intervention strategies, to address violent crime and to improve public safety in the City of Oakland.

The parcel tax imposed in Part 2 is an excise tax on the privilege of using and use of municipal services. Such municipal services increase and provide greater benefit to Owners of Parcels when programs to prevent violence and crime in the City are enhanced. Because the proceeds of the tax will be deposited in a special fund restricted for the services and programs specified herein, the tax is a special tax.

Section 2. FINDINGS.

(A) This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

(B) Nothing in this Ordinance is intended to preclude owners from recovering the tax from the occupant. Whether the occupant is charged depends on the occupancy agreement and the requirements of the Residential Rent Adjustment
Program. Moreover, non-payment will not be a lien on the property but a personal obligation of the occupant or owner.

Section 3. USE OF PROCEEDS.

(A) Objectives. The tax proceeds raised by these special taxes may be used only to pay for any costs or expenses relating to or arising from efforts to achieve the following objectives and desired outcomes:

1. Reduce homicides, robberies, burglaries, and gun-related violence;

2. Improve police and fire emergency 911 response times and other police services; and,

3. Invest in violence intervention and prevention strategies that provide support for at-risk youth and young adults to interrupt the cycle of violence and recidivism.

(B) Allocation. To achieve the objectives stated herein, three percent (3%) of the total funds collected shall be set aside annually for audit and evaluation of the programs, strategies and services funded by this measure, and to support the work of the Commission established herein (including meeting supplies, retreats, and the hiring of consultants). Of the remaining ninety-seven percent (97%), the Oakland Fire Department shall be allocated special tax revenue in the amount of $2,000,000 annually. The tax funds remaining shall be allocated as follows: sixty percent (60%) for purposes described in subsection (C)(1) and forty percent (40%) for purposes described in subsection (C)(3) of this section.

(C) Uses. Taxes collected pursuant to the special taxes imposed herein shall be used only in connection with programs and services that further the objectives set forth in Section 3(A), such as the following:

1. Geographic Policing: hire, deploy and maintain sworn police personnel assigned to specific geographic areas or neighborhoods, performing duties such as:

   (a) Crime Reduction Teams (CRTs): strategically geographically deployed sworn police personnel to investigate and respond to the commission of violent crimes in identified violence hot spots using intelligence-based policing;

   (b) Community Resource Officers (CROs): these officers would engage in problem solving projects, attend Neighborhood Crime Prevention Council meetings, serve as a liaison with city services teams, provide foot/bike patrols, answer calls for service if needed, lead targeted enforcement projects and coordinate these projects with CRTs, Patrol units and other sworn police personnel;
(c) Conduct intelligence-based violence suppression operations such as field interviews, surveillance, undercover operations, high visibility patrol, probation/parole compliance checks, search warrants, assist Community Resource Officers (formerly Problem Solving Officer program) projects, violent crime investigation and general follow up;

(d) Domestic violence and child abuse intervention: additional officers to team with social service providers to intervene in situations of domestic violence and child abuse, including sexual exploitation of children;

(e) Sustaining and strengthening of the City’s Operation Ceasefire strategy, including project management and crime analysis positions.

2. Maintenance of Sworn Police Personnel: The intent of the augmented funding is to maintain sufficient resources to allow for the implementation of comprehensive policing within the City’s limited resources and to begin the process of restoring the sworn staffing of the Oakland Police Department to a number of CRTs, CROs, and other sworn police personnel appropriate to meet the Oakland Police Department’s stated mission of providing the people of Oakland an environment where they can live, work, play and thrive free from crime and the fear of crime. To ensure the Department’s progress toward this mission, the following shall apply:

(a) Upon passage of this Ordinance, the City shall maintain a budgeted level of no fewer than six hundred seventy eight (678) sworn police personnel (including those sworn police personnel funded by this Ordinance) at all times, and shall hire and maintain no fewer than 678 sworn police personnel as early as practicable after the passage of this Ordinance and at all times after July 1, 2016.

