

Chapter 4.56 - VACANT PROPERTY TAX

4.56.010 - Definitions.

"Calendar Year" refers to the twelve-month period from January 1 through December 31 pursuant to which the City will determine whether any parcel, property, or unit is subject to the tax.

"City" means the City of Oakland.

"Commission" means the Commission on Homelessness authorized by this Chapter.

"County" means Alameda County.

"Ground Floor Commercial Space" means the ground floor space of any parcel of land where ground floor commercial activities are allowed by the applicable zoning (with or without a use permit) or are a legal nonconforming use.

"Heavily Impacted Neighborhoods" means the geographic area defined by the boundaries of 2010 Census Tracts 4007, 4008, 4009, 4010, 4014, 4015, 4016, 4017, 4018, 4022, 4024, 4025, 4026, 4027, 4030, 4033, 4057, 4053.02, 4054.01, 4054.02, 4055, 4056, 4058, 4059.01, 4059.02, 4060, 4061, 4062.01, 4062.02, 4063, 4064, 4065, 4071.01, 4071.02, 4072, 4073, 4074, 4075, 4076, 4077, 4085, 4086, 4087, 4088, 4089, 4090, 4091, 4092, 4093, 4094, 4095, 4096, 4097, 4102, 4103, 4104, and 4105. See Map (Attachment A) below.

"Mixed-Use Parcel" means a parcel that is improved with both:

- i) At least one (1) residential unit; and
- ii) Uses other than a residential unit.

"Multifamily Residential Parcel" means all parcels that are improved with more than one (1) residential unit.

"Net General Purpose Fund Budget for Non-Safety Departments" means the total general purpose fund appropriation to the operating budgets of the non-safety departments, excluding expenditures that are offset by fees or other non-tax revenues.

"Nonresidential Parcel" means all parcels that are improved with uses other than residential units.

"Non-Safety Departments" means all operating departments of the City, except police and fire.

"Owner" means the owner or owners of the real property located within the City of Oakland as of the first day of January following the calendar year pursuant to which a property is deemed to be vacant or not vacant. For the purposes of applying any exemptions defined in Section 4.56.090. The owner shall not be exempt from the tax unless each person or entity that owns a portion of the real property can separately demonstrate that they are entitled to an exemption.

"Parcel" shall mean a unit of real property in the City of Oakland as shown on the most current official assessment role of the Alameda County Assessor.

"Residential Parcel" means all parcels that are improved with one (1) or more residential units.

"Residential Unit" means a building or structure, or portion thereof, designed for or occupied exclusively by one (1) household, including unrelated persons who live together and maintain a common household.

"Single-Family Residential Parcel" means all parcels which are improved with only one (1) residential unit.

"Tax" or "Oakland Vacant Property Tax" means the special tax authorized by this Chapter.

"Undeveloped Parcel" means all parcels, regardless of zoning or other land use designation, upon which no permanent improvements have been constructed or placed.

"Use" means the performance of a function or operation.

([Ord. No. 13571](#) , § 2, 11-19-2019; Res. No. 87319, § 3, 7-24-2018)

Editor's note— Attachment A is not in fact below, but is attached to the ordinance from which this Chapter is derived and can be inspected upon request at the City Clerk's office.

4.56.020 - Determination of vacancy.

- A. For the purposes of this Chapter , a parcel of real property shall be deemed "vacant" and subject to the tax imposed by Section 4.56.030 below if the parcel is any of the following:
 - 1. A parcel of land, whether undeveloped, residential (including multifamily residential), or non-residential, that is in use less than fifty (50) days during a calendar year.
 - 2. A condominium, duplex, or townhouse unit under separate ownership that is in use less than fifty (50) days during a calendar year.
 - 3. A parcel of land where ground floor commercial activities are allowed by the applicable zoning (with or without a use permit) or are a legal nonconforming use and all of the ground floor space that could be lawfully occupied by commercial activities is in use less than fifty (50) days in a calendar year.
- B. The City Council shall establish, by ordinance, a method for determining and identifying the use and vacancy status of each parcel of real property in the City.

