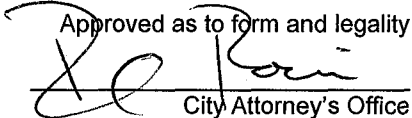


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OFFICE OF THE CITY CLERK
OAKLAND

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REVISED CED COMMITTEE 5/31/2016
CORRECTED COUNCIL 7/5/16

Approved as to form and legality

City Attorney's Office

OAKLAND CITY COUNCIL
ORDINANCE NO. 18879 C.M.S.

INTRODUCED BY COUNCIL PRESIDENT LYNETTE GIBSON MCELHANEY,
COUNCILMEMBER ABEL GUILLEN AND COUNCILMEMBER DAN KALB

ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ADOPT (1) A PREFERENCE POLICY FOR NEIGHBORHOOD RESIDENTS, OAKLAND RESIDENTS AND WORKERS, AND DISPLACED HOUSEHOLDS IN APPLYING FOR MULTIFAMILY AFFORDABLE HOUSING FUNDED BY THE CITY, AND (2) AN OAKLAND RESIDENCY, OAKLAND WORKER, OR DISPLACED HOUSEHOLD REQUIREMENT FOR PARTICIPANTS IN THE CITY'S FIRST-TIME HOMEBUYER MORTGAGE ASSISTANCE PROGRAM

WHEREAS, in 2008, the City Council passed a resolution adopting an Oakland resident and worker preference policy to rent or purchase units in affordable housing projects funded through the City's Notice of Funding Availability process, Resolution No. 81232 C.M.S.; and

WHEREAS, in enacting this policy, Council found that the Oakland resident preference was necessary and justified in order to remedy or mitigate potential displacement and gentrification impacts of redevelopment activities in the City, that the policy would provide an opportunity for existing Oakland residents to afford the housing provided by the City and stay in Oakland and benefit from the impacts of the City's redevelopment and community development efforts, and that the policy would encourage neighborhood stability by providing a means for residents who have been active in a community to remain in their community in the face of increasing market rate rents and housing prices; and

WHEREAS, Council further found that the Oakland workers preference was necessary and justified in order to encourage households working in Oakland to live near their workplaces, avoiding the negative environmental and traffic impacts of commuters traveling long distances between their jobs and their residences, and to

encourage businesses to locate in Oakland to take advantage of the affordable housing opportunities available to their workers; and

WHEREAS, Council further found that the preference policy would not have a significant disparate impact on any class of people protected by fair housing laws; and

WHEREAS, the City has also had a long-standing policy to give preference for affordable housing units to households that were displaced by the City's code enforcement activities and public projects; and

WHEREAS, a preference for all displaced residents that includes no-fault evictions in addition to those displaced by code enforcement activities and public projects will expand on the purposes of the current preference for displaced residents to create a means for residents to return to their communities to improve neighborhood stability and to mitigate the impacts of gentrification and reduced availability of affordable rental housing; and

WHEREAS, a limited preference for existing neighborhood residents in the selection of applicants for affordable housing will expand on the purposes of the current Oakland resident preference to remedy or mitigate potential displacement and gentrification impacts of redevelopment activities in the City and allow neighborhood residents to benefit from the impacts of the City's redevelopment and community development efforts, as well as encourage greater neighborhood stability; and

WHEREAS, a limited preference for existing neighborhood residents will further provide an opportunity to neighborhood residents that are living in inadequate housing conditions to move into quality affordable housing units without being forced to live far from their neighborhood and preserve their continued ties to established community institutions and services, including schools, after-school programs, community businesses, community centers, and health care providers, which will preserve and enhance the quality of life for these residents; and

WHEREAS, based on the results of a statistical analysis of the impacts based on race and ethnicity of instituting a neighborhood preference policy in Oakland, the limited preference for existing neighborhood residents established under this policy would not have a significant disparate impact on any class of people protected by fair housing laws; and

WHEREAS, a preference for households displaced by City code enforcement activities, public projects, or no fault evictions, in the selection of applicants for affordable housing is necessary to mitigate the effects of displacement and the loss of housing, and achieve the important public purpose of increasing opportunities for displaced residents to continue to live in Oakland in the face of decreasing rental housing resources; and

WHEREAS, the City has established programs to give mortgage assistance to first-time homebuyers who meet certain income restrictions; and

WHEREAS, the City wishes to restrict participation in these programs to Oakland residents, Oakland workers, and displaced households; and

WHEREAS, an Oakland residency requirement for first-time homebuyer programs is necessary to ensure that Oakland renters have the opportunity to achieve the benefits of homeownership in Oakland, remedy or mitigate potential displacement and gentrification impacts of redevelopment activities in the City, provide an opportunity for existing Oakland residents to afford the housing provided by the City and stay in Oakland and benefit from the impacts of the City's redevelopment and community development efforts, encourage neighborhood stability by providing a means for residents who have been active in a community to remain in the community in the face of increasing market rate rents and housing prices; and

WHEREAS, an Oakland worker requirement for first-time homebuyer programs is necessary to encourage households working in Oakland to live near their workplaces, avoiding the negative environmental and traffic impacts of commuters traveling long distances between their jobs and their residences, and encourage businesses to locate in Oakland to take advantage of the affordable housing opportunities available to their workers; and

WHEREAS, a displaced household requirement for first-time homebuyer programs will create a means for residents to return to their communities to improve neighborhood stability and to mitigate the impacts of gentrification and reduced availability of affordable ownership housing; now, therefore

The Council of the City of Oakland does ordain as follows:

SECTION 1. Resolution No. 81232 C.M.S. is hereby repealed and replaced by the provisions of the Oakland Municipal Code added by this Ordinance.

