



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2019 MAY 29 PM 3:49

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Greg Minor
Assistant to the City
Administrator

SUBJECT: Cannabis Regulatory Commission
2016-2018 Report

DATE: May 10, 2019

City Administrator Approval

Date:

5/29/19

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report From The Cannabis Regulatory Commission For The Years 2016-2018.

EXECUTIVE SUMMARY

In 2004 Oakland voters passed ballot Measure Z, a voter initiative entitled "Oakland Cannabis Regulation and Revenue Ordinance." In accordance with Ordinance No. 12694 C.M.S., which established the advisory committee's procedures, staff hereby presents a report on the Cannabis Regulatory Commission's 2016-2018 activities for City Council review (**Attachment 1**).

For questions regarding this report, please contact Greg Minor, Assistant to the City Administrator, at (510) 238-6370.

Respectfully submitted,

GREG MINOR
Assistant to the City Administrator
City Administrator's Office

Attachments:

(1): Cannabis Regulatory Commission 2016-2018 Report

Item: _____
CED Committee
June 11, 2019

ATTACHMENT 1

**CITY OF OAKLAND CANNABIS REGULATORY COMMISSION
2016-2018 REPORT**

To: Oakland City Council Community Economic Development Committee
From: Cannabis Regulatory Commission
Re: 2016-2018 Report
Date: May 10, 2019

Members: Chang Yi, Chair, District 2; Zachary Knox, Vice-Chair, District 3; Lanese Martin, District 1; Jin Jack Shim, District 4; Matt Hummel, District 5; Derreck Johnson, District 6; Frank Tucker, District 7; Jeff Hutcher, At Large; Stephanie Floyd-Johnson, Mayor; Greg Minor, City Administrator.

I. INTRODUCTION

Since the passage of long overdue state legislation in 2015 and 2016 that legalized the cannabis industry's supply chain and the adult use of cannabis, the Cannabis Regulatory Commission (CRC) has engaged in numerous policy debates, including several of which were presented to and considered by the City Council over the last three years. Now that this initial flurry of policy debates has passed, the CRC can reflect on its 2016-2018 activities and highlight outstanding issues for the City Council's consideration.

II. COMPOSITION OF CANNABIS REGULATORY COMMISSION

The CRC's membership has changed dramatically over the course of 2016-2018. Only former Chair Matt Hummel was a member of the CRC in 2016. Further, the CRC has evolved from a predominantly white commission with zero African-American members to a commission that predominantly consists of people of color, including several African-Americans, though, there are no Latinos serving on the commission presently.

In fall of 2018 the CRC elected a new Chair and Vice-Chair, Chang Yi and Zachary Knox, respectively. All eleven positions on the commissions are currently filled except for the City Auditor's representative. The CRC only failed to establish a quorum for its monthly meeting one time over the course of 2016-2018.

III. 2016-2018 CANNABIS REGULATORY COMMISSION ACTIVITY

Below the CRC has outlined its activities during each of the last three years and how the CRC's activities interacted with the local and state legislative context at the time. For a summary chart of the CRC's activities and the local and state cannabis context from 2016-2018 please see **Attachment A**.

a. 2016

In November 2016, the California electorate passed Proposition 64, the Adult Use of Marijuana Act (AUMA), which legalized adult use and extended the legalization of the cannabis industry's supply chain that the Medical Cannabis Regulation and Safety Act (MCRSA) had initiated in 2015. In turn, the Oakland City Council updated its cannabis permitting ordinances, Oakland Municipal Code (OMC) 5.80 and 5.81, including an initial version of the equity program, before considering various proposals to amend these ordinances and ultimately directing the City Administration to conduct a race and equity analysis of these proposals.

During this time the CRC made several recommendations that were later adopted by the State, City Council, or City Administration. These include the CRC's support of the passage of Proposition 64, modifying the qualifying police beats under the initial equity program, expanding the size allowed for personal cultivation, and allowing onsite consumption at dispensaries.

The CRC also made recommendations in 2016 that were not adopted by the State, City Council, or City Administration. These recommendations include:

- formalizing a cannabis job training program;
- clarifying legal paths for disposing cannabis waste;
- improving banking access for cannabis businesses;
- expediting building and fire permitting;
- reducing criminal enforcement of cannabis offenses; and
- reducing disparate enforcement outcomes by race.

b. 2017

2017 was an even busier year for cannabis regulations. The State legislature consolidated medical and adult use laws by passing the Medical and Adult Use of Cannabis Regulation and Safety Act (MAUCRSA) and the State agencies regulating cannabis businesses released their initial set of regulations.