(Res. No. 87319, § 3, 7-24-2018)

4.56.030 - Imposition of parcel tax on vacant property.

- A. A special tax in the amounts set forth below is hereby imposed on every vacant parcel of real property within the City, other than those exempted, as described below.
- B. The tax constitutes a debt owed by the owner of each parcel to the City.
- C. Unless the City Council selects another method for collection of the tax, the County shall levy and collect the tax on each parcel of real property in the City for which the owner receives a separate ad valorem property tax bill, at the same time and manner, and subject to the same penalties and procedures as ad valorem property taxes collected by the County except as otherwise set forth in this Chapter.
- D. If the City Council selects collection of the tax by the County, the tax shall be imposed on the ad valorem property tax bill for the fiscal year that begins July 1 following the end of the calendar year in which the parcel was vacant. The special tax shall first be imposed no sooner than the ad valorem property tax bill for fiscal year 2020-2021 for parcels that were vacant in the previous calendar year.
- E. Tax Rates.
 - 1. The maximum tax rates for each property type shall be as set forth in the table below. The City Council may lower, but not increase, the rates, and may by ordinance adopt further categories of exemption. The City shall be responsible for assigning a tax rate for each parcel.

Property Type	Annual Tax Rate
Residential	\$6,000.00 per parcel
Condominium, duplex, or townhouse unit under separate	\$3,000.00 per vacant residential

ownership	unit
Nonresidential	\$6,000.00 per parcel
Parcel with ground floor commercial activity allowed but vacant	\$3,000.00 per parcel
Undeveloped	\$6,000.00 per parcel

2. For parcels with multiple units, whether residential or non-residential, the parcel is not vacant if any unit on it is not vacant. A condominium, duplex, or townhouse unit under separate ownership is treated as a separate parcel for the purposes of this Chapter , and if it is vacant, is subject to the tax regardless of the status of any other unit on the same lot or that is part of the same development.
 3. For parcels where ground floor commercial activities are allowed by the applicable zoning (with or without a use permit) or are a legal nonconforming use, if all of the ground floor space that could be lawfully occupied by commercial activities is vacant, then the parcel shall be subject to the tax regardless of whether any other portion of the structures on the parcel are occupied.
- F. Real property otherwise wholly exempt from ad valorem tax by state law shall also be exempted from the tax imposed by this Chapter.
- G. Adjustment in Tax Rate. The City Council may, by resolution, establish an annual tax rate less than the maximum amount then authorized. Following any such decrease in the annual tax rate, the City Council may, by resolution, increase the annual tax rate to the maximum rate then permitted, or to any other amount less than the maximum rate then permitted, without obtaining voter approval.
- H. For parcels divided by tax rate area lines, the payment for the portion of the parcel within Alameda County shall be calculated at the same rates as set forth above. For properties wholly within Alameda County and divided by tax rate area lines into multiple parcels, the property shall be taxed as a single parcel at the rates set forth above.
- I. Imposition of Tax by Zones. The City Council may, by ordinance, establish zones or areas within the City and may restrict the levy of the tax to properties within the zones or areas established.
- J. Exemptions.
1. The following shall be exempt from the tax imposed by this Chapter :
 - a. An owner who qualifies as very low income, as the term "very low income" is defined by the United States Department of Housing and Urban Development.
 - b. An owner for whom the payment of the tax imposed by this Chapter would be a financial hardship due to specific factual circumstances.
 - c. An owner whose property is vacant as a result of a demonstrable hardship that is unrelated to the owner's personal finances.
 - d. An owner who can demonstrate that exceptional specific circumstances prevent the use or development of the property. By way of example only and without limiting the generality of the foregoing, exceptional specific circumstances that prevent the use or development of property include property damage by a recent natural disaster, an undeveloped parcel adjoining a developed residential parcel and used by the occupants as part of the yard,

and property with physical conditions that prevent development. The details of this exemption shall be further defined by separate ordinance of the City Council.