SECTION 2. Chapter 15.63 is hereby added to the Oakland Municipal Code to read as follows:

Chapter 15.63

OAKLAND RESIDENT/WORKER PREFERENCES AND REQUIREMENTS IN CITY AFFORDABLE HOUSING PROGRAMS

Article I

Preferences in Multifamily Affordable Housing Projects

15.63.010 Purposes.

The purposes of the neighborhood resident and Oakland resident preference policy for affordable housing units are to remedy or mitigate potential displacement and gentrification impacts of redevelopment activities in the City, provide an opportunity for existing Oakland and neighborhood residents to afford the housing provided by the City and stay in Oakland and benefit from the impacts of the City's redevelopment and community development efforts, encourage neighborhood stability by providing a means for residents who have been active in a community to remain in the community in the face of increasing market rate rents and housing prices, provide an opportunity to neighborhood residents that are living in inadequate housing conditions to move into quality affordable housing units without leaving the community, and preserve existing residents' continued ties to established community institutions and services, including schools, after school programs, community businesses, community centers, and health care providers. The purposes of the Oakland workers preference policy for affordable housing units are to encourage households working in Oakland to live near their workplaces, avoiding the negative environmental and traffic impacts of commuters traveling long distances between their jobs and their residences, and encourage businesses to locate in Oakland to take advantage of the affordable housing opportunities available to their workers. The purpose of the displacee preference policy is to mitigate the effects of displacement and the loss of housing, and achieve the important public purpose of increasing opportunities for displaced residents to return to their community in the face of reduced availability for affordable rental housing.

15.63.020 Scope.

This policy shall apply to all residential units in housing projects in the City of Oakland that meet all of the following criteria:

1. The project has five or more attached or detached units, including scattered site housing projects.
2. The units are restricted as affordable housing to occupancy by or sale to very low, low, and/or moderate income households at a restricted rent or sales price.

3. The project receives development assistance from the City for new construction or substantial rehabilitation. For purposes of this paragraph, “development assistance” means a grant, below-market rate loan, deferred loan, or a below-market rate lease or sale of real property, and “substantial rehabilitation” means rehabilitation with a level of City development assistance that exceeds 25 percent of the project’s after-rehabilitated market value. Projects that receive a density bonus or other incentives from the City under the City’s density bonus law shall not be covered unless the project also receives development assistance.
4. The development assistance was approved by the City Council or the City Administrator (in the case of programs in which the City Administrator has authority delegated by Council to approve funding assistance) after the date this chapter was adopted.

15.63.030 Preferences.

Owners of housing projects covered by this policy, along with their management agents, shall give preference, as applicable, to the following applicants for affordable housing units:

1. First preference: to displaced households. For purposes of this section, a “displaced household” means a household in which a least one adult member has been displaced from a housing unit in Oakland as a result of any of the following:
 - A. City code enforcement activities, if the displacement has occurred within one year prior to the date of application.
 - B. A City-sponsored or City-assisted development project, if the displacement has occurred within one year prior to the date of application.
 - C. A “no fault” eviction from a rental unit in Oakland, if the eviction was completed eight years or less prior to the date of application. For purposes of this paragraph, a “no fault” eviction means an eviction that is evidenced by an eviction notice from the property owner that does not state cause and that gives the tenant 30 days or longer notice to vacate the unit; a “no fault” eviction shall include, but not be limited to an eviction as a result of an owner move-in under Municipal Code Section 8.22.360.A.8 or 8.22.360.A.9, owner repairs under Municipal Code Section 8.22.360.A.10, or owner removal of the unit from the rental market under Municipal Code Section 8.22.360.A.11 or Municipal Code Chapter 8.22, Article III, but shall not be limited only to evictions from units that are covered by any of the above laws. This

preference shall apply to the initial rental or sale of a project unit and any subsequent rental or sale of a unit during the applicable affordability period established by the City.