(b) The City is prohibited from laying off any police officers if such layoffs will result in a reduction of sworn police personnel to a level of less than 800. Furthermore, the City is prohibited from laying off any police officers unless the City Council adopts a resolution containing factual findings that it is necessary to layoff officers.

(c) Each fiscal year, before the City adopts its two year policy budget or its mid-cycle budget adjustments, the City Administrator shall submit to the City Council, and the City Council shall adopt, a sworn police personnel hiring plan (“the hiring plan”) demonstrating how the City will achieve and/or maintain the strength of force required by this Ordinance. The hiring plan will make use of assumptions that department attrition rates, recruiting success, academy yield and other relevant factors affecting the growth or shrinkage of the department will be comparable to the past two to four years’ experience.
(d) The City shall be prohibited from collecting the taxes provided for in this Ordinance at any time that it has failed to budget for a minimum of 678 sworn police personnel. If the City fails to budget the requisite number, the prohibitions set forth in Section 3(C)(2)(e) will apply to the fiscal year of that budget. At any time after July 1, 2016, that the City has failed to hire and maintain a minimum of 678 sworn police personnel, with the exceptions listed below, the prohibitions set forth in Section 3(C)(2)(e) will apply to the fiscal year following 90 days from this determination. The City has 90 days to declare any of the following exceptions:

i. If grant funding or other non-General Purpose Fund funding budgeted for sworn police personnel in the FY 2014-2015 budget becomes unavailable after that fiscal year, the numeric requirements for budgeting and maintaining sworn police personnel shall be reduced by the number of sworn police personnel previously funded by such lost revenue source. This exception shall apply only if the City Administrator submits a report to the City Council explaining the unavailability of the non-General Purpose Fund revenue, the steps that were taken by the City to try to replace such funding and the steps the City will take in the future to replace such funding. In addition, for this exception to apply, the City Council must adopt a resolution stating that such funding is no longer available and alternative non-General Purpose Fund revenue is not available. Such actions must be taken for each fiscal year in which the City fails to meet the minimum staffing requirements of this Ordinance for the reasons described in this sub-section.

ii. If a severe and unanticipated financial or other event occurs that so adversely impacts the General Purpose Fund as to prevent the City from budgeting for, hiring and maintaining the minimum number of sworn police personnel required by this Ordinance, the numeric requirements for budgeting and maintaining sworn police personnel shall be reduced by the numbers the City is unable to fund as a result of such event. This exception shall apply only if the City Administrator submits a report to the City Council explaining the severe and unanticipated event, the steps that were taken by the City to avoid the need to reduce the number of sworn police personnel and the steps that will be taken by the City in the future to restore sworn police personnel. Such actions must be taken for each fiscal year in which the City fails to meet the minimum staffing requirements of this Ordinance for the reasons described in this sub-section.

iii. If the number of sworn police personnel required by this Ordinance unexpectedly falls below the level required despite the City’s adoption of and implementation of the hiring plan,
the numeric requirements for budgeting and maintaining sworn police personnel shall be reduced by the shortfall. This exception shall apply only if the City Administrator reports to the City Council concerning the reasons for the shortfall, the steps that should be taken to restore the sworn police personnel level, and the time frame for doing so. If appropriate, the City Council will adopt resolution modifying the hiring plan. The specific facts and circumstances relied upon to establish an exception under this subsection shall not establish an exception in consecutive fiscal years.

(e) Suspension or Reduction of Taxes

i. If at any time the City fails to budget for the staffing levels required in Section 3(C)(2) for a fiscal year and there has been no Council action establishing an exception set forth in Section 3(C)(2)(d), the City shall not impose and levy the parcel tax established pursuant to this ordinance during that fiscal year.

ii. If at any time the City fails to budget for the staffing levels required in Section 3(C)(2) for a fiscal year and there has been no Council action establishing an exception set forth in Section 3(C)(2)(d), appropriate notice shall be provided to all parking lot operators that collection of the parking tax surcharge pursuant to this Ordinance shall be suspended during that fiscal year.

iii. If the City fails to maintain staffing levels required in Section 3(C)(2) and there has been no Council action establishing an exception set forth in Section 3(C)(2)(d), the parcel tax imposed and levied during the following fiscal year shall be reduced by an amount proportionate to the number of days that the City did not meet staffing level requirements during the prior fiscal year.