- e. An owner of a property that is under active construction. To qualify for this exemption, an owner must call for inspections of the construction with sufficient frequency to keep the building permit or permits active.
 - f. An owner of property for which an active building permit application is being processed by the City.
 - g. An owner:
 - (1) Who is sixty-five (65) years of age or older; and
 - (2) Who qualifies as "low income," as the term "low income" is defined by the United States Department of Housing and Urban Development.
 - h. An owner who, regardless of age:
 - (1) Receives supplemental security income for a disability; or
 - (2) Social security disability insurance benefits, regardless of age and whose yearly income does not exceed two hundred fifty (250) percent of the 2012 federal poverty guidelines issued by the United States Department of Health and Human Services.
 - i. An owner that is a non-profit organization or entity owned or controlled by a non-profit organization.
 - j. An owner of a parcel included in a substantially complete application for planning approvals that has not yet received approval. An owner of a parcel for which a project with development entitlements have been approved but needing time for completion may apply for and receive an administrative two-year exemption.
2. The City Administrator's Designee (which if not otherwise designated shall be the Finance Director) shall establish the procedures and guidelines for owners to apply for, and grant, the exemptions identified in this Section. Owners who claim an exemption may be required to submit information annually to substantiate their continuing qualification for the exemption.
 3. The City Council may, by ordinance, establish such other exemptions to the tax imposed by this Chapter and the authorized methods of collection of the tax, as it determines to be appropriate.
 4. The City Council may, by ordinance, provide supplemental definitions for the exemptions in this Section and for the administration of the exemptions as part of the collection of the tax.

(Res. No. 87319, § 3, 7-24-2018)

4.56.040 - Vacant property tax fund.

The "vacant property tax fund" ("fund") is hereby created as a special revenue fund. Proceeds from the Oakland Vacant Property Tax Act, including penalties and interest earned on such proceeds, shall be deposited into the fund and used only for the purposes listed in Section 4.56.050.

(Res. No. 87319, § 3, 7-24-2018)

4.56.050 - Use of Vacant Property Tax Act revenue.

- A. Monies deposited in the vacant property tax fund shall be used solely for those purposes identified in this Section.
- B. Tax funds may be used to provide services and programs to homeless people, to reduce homelessness, and to support the protection of existing and production of new housing affordable to

lower income households as defined in California Health and Safety Code Section 50079.5 at an affordable housing cost or affordable rent as defined in Health and Safety Code Sections 50052.5 and 50053. Examples of such uses include, but are not limited to:

1. Job training, apprenticeship, pre-apprenticeship, drug treatment, and job readiness assistance programs for homeless people or those at risk of becoming homeless;
 2. Assistance connecting homeless people or those at risk of becoming homeless with available services and resources, including assistance applying for housing or public benefit programs;
 3. Housing assistance, including the provision of temporary housing or move-in expenses, such as first-month's rent and a security deposit, and emergency rental assistance;
 4. Sanitation, bathroom, and cleaning services related to homeless encampments, and programs to supplement remedying and deterring blight and illegal dumping throughout the City;
 5. Incentive programs to encourage property owners to make space available for low-income housing, including making funds available for physical improvements to enable a unit to be used for a voucher-based housing program;
 6. Relocation assistance funding for low-income households facing displacement;
 7. Financial assistance for the design, development, construction or operation of affordable housing units, including housing alternatives such as, without limitation, shipping container homes, accessory dwelling units and small homes.
 8. Accessibility support to provide or maintain housing, and make needed improvements for accessibility, for seniors and persons with disabilities; and
 9. Displacement prevention, tenant education and assistance, emergency rent assistance; and
 10. Navigation centers to provide space for people to stay, along with on-site support services for the homeless. Funding may be used for both capital and operating costs related to navigation centers; and
 11. Code enforcement and cleanup of blighted vacant properties, other blight elimination, and remedying illegal dumping, including legal action to address any of the foregoing as necessary, no less than twenty-five (25) percent of the revenue deposited into the vacant parcel tax fund in any single year shall be used to pay for the uses listed in this paragraph.
- C. Monies in the vacant property tax fund may be used to pay the costs of audits of the use of monies in the fund.
- D. Monies in the vacant property tax fund may be used to pay for the City's costs of the election required to obtain voter approval of the tax authorized by this Chapter , including City Attorney costs to prepare this Chapter and related documents. City Attorney costs shall be deposited in a revenue account for sole use by the office of the City Attorney.
- E. Monies in the vacant property tax fund may be used to pay for the costs of administering the special tax, regardless of how or by what entity those administrative services are provided. No more than fifteen (15) percent of the revenue deposited into the vacant parcel tax fund in any single year may be used to pay for such administrative costs, except that revenue used to pay for the costs of the Commission on Homelessness established by Section 4.56.060 shall not count toward the fifteen (15) percent. Notwithstanding the foregoing, the City shall be reimbursed for its actual costs of establishing the program for collecting the tax, which costs shall be confirmed by the City Auditor. Administrative costs include, but are not limited to:
1. The costs to the City of determining and identifying the use and vacancy status of every parcel in the City;
 2. The costs to the City associated with monitoring and enforcing compliance with this Chapter. Authorized costs include, but are not limited to, any expenses, including attorneys' fees, associated with any proceedings needed to enforce the requirements of this Chapter ;

3. The costs to the City associated with developing ordinances and regulations to implement this Chapter ;
 4. The costs to the City associated with the operations of the Commission on Homelessness established by Section 4.56.060 of this Chapter ; and
 5. Reimbursement to the County for the costs it incurs in collecting the tax.
- F. If this Chapter or the use of tax funds is legally challenged, tax funds may be used to reimburse the City for its costs of legal defense, including attorneys' fees and other expenses.

(Res. No. 87319, § 3, 7-24-2018)

4.56.060 - Commission on Homelessness.

- A. The Commission on Homelessness is hereby established for citizen oversight of the Oakland vacant property tax (2018 Measure W) and the 2020 Measure Q homelessness funds received by the City of Oakland for Homeless services, and to make recommendations to the City Council for strategies to remedy homelessness.
- B. The Commission shall meet at least four (4) times per fiscal year.
- C. The Commission shall review relevant financial and operational reports related to the expenditure of the homeless services fund. The Commission shall publish an annual report regarding how and to what extent the City Council and Mayor have implemented this Chapter. Additionally, the Commission shall be requested to publish reports regarding the following:
 - 1) Recommendations from the Commission on how to prioritize the allocation of funds in accordance with the requirements of this Chapter, including for: services and programs for homeless people, reduction of homelessness, and supporting the provision of affordable housing to households qualifying as at least low-income households (those at fifty-five (55) percent AMI or below);
 - 2) Information, if available, concerning the impacts of programs funded by the Vacant Property Tax (2018 Measure W) and 2020 Measure Q homelessness funds subject to Commission oversight on the occurrence of homelessness and illegal dumping in the City;
 - 3) Recommendations to the Mayor and the City Council on the Biennial Fiscal Year Budget, in accordance with the City Council's Consolidated Fiscal Policy at the time, that ensures that the Commission Chair communicates homelessness priorities to the Mayor and Council; and
 - 4) Review and respond annually to the City's Homeless Encampment Policy and the Permanent Access to Housing (Path) Plan which shall be presented to the Commission, as well as hear reports on the housing, programs, and services for persons experiencing homelessness in the City, including, but not limited to, street outreach, homeless shelters, transitional housing, housing exits, and permanent supportive housing as needed.