At the local level, the City Administration presented its race and equity analysis, which led to the Oakland City Council adopting a revised equity permit program and funding technical and financial assistance to equity applicants through new incoming cannabis tax revenue. Later in the year the City Council further amended OMC 5.80 and 5.81 to incorporate adult use of cannabis and local authorizations for a temporary state license. The City Administration also began receiving applications for non-dispensary operations and for eight additional dispensary permits.

In 2017 the CRC's recommendations for establishing a permitting process for temporary cannabis events, expanding the methods for documenting one's residency or income under the equity program, and for allowing cannabis businesses to share space were adopted at both the local and state levels.

In contrast, the following CRC's recommendations were not adopted:

- formally adopt the CRC's advisory role on all cannabis matters;
- expand the areas where cannabis businesses are allowed; and
- remove the numeric limit on the dispensary permits.

c. 2018

In 2018 cannabis regulations continued to evolve at both the state and local level. State agencies updated their regulations multiple times and the State legislature passed several cannabis related bills, including the California Cannabis Equity Act of 2018. The City Administration processed hundreds of cannabis permit applications and selected eight new dispensary operators. The Oakland City Council amended OMC 5.80 and 5.81 to protect live-work and residential premises and incorporate clean-up amendments. The City Council also placed Measure V on the ballot to authorize the City Council to reduce the tax rate for adult use cannabis businesses. Oakland voters then overwhelmingly approved Measure V.

The CRC's recommendation to protect work-live and residential uses from being displaced by cannabis businesses was adopted by the City Council. Likewise, the City Administration adopted the CRC's recommendations to decrease the amount of criminal enforcement of cannabis offenses and to extend the hours of operation for dispensaries.

On the other hand, the following CRC's recommendations were not adopted:

- eliminate taxes for compassion programs;
- formally establish Oakland as a sanctuary city for cannabis; and
- eliminate disparities across racial groups in cannabis enforcement.

IV. OUTSTANDING ISSUES

Below the CRC has highlighted outstanding issues for the City Council's consideration.

a. Extent of Cannabis Regulatory Commission's Authority

The extent of the CRC's authority continues to be an unresolved issue.

In its 2004 Impartial Analysis of Measure Z, the City Attorney's Office determined that Sections five and eight of Measure Z, which required the City

of Oakland to regulate adult use of cannabis if state law changed and to advocate for changes in state law, were unconstitutional because they did not enact a law (for the actual text of Measure Z see **Attachment B**). The City Attorney's Office also interpreted the undefined term of "private adult cannabis offenses" to mean cannabis use, cultivation, sale, possession, and distribution that takes place in one's home. The City Council later formally adopted this interpretation by Resolution.

These interpretations limited the CRC's formal authority to just advising the City Council regarding the lowest law enforcement priority for private adult cannabis offenses. However, since the December 2014 City Council Public Safety Committee directed the City Administration to consult the CRC regarding proposed amendments to the City's cannabis permitting ordinances, the CRC has become the de facto advisory commission for all cannabis policy matters. In July 2017 the CRC requested an updated opinion from the City Attorney's Office regarding the extent of the CRC's authority in light of the passage of Proposition 64. The CRC received an updated analysis in May 2019.

b. Use of Cannabis Tax Revenue

Part of the reason the CRC requested an updated opinion from the City Attorney's Office regarding the CRC's authority is because the commission is interested in exercising its stated authority under Measure Z Section 7 (d), "[to] oversee the disbursement of revenues generated through the sale of cannabis by licensed cannabis businesses to ensure that funds go to vital city services such as schools, libraries and youth programs."

Additionally, in 2017 the City Council directed the future use of cannabis tax revenues via Resolution 86633, which provided funding for the equity applicant revolving loan program, two years of consultants to administer the loan program and provide technical assistance, and directed that twenty percent of any remaining cannabis tax revenue go towards job training services, blight abatement, and loans to low income cannabis operators (Resolution 86633 is available as **Attachment C**). Furthermore, at the March 2019 CRC meeting, the CRC moved that the City Council apportion a significant portion of cannabis tax revenue received towards helping victims of the war on drugs by (1) continuing the equity program and (2) community reinvestment, including workforce development programs.

c. Cannabis Tax Rate

In addition, the CRC supports lowering the City of Oakland's cannabis tax rate to encourage more cannabis businesses to situate and/or remain in Oakland. At the March 2019 CRC meeting, the CRC moved to adopt the Oakland Citizens for Equity and Prosperity's March 4, 2019 Cannabis Tax

Policy Proposal, which recommended the City of Oakland tax all cannabis distributors at the same rate as non-cannabis businesses and all other cannabis operations at zero percent if their annual gross receipts are less than \$1 million, 0.75 percent if their annual receipts are between \$1 and \$2 million, and 1.5 percent for annual receipts over \$2 million.

d. Ensuring Success of Equity Program

The CRC is also interested in ensuring the cannabis equity program is successful in fostering equity cannabis businesses that are compliant, operational, and sustainable. The CRC has been and will continue to be a forum for operators and advocates to discuss issues related to the equity program. The CRC will continue to work with the City Administration on any administrative recommendations related to the equity program, and the CRC will forward legislative recommendations for the City Council's consideration.