Example: Parcel tax proportionally reduced for a period of 100 days where the City did not meet the required staffing level during the prior fiscal year, with a tax levied at a rate of $99.77 for a single family residential parcel:

\[
365 \text{ days} - 100 \text{ days} = 265 \text{ days} \\
265 \text{ days} + 365 \text{ days} = 72.60\% \\
72.60\% \times $99.77 = $72.43
\]

iv. If the City fails to maintain staffing levels required in Section 3(C)(2) and there has been no Council action establishing an
exception set forth in Section 3(C)(2)(d), appropriate notice shall be provided to all parking lot operators that collection of the parking tax surcharge shall be suspended for a period of time determined by the number days that the City did not meet staffing level requirements during the following fiscal year.

3. Community-focused Violence Prevention and Intervention Services and Strategies: Coordination of public systems and community-based social services with a joint focus on youth and young adults at highest risk of violence as guided by data analysis. Invest in and engage the community in collaborative strategies such as:

(a) Street outreach and case management to youth and young adults at high-risk of involvement in violence in order to connect individuals in need of employment, mental health, or educational services to needed programs;

(b) Crisis response, advocacy and case management for victims of crime (including domestic violence victims, commercially sexually exploited children, and victims of shootings and homicides) with a strategic focus on reducing likelihood of being re-victimized;

(c) Reentry programs for youth and young adults, including case management, school support, job training and placement in order to reduce recidivism rates and improve educational and employment outcomes;

(d) Young children exposed to trauma or domestic and/or community violence.

4. Fire Services: Provide fire services such as:

(a) Maintain adequate personnel resources to respond to fire and medical emergencies including, but not limited, response to homicides and gun-related violence and investigate fire causes

Section 4. PLANNING, ACCOUNTABILITY AND EVALUATION.

To ensure the proper revenue collection, spending, and implementation of the programs mandated by this Ordinance, the City shall impose the following requirements:

(A) Commission: Adoption of this Ordinance shall establish a "Public Safety and Services Violence Prevention" Commission.

1. Qualifications: The Commission’s membership must be comprised of individuals with experience in criminal justice, public health, social services, research and evaluation, finance, audits, and/or public policy.

2. Conflicts of Interest: Each Commission member shall certify that the member and the member’s immediate family members, business
associates and employers have no financial interest in any program, project, organization, agency or other entity that is seeking or will seek funding approval under this Ordinance. Financial interest includes, without limitation, salaries, consultant fees, program fees, commissions, gifts, gratuities, favors, sales income, rental payments, investment income or other business income. A Commission member shall immediately notify the City Administrator and the Chair of the Commission of any real or possible conflict of interest between membership on the Commission and work or other involvement with entities funded by the taxes provided for in this Ordinance. Any dispute about whether a conflict of interest exists shall be resolved by the Public Ethics Commission.

3. Composition: The Commission shall consist of nine (9) members. The Mayor and each councilmember shall recommend one member of the Commission each. All commissioners shall be appointed by the Mayor and confirmed by the City Council in accordance with City Charter Section 601.

At least two (2) members will have experience working with service-eligible populations, two (2) members will reflect the service-eligible populations, and two (2) members will have a professional law enforcement or criminal justice background. Other members will meet the criteria as established in subsection 1 above.

4. Meetings of the Commission: The Commission shall conduct regular meetings and such special meetings as it deems necessary.

5. Joint Meetings of the Commission and City Council: The City Council, the Commission and other public safety-related boards and commissions shall conduct an annual joint special public informational meeting devoted to the subject of public safety. At each such meeting, the public, Commission and City Council will hear reports from representatives of all departments and the Chief of Police concerning progress of all of the City’s efforts to reduce violent crime.