The City Council may assign other duties to the Commission as provided for by ordinance. Within fifteen (15) days of receipt of a Commission report, the City Administrator or designee shall cause the report to be published on the City's Internet website and to be transmitted to the City Council. Any recommendations from the Commission on prioritization of vacant property tax funds in accordance with the requirements of this Chapter shall be approved no later than February 1 for incorporation into the City budget for the following fiscal year, and such report shall be transmitted to the Council and public for informational purposes in the budget or as an informational report at the meeting at which the City Council appropriates funds generated by the special supplemental business tax.

- D. The Commission may appoint a member as a liaison to communicate with the City Administrator's Homeless Encampment Team.

- E. The Commission shall consist of nine (9) members who are all residents of the City. No less than half of the members must be residents of heavily impacted neighborhoods. No less than two (2) members must be currently homeless, formerly homeless or low-income, as the term "low income" is defined by the United States Department of Housing and Urban Development. No less than three (3) members must have professional expertise in, or be providers of, homeless services or housing with priority given to individuals with a background in affordable housing, shelter management, or public health. No less than one (1) representative must have financial expertise. Members may fulfill more than one (1) of these criteria for the purposes of meeting these requirements. City Councilmembers shall make recommendations for members to the Mayor. Members of the Commission shall be appointed by the Mayor and confirmed by the City Council in accordance with City Charter Section 601. Members of the Commission shall receive no salary for serving.
- F. Members shall serve three (3) year terms, as provided for in this subsection. No member shall serve more than two (2) consecutive three (3) year terms. Of the initial members of the Commission, three (3) appointments shall be for one-year terms, three (3) appointments shall serve for two-year terms, and three (3) appointments shall be for three-year terms. Thereafter, all terms shall be for three (3) years. All terms of members shall begin as of the date that six (6) members have been appointed, which is when the Commission may begin its work. All future terms shall begin and end on that date. A quorum of the Commission shall be a majority of appointed members shall never be fewer than three (3) members. A member may be removed for cause pursuant to City Charter Section 601. Absence from three (3) consecutive regular meetings, or four (4) non-consecutive regular meetings during a single fiscal year, may constitute cause for removal from the Commission, in accordance with City Charter Section 601. Any cause for removal shall be referred to the City Council.
- G. The City Administrator or designee shall provide clerical assistance and administrative support and technical assistance to the Commission and the City Administrator or designee shall be present at the Commission meetings.
- H. The Commission may hold at least one (1) meeting per year at a location outside of City Hall but within the City of Oakland.
- I. The Commission may convene community meetings to solicit community testimony and other input in discussions regarding homelessness and illegal dumping policy, to build trust between the unhoused community, impacted neighborhoods and the City, and to address other similar and relevant subjects as determined by the Commission within its jurisdiction.
- J. The Commission may invite subject matter experts and individuals to provide informational presentations, including but not limited to representatives from faith-based groups, affordable housing developers, homelessness advocates, youth groups, LGBT, veteran, racial equity experts, and other members of the community.
- K. The Commission may establish by a majority vote, working groups and sub-committees.
- L. Commissioners shall be provided and shall attend training on the following:
 - 1) The City's homelessness policies and procedures;
 - 2) Basic principles of Roberts Rules of Order and meeting procedures;
 - 3) The legal requirements of California's Political Reform Act (Cal. Gov. Code section 81000, et seq.), Oakland's Conflict of Interest Code (Oakland Municipal Code, Ch. 3.16), Oakland's Government Ethics Act (Oakland Municipal Code Section Ch. 2.25), California's Brown Act (Cal. Gov. Code section 54950, et seq.), Oakland's Sunshine Ordinance (Oakland Municipal Code Ch. 2.20), and California's Public Records Act (Cal. Gov. Code section 6250, et seq.); and
 - 4) Bias and equity from the Department of Race and Equity.

([Ord. No. 13584](#) , § 1, 2-18-2020; Res. No. 87319, § 3, 7-24-2018)

4.56.070 - Accountability.