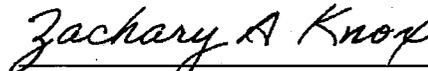
e. Disparities in Criminal Enforcement of Cannabis Offenses

Although the overall amount of criminal cannabis enforcement in the City of Oakland has dropped considerably since the passage of Proposition 64, racial disparities remain with African-Americans and other people of color still being cited and arrested at disproportionately higher rates (see OPD Report on Citations and Arrests for 2017 Cannabis Offenses in **Attachment D**). The CRC expects OPD to continue working with the commission on developing and implementing policies until these disparities are resolved.

Respectfully submitted,



CHANG YI
Chair
Cannabis Regulatory Commission



ZACHARY KNOX
Vice-Chair
Cannabis Regulatory Commission

Attachments:

- A: Cannabis Regulatory Commission 2016-2018 Summary Chart**
- B: Text of Measure Z**
- C: Resolution 86633**
- D: OPD Report on Citations and Arrests for 2017 Cannabis Offenses**

ATTACHMENT A

CANNABIS REGULATORY COMMISSION 2016-2018 SUMMARY CHART

	2016	2017	2018
State Actions	<ul style="list-style-type: none"> California Voters Pass the Adult Use of Marijuana Act (AUMA) or Proposition 64 	<ul style="list-style-type: none"> State Legislature Consolidates Medical Cannabis and Regulation Act (MCRSA) with AUMA via Medical and Adult Use of Cannabis Regulation and Safety Act (MAUCRSA) 	<ul style="list-style-type: none"> State Agencies Introduce Updated Regulations and Propose Further Regulations
		<ul style="list-style-type: none"> State Agencies Release Initial Regulations 	<ul style="list-style-type: none"> The Legislature Considers and Passes Numerous Cannabis Related Bills
City Council/City Administration Actions	<ul style="list-style-type: none"> City Council Enacts Initial Equity Program and OMC Updates 	<ul style="list-style-type: none"> City Administration Presents Race and Equity Analysis 	<ul style="list-style-type: none"> Eight New Dispensary Operators Selected
	<ul style="list-style-type: none"> City Council Considers Various Proposals to Amend Initial Equity Program 	<ul style="list-style-type: none"> City Council Enacts Revised Equity Permit Program 	<ul style="list-style-type: none"> City Council Amends OMC 5.80 and 5.81 to Protect Work-Live and Residential Premises
	<ul style="list-style-type: none"> City Council Directs the City Administration to Conduct a Race and Equity Analysis of the Different Proposals 	<ul style="list-style-type: none"> City Council Funds Technical and Financial Assistance via Incoming New Cannabis Tax Revenue 	<ul style="list-style-type: none"> City Council Passes Clean-Up Amendments
		<ul style="list-style-type: none"> City Council Further Amends OMC to Incorporate Adult Use and Temporary State License Process 	<ul style="list-style-type: none"> City Council Places Ballot Measure re Cannabis Tax Policy Before Oakland Voters
		<ul style="list-style-type: none"> Applications for Non-Dispensary Permits Become Available Applications for 8 New Dispensary Permits Accepted 	
CRC Recommendations Adopted by State, City Council, or City Administration	<ul style="list-style-type: none"> Passage of Proposition 64 	<ul style="list-style-type: none"> Establish a Permitting Process for Cannabis Events 	<ul style="list-style-type: none"> Protect Work-Live and Residential Uses From Cannabis Displacement
	<ul style="list-style-type: none"> Expand Equity Qualifying Police Beats 	<ul style="list-style-type: none"> Allow for Shared Space 	<ul style="list-style-type: none"> Extend Dispensary Operating Hours
	<ul style="list-style-type: none"> Expand Size of Personal Cultivation 		<ul style="list-style-type: none"> Reduce Amount of Criminal Enforcement of Cannabis Offenses
	<ul style="list-style-type: none"> Allow Onsite Consumption at Dispensaries 		

