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OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

A Resolution Amending Resolution No. 78331 “Declaring A Low Police Priority Related To Medical Marijuana Consistent With Oakland Municipal Code Section 5.80 And Senate Bill 420; And Rescinding Resolution No. 72516 Declaring Investigation And Arrest Of Individuals Involved With Medical Marijuana A Low Priority Policy” To Add, In Accordance With Measure Z, A Voter Initiative Entitled “Oakland Cannabis Regulation and Revenue Ordinance,” That Private Adult Cannabis Offenses Shall Be The City’s Lowest Law Enforcement Priority

WHEREAS, on March 12, 1996, the Oakland City Council passed Resolution No. 72516 C.M.S. supporting the activities of the Oakland Cannabis Buyer’s Club and declaring that the investigation and arrest of individuals involved with the medical use and distribution, processing, cultivation and purchasing of marijuana shall be a low priority for the City of Oakland; and

WHEREAS, the Compassionate Use Act was approved by the voters in November of 1996 and enacted without establishing guidelines or protocols for local jurisdictions; and

WHEREAS, lacking guidelines or protocols from the State, the Oakland City Council, adopted Ordinance No. 12076 C.M.S. on July 28, 1998 establishing a City of Oakland Medical Marijuana Distribution Program, and

WHEREAS, the California State Legislature recently adopted SB 420 to clarify the scope of the application of the Compassionate Use Act, establish protocols and promote uniform and consistent application among all local jurisdictions in the state to enhance the access of patients and caregivers to medical marijuana; and

WHEREAS, Senate Bill 420 allows cities and local governing bodies to develop laws and regulations consistent with state law; and

WHEREAS, the Oakland City Council desires to amend its medical cannabis policies to clearly define which individuals, collectives, and/or dispensaries involved with the medical use of marijuana are subject to the City of Oakland’s low police priority policy consistent with the provisions of SB 420 and Oakland Municipal Code Section 5.80; now therefore be it

RESOLVED, that the Oakland City Council hereby rescinds Resolution No. 72516 C.M.S. for the sole purpose of defining which individuals, collectives or dispensaries involved with the medical use of marijuana are subject to the City’s low police priority policy consistent with Oakland Municipal Code Section 5.80 and Senate Bill 420 and continues its support of the Oakland Cannabis Buyers Club; and be it further

RESOLVED, that the City Council hereby declares that it shall be the policy of the City of Oakland that the detention, investigation and arrest and any other law enforcement activities of the following are a low priority for the City of Oakland:

- (1) qualified patients who possess, purchase, cultivate and/or cultivate and/or use no more than the maximum amounts of medical cannabis specified in City policy;
- (2) primary care givers of qualified patients who purchase, possess, cultivate for and/or provide to such qualified patients no more than the maximum amounts of medical cannabis specified in City policy;
- (3) medical cannabis collectives that meet the requirements of Senate Bill 420; and Oakland Municipal Code (“OMC”) Chapter 5.80 and are comprise of no more than three qualified patients and their primary care givers;
- (4) a dispensary as defined in OMC Chapter 5.80, entitled “An Ordinance Amending Title V of the Oakland Municipal Code Entitled Business Licenses and Regulations to Include Chapter 5.80 Pertaining to Cannabis Dispensary Permitting”, that hold a current, valid permit issued by the City and is operating in compliance with such permit and other entities authorized by OMC Chapter 5.80 such as hospitals and research facilities; and
- (5) entities authorized pursuant to OMC Chapter 8.46.030; and be it further

RESOLVED, that notwithstanding any other provision of this resolution, in accordance with Measure Z, a voter initiative entitled “Oakland Cannabis Regulation and Revenue Ordinance”, which the Oakland electorate passed on November 2, 2004 and which initiative became effective on December 7, 2004, private adult cannabis (marijuana) offenses are the City’s lowest law enforcement priority; and be it further

RESOLVED, private adult cannabis offenses do not include the use, sale, distribution, preparation and/or cultivation in settings that are not private, including but not limited to motor vehicles, markets, stores, cabarets, establishments selling alcoholic beverages, cafes and restaurants, retail outlets, stores, warehouses and industrial facilities/establishments that are not (1) zoned and (2) used primarily as private residences, and other commercial establishments; nor do private adult cannabis offenses include use, sale, distribution, preparation and/or cultivation on City owned or leased property whether or not the property is rented or leased by private parties for a private purpose such as a party, meeting or other activity; and be it further distribution to minors, distribution or consumption on streets or other public places or motor vehicles

RESOLVED, no activities related to cannabis other than those described in this resolution shall be a low priority for the City of Oakland; and be it further

RESOLVED, that no use that purports to have distributed marijuana prior to the enactment of Chapter 5.80 shall be deemed to have been legally established use under the provisions of the Oakland Planning Code and such use shall not be entitled to claim legal nonconforming status

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

AYES –BROOKS, BRUNNER, CHANG, DE LA FUENTE, KERNIGHAN, NADEL, QUAN, REID,

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
La Tonda Simmons, City Clerk
and Clerk of the Council
Of the City of Oakland, California