- A. In accordance with the requirements of California Government Code Sections 50075.1 and 50075.3, the following accountability measures, among others, shall apply to the tax:
1. A separate, special account, referred to as the vacant property tax fund, shall be created, into which the proceeds of the tax must be deposited.
 2. The specific purposes of the tax are for the funding of programs and services for homeless people, to reduce homelessness, and to support the provision of affordable housing and for the other purposes set forth in Section 4.56.050 of this Chapter. The proceeds of the tax shall be applied only to these specific purposes.
 3. The Commission established by Section 4.56.060 shall perform the oversight functions listed in that Section to ensure that the revenue from the tax is spent solely for the purposes listed in Section 4.56.050.
 4. The City Auditor shall perform regular audits to ensure accountability and proper disbursement of all revenue collected by the City from the tax imposed by this Chapter, in accordance with the objectives stated herein and in compliance with provisions of California law.
- B. The City's current general purpose fund expenditures for illegal dumping remediation may not be replaced by this tax. For any year during which this tax is in effect, if the City's general purpose fund expenditures on illegal dumping remediation are less than the amount expended in the 2016-2017 fiscal year, this tax shall not be levied and collected. In the event that 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 and maintaining the level of general purpose fund expenditures on illegal dumping remediation at the fiscal year 2016-2017 level, then the tax may nevertheless be levied and collected, if both of the following two (2) conditions are met:
- (1) The City's reduction to general purpose fund illegal dumping remediation expenditures is no more than the same proportion of reduction that is imposed on the City's net general purpose fund budget for non-safety departments; and
 - (2) 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 general purpose fund expenditures on illegal dumping remediation, and the steps that will be taken by the City in the future to restore the fiscal year 2016-2017 level of general purpose fund expenditures on illegal dumping remediation.

Such actions must be taken for each fiscal year in which the City fails to meet the level of general purpose fund illegal dumping remediation spending required by this paragraph. Following any general purpose fund reduction in illegal dumping remediation from the 2016-2017 fiscal year level and for the tax to be levied in any subsequent year, the level of general purpose fund expenditures on illegal dumping remediation must be increased proportional to the increases in the non-safety departments' net general purpose fund budgets up to at least the fiscal year 2016-2017 level of general purpose fund expenditures on illegal dumping.

(Res. No. 87319, § 3, 7-24-2018)

4.56.080 - "In use" determinations.

For the purpose of making a determination of vacancy pursuant to Section 4.56.020 the following functions or operations are considered "use":

- A. Physical occupancy of a residential parcel, condominium, duplex, or townhouse unit by a lawful inhabitant.
- B. Carrying on of any civic, commercial, industrial, agricultural, or extractive activity, as those terms are defined by the Planning Code, and including any religious or community gatherings, on or in a nonresidential parcel. Undeveloped parcel, or ground floor commercial space, except that:

1. Any nonresidential parcel, undeveloped parcel, or ground floor commercial space used for warehousing, storage, or distribution activities, as those terms are used in OMC section 17.10.583. will not be considered in use unless at least forty (40) of the parcel or unit's floorspace available for warehousing, storage, or distribution is occupied;
 2. Any ground floor commercial space will not be considered in use unless either leased out to a bona fide tenant intending to use the space for a legal activity, or actually occupied, by an owner or some other party, for some substantially similar purpose.
- C. Maintenance of an undeveloped parcel that is contiguous or within five hundred (500) feet of an occupied residential parcel owned by the same owner.
- D. Ingress and egress of persons or vehicles across substantially all of the parcel.
- E. Other functions or operations as the City Administrator may deem appropriate.

([Ord. No. 13571](#), § 2, 11-19-2019)

4.56.090 - Exemptions.