CANNABIS REGULATORY COMMISSION 2016-2018 SUMMARY CHART

	2016	2017	2018
CRC Recommendations Not Yet Adopted by State, City Council, or City Administration	<ul style="list-style-type: none"> • Cannabis Job Training 	<ul style="list-style-type: none"> • Formalize CRC's advisory role for all City cannabis matters 	<ul style="list-style-type: none"> • Formalize CRC's Role re Oversight of Spending of Cannnabis Revenues Received
	<ul style="list-style-type: none"> • Clarify Legal Paths for Disgarding Cannabis Waste 	<ul style="list-style-type: none"> • Expand the Areas Where Cannabis Activity is Allowed 	<ul style="list-style-type: none"> • Eliminate Taxes for Compassion Programs
	<ul style="list-style-type: none"> • Improve Banking Access for Cannabis Businesses 		
	<ul style="list-style-type: none"> • Expedite Building and Fire Permitting 		
	<ul style="list-style-type: none"> • Less Criminal Enforcement of Cannabis Offenses and Less Disparate Enforcement Outcomes by Race 	<ul style="list-style-type: none"> • Remove Limit on the Number of Dispensary Permits 	<ul style="list-style-type: none"> • Establish Oakland is a Sanctuary City Policy for Cannabis

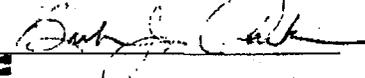
ATTACHMENT B

OAKLAND CITY COUNCIL

REVISED
7/26/04

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Approved as to form & Legality



2004 JUL 23 AM 10:53
RESOLUTION NO. _____

== 78733 ==

C.M.S.

INTRODUCED BY
COUNCILMEMBER _____

Resolution Submitting to the Voters a Proposed Initiative Ballot Measure – An Ordinance that would require that the City of Oakland (1) Make investigation, citation and arrest for private adult cannabis (marijuana) offenses the City’s lowest law enforcement priority; (2) Advocate through its lobbyist and City officers for changes in state and other laws to (a) allow and authorize taxation and regulation of cannabis (marijuana) for adults and eliminate criminal penalties for private, adult cannabis use, (b) grant local control to cities and counties to license and regulate cannabis businesses and collect appropriate fees and taxes, and (c) end the prosecution arrest, investigation and imprisonment for adult private cannabis offenses; (3) Establish a system to license, tax and regulate cannabis (marijuana) sales if California law is amended to allow and authorize such actions; and (4) Create a committee to oversee the ordinance’s implementation and disbursement of revenue from licensing and taxation of businesses that sell cannabis at the General Municipal Election to be held on Tuesday, November 2, 2004; and directing the City Clerk to fix the date for submission of arguments and to provide for Notice and Publication in accordance with law and requesting the County Board of Supervisors to consolidate Oakland’s Election with the Statewide General Election

WHEREAS, the City Clerk of the City of Oakland has certified to the Oakland City Council that petitions for a proposed initiative ballot measure entitled “Cannabis Regulation – An Ordinance that would require that the City of Oakland (1) Establish a system to License, Tax and Regulate Cannabis (Marijuana) Sales as soon as possible under California Law; (2) Create a committee to oversee the Ordinance’s implementation and disbursement of Revenue from Licensing and Taxation of Businesses that sell Cannabis (3) Adopt law enforcement policies related to Cannabis; and (4) Advocate for changes in laws to support implementation and goals of the Ordinance” has been accompanied by verified signatures of ten (10%) percent of the registered electors of the City; and

WHEREAS, the City Council has a ministerial duty pursuant California Elections Code section 9215 to either adopt the initiative without alternation as a City ordinance or submit the initiative to the voters; and

WHEREAS, the next municipal election at which this proposed initiative ballot measure can be voted upon will occur on Tuesday, November 2, 2004; and Elections Code Section 10400 et seq. allows for the General Municipal Election to be consolidated with the statewide general election to be held on the same date; now, therefore be it

WHEREAS, the City Council does hereby submit to the qualified electors of the City of Oakland the aforesaid proposed initiative ballot measure to be voted upon at the General Municipal Election consolidated with the Statewide General Election to be held on Tuesday, November 2, 2004, now therefore be it

RESOLVED: that the proposed initiative ballot measure text shall read as follows:

Section 1: TITLE

Oakland Cannabis Regulation and Revenue Ordinance

Section 2: FINDINGS

The people of Oakland, California find as follows:

WHEREAS it is a goal of the people of Oakland to keep drugs off the streets and away from children, and to eliminate street dealing and violent crime; and

WHEREAS each year California spends over \$150 million enforcing cannabis (marijuana) laws, expending valuable law enforcement resources that would be better spent on fighting violent and serious crimes; and