2. Second preference: to neighborhood residents. For purposes of this section, a "neighborhood resident" means a household with at least one adult member whose principal place of residence on the date of application is either within the Council District where the project is located or within a one mile radius of said project. This preference shall apply to 30 percent of all units in the project. This preference shall apply only to the initial rental or sale of a project unit after the City's development assistance has been given to the project.
3. Third preference: to Oakland residents and Oakland workers. For purposes of this section, an "Oakland resident" means a household with at least one adult member whose principal place of residence on the date of application is within the City of Oakland. An "Oakland worker" means a household with at least one adult member who is employed by an employer located within the City of Oakland, owns a business located within the City of Oakland, or participates in an education or job training program located within the City of Oakland. This preference shall apply to the initial rental or sale of a project unit and any subsequent rental or sale of a unit during the applicable affordability period established by the City.

15.63.040 Implementation of preference policy.

Although the project owner, through its management agent, shall have the primary responsibility to qualify applicants and determine eligibility for any of the above preferences, the City shall have the authority to set qualification standards and verify eligibility for any of the above preferences. This preference policy shall be included as a term in the regulatory agreement, affordability agreement, or other agreement between the City and the project developer.

15.63.050 Limitations.

This preference policy shall not require owners to approve applicants who are otherwise not qualified for renting or purchasing the unit. Preferences shall be non-durational, i.e., there shall be no minimum time period for residency or employment to qualify for the preference. This preference policy shall be applied only if and to the extent that other funding sources for the project do not prohibit the preference. This preference policy shall be applied only if and to the extent that the policy does not violate applicable law.

15.63.060 Regulations.

The City Administrator is hereby authorized to issue rules and regulations implementing the preference policy consistent with this article.

Article II

Requirements for First-Time Homebuyer Program

15.63.070 Purposes.

The purposes of an Oakland residency requirement for first-time homebuyer programs are to ensure that Oakland renters have the opportunity to achieve the benefits of homeownership in Oakland, remedy or mitigate potential displacement and gentrification impacts of redevelopment activities in the City, provide an opportunity for existing Oakland residents to afford the housing provided by the City and stay in Oakland and benefit from the impacts of the City's redevelopment and community development efforts, and encourage neighborhood stability by providing a means for residents who have been active in a community to remain in the community in the face of increasing market rate rents and housing prices. The purposes of an Oakland worker requirement for first-time homebuyer programs are to encourage households working in Oakland to live near their workplaces, avoiding the negative environmental and traffic impacts of commuters traveling long distances between their jobs and their residences, and encourage businesses to locate in Oakland to take advantage of the affordable homeownership opportunities available to their workers. The purposes of a displaced household requirement for first-time homebuyer programs are to create a means for residents to return to their communities to improve neighborhood stability and to mitigate the impacts of gentrification and reduced availability of affordable ownership housing.

15.63.080 Scope.

This policy shall apply to any of the City's mortgage assistance programs for first-time homebuyers.

15.63.090 Residency/Displacee Requirement

All recipients of mortgage assistance under the first-time homebuyers program must be either an Oakland resident, an Oakland worker, or a displaced household. For purposes of this section, an "Oakland resident" shall mean a household with at least one adult member whose principal place of residence on the date of application is within the City of Oakland. An "Oakland worker" shall mean a household with at least one adult member who is employed by an employer located within the City of Oakland, owns a business located within the City of Oakland, or participates in an education or job training program located within the

City of Oakland. A "displaced household" shall have the meaning as set forth in Section 15.63.030.1 of this Code.

15.63.100 Limitations

The requirement shall be non-durational, i.e., there shall be no minimum time period for Oakland residency or employment to qualify for the program. This policy shall be applied only if and to the extent that other funding sources for the program do not prohibit the policy. This policy shall be applied only if and to the extent that the policy does not violate applicable law.

15.63.110 Regulations.

The City Administrator is hereby authorized to issue rules and regulations implementing the Oakland residency, worker, and displacee policy consistent with this article.

SECTION 3. The provisions of this Ordinance are severable, and if any clause, sentence, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is held to be invalid, such holding shall not impair or invalidate the remainder of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such provisions not been included.

SECTION 4. This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of the City Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, July 19, 2016

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and PRESIDENT GIBSON MCELHANEY - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

Introduction Date
JUL 05 2016

ATTEST: *Latonda Simmons*
LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California

Date of attestation : July 26, 2016

ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ADOPT (1) A PREFERENCE POLICY FOR NEIGHBORHOOD RESIDENTS, OAKLAND RESIDENTS AND WORKERS, AND DISPLACED HOUSEHOLDS IN APPLYING FOR MULTIFAMILY AFFORDABLE HOUSING FUNDED BY THE CITY, AND (2) AN OAKLAND RESIDENCY, OAKLAND WORKER, OR DISPLACED HOUSEHOLD REQUIREMENT FOR PARTICIPANTS IN THE CITY'S FIRST TIME HOMEBUYER MORTGAGE ASSISTANCE PROGRAM

NOTICE AND DIGEST

This Ordinance amends the Oakland Municipal Code to establish a policy to give preference for neighborhood residents, Oakland residents and workers, and displaced households to rent or purchase units in multifamily affordable housing projects funded by the City, and a requirement that participants in the City's mortgage assistance program for first-time homebuyers be Oakland residents, Oakland workers, or displaced households.