For the purpose of determining whether an owner is entitled to claim an exception pursuant to Subsection 4.56.030 J.1. the following rules and clarifications apply:

- A. "Very Low Income"—4.56.030 J.1.a. The "very low income" exemption applies if the owner's combined family income for the relevant calendar year is equal to or less than the United States Department of Housing and Urban Development "Very Low Income Limit" for the Oakland-Fremont, CA HUD Metro FMR Area.
- B. "Financial Hardship"—4.56.030 J.1.b. The following circumstances constitute a "financial hardship due to specific factual circumstances":
1. The owner, for any period of time during the relevant calendar year, was a natural person and a debtor-party in an individual bankruptcy action.
 2. The owner, for any period of time during the relevant calendar year, experienced a significant medical event that kept the owner from engaging in their normal work or business activities for at least thirty (30) days.
 3. The owner, on or after December 1 of the year preceding the relevant calendar year, was involuntarily terminated from employment and was unemployed for at least sixty (60) days during the relevant calendar year.
- C. "Demonstrable Hardship Unrelated to Personal Finances"—4.56.030 J.1.c. The following circumstances constitute a "demonstrable hardship":
1. The subject property was, for at least one-hundred and eighty (180) days during the relevant calendar year, subject to a lis pendens, or similar court order, giving notice of a conflict regarding title or ownership interests, pursuant to any pending lawsuit, bankruptcy proceeding, probate action, condemnation action or other action or proceeding filed with any court.
 2. The owner, for at least sixty (60) days during the relevant calendar year, was serving in the military and deployed overseas.
 3. The then owner died at some time during the relevant calendar year.
 4. The owner inherited the subject property during the relevant calendar year or in the immediately preceding calendar year.
- D. "Exceptional Specific Circumstances"—4.56.030 J.1.d.). An exceptional specific circumstance includes any circumstance that, in the judgment of the City Administrator, prevents any use or development of the property. The City Administrator may request and consider any relevant

evidence to determine whether an exceptional specific circumstance exists. The City Administrator shall consider any evidence that the property was damaged by a recent natural disaster, that the property adjoins a residential parcel and is used as a yard, or that a licensed engineer, or similar professional, has endorsed a written opinion concluding that physical conditions of the property prevent any development. If the City Administrator determines that an exceptional specific circumstance exists, the City Administrator may grant an exemption for up to five (5) calendar years. But such exemption shall not be effective unless and until the owner of the subject property records a notice against the subject property, approved by the City Attorney, summarizing the basis for the exemption.

Exemptions granted pursuant to this section may be renewed by the City Administrator, for up to five (5) years, if the City Administrator determines that the conditions prohibiting development of the parcel persist and that the person(s) who owned the parcel during the term of the previously granted exemption made all reasonable attempts to put the property into use.

- E. "Active Construction"—4.56.030 J.1.e. The "active construction" exemption applies if the owner held, for at least fifty (50) days during the relevant calendar year, a valid and active building permit for the subject parcel.
- F. "Building Permit Application"—4.56.030 J.1.f. The "building permit application" exemption applies if during or previous to the relevant calendar year, the owner submitted a building permit application to the City and the total number of days during which the application was pending plus any number of days after the application was approved but before the end of the relevant calendar year was at least fifty (50) days.
- G. "Low Income Seniors"—4.56.030 J.1.g. The "low income seniors" exemption applies if the owner is at least sixty-five (65) years of age or older and their combined family income for the relevant calendar year is equal to or less than the United States Department of Housing and Urban Development "Low Income Limit" for the Oakland-Fremont. CA HUD Metro FMR Area.
- H. "Disabled Owner"—4.56.030 J.1.h. The "disabled owner" exemption applies if the owner, for any period in the relevant calendar year received supplemental security income for disability or social security disability insurance benefits and the owner's income for the relevant calendar year did not exceed two hundred fifty (250) percent of the 2012 federal poverty guidelines issued by the United States Department of Health and Human Services.
- I. "Non-profit organization"—4.56.030 J.1.i. The "non-profit organization" exemption applies if the Owner was, for at least one hundred and eighty (180) days during the relevant calendar year, a lawfully functioning organization pursuant to Internal Revenue Code Section 501(c)(3).
- J. "Substantially Complete Application for Planning Approvals"—4.56.030 J.1.i. The "substantially complete application for planning approvals" exemption applies if the owner held a notice from the City stating that an application for planning approvals with respect to the subject property was complete and such application remained pending for at least fifty (50) days during the relevant calendar year. After an application for planning approvals is approved for a subject parcel, the owner may apply for an administrative two-year exemption, exempting the subject property from being deemed vacant for the calendar year during which the application for planning approvals was approved and for the following calendar year.