6. Duties of the Commission: The Commission shall perform the following duties:

(a) Evaluate, inquire, and review the administration, coordination, and evaluation of strategies and practices mandated in this Ordinance.

(b) Make recommendations to the City Administrator and, as appropriate, the independent evaluator regarding the scope of the annual program performance evaluation. Wherever possible, the scope shall relate directly to the efficacy of strategies to achieve desired outcomes and to issues raised in previous evaluations.

(c) Receive draft performance reviews to provide feedback before the evaluator finalizes the report.
(d) Report issues identified in the annual fiscal audit to the Mayor and City Council.

(e) Review the annual fiscal and performance audits and evaluations.

(f) Report in a public meeting to the Mayor and the City Council on the implementation of this Ordinance and recommend ordinances, resolutions, and regulations to ensure compliance with the requirements and intents of this Ordinance.

(g) Provide input on strategies: At least every three (3) years, the department head or his/her designee of each department receiving funds from this Ordinance shall present to the Commission a priority spending plan for funds received from this Ordinance. The priority spending plan shall include proposed expenditures, strategic rationales for those expenditures and intended measurable outcomes and metrics expected from those expenditures. The first presentation shall occur within 120 days of the effective date of this Ordinance. In a public meeting, the Commission shall make recommendations to the Mayor and City Council on the strategies in the plans prior to the City Council adoption of the plans. Spending of tax proceeds of this Ordinance must be sufficiently flexible to allow for timely responsiveness to the changing causes of violent crime. The priority spending plans shall reflect such changes.

The Commission will recommend to the Mayor and City Council those strategies and practices funded by tax proceeds of this Ordinance that should be continued and/or terminated, based on successes in responding to, reducing or preventing violent crime as demonstrated in the evaluation.

(h) Semi-Annual Progress Reports: Twice each year, the Commission shall receive a report from a representative of each department receiving funds from this Ordinance, updating the Commission on the priority spending plans and demonstrating progress towards the desired outcomes.

(B) Accountability and Reporting.

1. Annual Program Evaluation: Annual independent program evaluations pursuant to Section 3(C) shall include performance analysis and evidence that policing and violence prevention/intervention programs and strategies are progressing toward the desired outcomes. Evaluations will consider whether programs and strategies are achieving reductions in community violence and serving those at the highest risk. Short-term successes achieved by these strategies and long-term desired outcomes will be considered in the program evaluations.
2. **Annual Audit Review**: An independent audit shall be performed annually to ensure accountability and proper disbursement of the proceeds of this tax in accordance with the objectives stated herein as provided by Government Code sections 50075.1 and 50075.3. The City will, from time to time, retain an engineer for services pertaining to this parcel tax.

**Section 5. SPECIAL FUND.**

All funds collected by the City from the tax imposed by this Ordinance shall be deposited into a special fund in the City treasury and appropriated and expended only for the purposes and uses authorized by this Ordinance.

**Section 6. EFFECTIVE DATE.**

The taxes imposed by this Ordinance shall become effective upon passage.

**Section 7. TERM OF TAX IMPOSITION.**

The taxes enacted by this Ordinance shall be imposed and levied for a period of ten (10) years. The City shall place delinquencies on subsequent tax bills.

**Section 8. SAVINGS CLAUSE.**

If any provision, sentence, clause, section or part of this Ordinance is found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, such unconstitutionality, illegality, or invalidity shall affect only such provision, sentence, clause, section or part of this Ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared that the City would have adopted this Ordinance had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.

If any tax imposed by this Ordinance is found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, the amounts, services, programs and personnel required to be funded from such tax shall be reduced proportionately by any revenues lost due to such unconstitutionality, illegality or invalidity.

**Section 9. NO AMENDMENT.**

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 as are consistent with its purpose.

**PART 2. PARCEL TAX**

**Section 1. DEFINITIONS.**