([Ord. No. 13571](#), § 2, 11-19-2019)

4.56.100 - Method for identifying vacancy status.

- A. Initial Determination. The City Administrator may develop administrative methods appropriate to identify, based on objective, available data, properties that are most likely to be vacant, and not exempt from tax, pursuant to Section 4.56.020. The City Administrator may send initial determination notices for the properties that the City Administrator determines are most likely to be vacant.

- B. Petition of Vacancy. Upon receiving an initial determination notice pursuant to Subsection 4.56.100 A., an owner may, within twenty (20) days of service of the notice, file a petition of vacancy. The petition of vacancy must be submitted in a form and manner determined by the City Administrator and include appropriate evidence demonstrating that the property was not vacant pursuant to Section 4.56.020 or was entitled to an exemption. Such evidence may include sworn statements, pictures, utility records, and any records necessary to demonstrate entitlement to an exemption.
- C. Decision on Vacancy. Upon receiving a petition of vacancy pursuant to Subsection 4.56.100 B., the City Administrator may request further evidence or clarification and shall issue a decision.
- D. No Waiver. Nothing in the section may be interpreted as waiving an owner's obligation to pay the tax if they do not receive a notice pursuant to this Section.

([Ord. No. 13571](#), § 2, 11-19-2019)

4.56.110 - Appeal process.

- A. Request for Hearing. Following the issuance of a decision on vacancy pursuant to Section 4.56.100, an owner may, within twenty (20) days of service of such decision on vacancy, file a petition and request an appeal hearing before a hearing officer. Upon such request, the City Administrator shall appoint an independent hearing officer.
- B. Pre-Hearing Procedure. Prior to the hearing, the hearing officer may receive supplemental materials and evidence from the petitioner and the City. As soon as practical, the hearing officer shall set a deadline to receive any supplemental materials and evidence and shall set a hearing date.
- C. Hearing Procedure. Formal rules of evidence shall not apply to the conduct of the hearing. The hearing officer shall have the authority and discretion to permit examination of witnesses. Any party to a hearing may be assisted by a representative, including an attorney.
- D. Decision Following Hearing. As soon as practical following the hearing, the hearing officer shall issue a written decision regarding the vacancy status of the subject property. In the discretion of the hearing officer, the decision may, but is not required to, include findings of fact. The hearing officer's decision shall be considered final on the day it is executed by the hearing officer.
- E. Further Action. After the hearing officer issues a final decision, any party may seek further appropriate relief from the superior court. Any person whose complaint, claim, or petition may be resolved by employing the administrative remedies provided in Sections 4.56.100 or 4.56.110 must exhaust those remedies before filing any suit for refund, rebate, exemption, cancellation, amendment, adjustment, or other codification of the tax.

([Ord. No. 13571](#), § 2, 11-19-2019)

4.56.120 - Administrative regulations and delegation.

The City Administrator is authorized to adopt rules and regulations consistent with this Chapter as needed to implement this Chapter, subject to the review and approval of the Office of the City Attorney, and to develop all related forms and/or other materials and take other steps as needed to implement this Chapter, and make such interpretations of this Chapter as they may consider necessary to achieve the purposes of this Chapter.

The City Administrator may delegate any authority within their discretion pursuant to this Chapter 4.56 as the deem reasonably necessary.

([Ord. No. 13571](#), § 2, 11-19-2019)