WHEREAS medical and governmental studies have consistently found cannabis to be less dangerous than alcohol, tobacco and other drugs; and

WHEREAS otherwise law-abiding adults are being arrested or imprisoned for nonviolent cannabis offenses, clogging our courts and jails; and

WHEREAS controlling and regulating cannabis so that it is only sold by licensed businesses would undermine the hold of street dealers on our neighborhoods; and

WHEREAS in the face of the severe state and local budget crisis, the revenues from taxing and licensing cannabis would help fund vital Oakland city services; and

WHEREAS the current laws against cannabis have needlessly harmed patients who need it for medical purposes, and impeded the development of hemp for fiber, oil, and other industrial purposes; and

WHEREAS it is the hope of the people of Oakland that there will be state and federal law reform that will eliminate the problems and costs caused by cannabis prohibition;

THEREFORE the people of the City of Oakland do hereby enact the following ordinance establishing the cannabis policy of the city.

Section 3: DEFINITION

"Cannabis" - Means "marijuana" as currently defined in California Health & Safety Code Section 11018.

Section 4: PURPOSE

The purpose of this ordinance is:

- a) To direct the City of Oakland to tax and regulate the sale of cannabis for adult use, so as to keep it off the streets and away from children and to raise revenue for the city, as soon as possible under state law.
- b) To direct the Oakland Police Department to make investigation, citation, and arrest for private adult cannabis offenses the lowest law enforcement priority, effective immediately upon passage of this ordinance.

c) To advocate for changes in state law (and at other levels as necessary) to authorize the taxation and regulation of cannabis and eliminate criminal penalties for private, adult cannabis use.

Section 5: REGULATION

The City of Oakland shall establish a system to license, tax and regulate cannabis for adult use as soon as possible under California law. At that time, the City Council shall promulgate regulations that include, but are not limited to, the following provisions consistent with California law:

- a) The sale and distribution to minors will be strictly prohibited;
- b) The city shall establish a licensing system for cannabis businesses, with regulations to assure good business practices, compliance with health and safety standards, access for persons with disabilities, and nuisance abatement;
- c) Minors shall not be permitted in areas where cannabis is sold, nor shall minors be employed by licensed cannabis businesses;
- d) No business licensed to sell cannabis will be located within 600 feet of a school;
- e) Cannabis businesses shall be required to pay taxes and licensing fees;
- f) The public advertising of cannabis through television, radio or billboards will be prohibited; and
- g) Onsite consumption shall be licensed so as to keep cannabis off the streets and away from children, subject to reasonable air quality standards.

Section 6: LOWEST LAW ENFORCEMENT PRIORITY

- a) The Oakland Police Department shall make investigation, citation, and arrest for private adult cannabis offenses Oakland's lowest law enforcement priority.
- b) This "lowest law enforcement priority" policy shall *not* apply to distribution of cannabis to minors, distribution or consumption of cannabis on streets or other public places, or motor vehicle violations.

Section 7: COMMUNITY OVERSIGHT COMMITTEE

A Community Oversight Committee shall be appointed to oversee the implementation of the Oakland Cannabis Regulation and Revenue Ordinance. The Committee will be composed of:

- 1 community member appointed by each member of the Oakland City Council,
- 1 community member appointed by the Mayor of Oakland,
- 1 representative of the Oakland City Auditor,
- 1 representative of the Oakland City Manager.

Responsibilities of the Committee shall include:

- a) Ensure timely implementation of this ordinance
- b) Oversee the implementation of the Lowest Law Enforcement Priority policy;
- c) Make recommendations to the Oakland City Council regarding appropriate regulations, in accordance with Section 5 above;
- d) Oversee the disbursement of revenues generated through the sale of cannabis by licensed cannabis businesses to ensure that funds go to vital city services such as schools, libraries and youth programs; and
- e) Report annually to the Council on implementation of this ordinance.

Section 8: ADVOCACY FOR LEGISLATIVE REFORM

The City of Oakland shall advocate, through its lobbyist and other city officers, for changes to state law (and laws at other levels of government as necessary) to support the goals and implementation of this ordinance. Legislative changes to be advocated include:

- a) Allow for taxation and regulation of cannabis for adults;
- b) Grant local control to cities and counties to license and regulate cannabis businesses, and collect appropriate fees and/or taxes; and
- c) End the prosecution, arrest, investigation and imprisonment for adult, private cannabis offenses.

Section 9: SEVERABILITY

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

and be it,

FURTHER RESOLVED: that the City Council of the City of Oakland does hereby request that the Board of Supervisors of Alameda County order the consolidation of the General Municipal Election of November 2, 2004, with the statewide general election of November 2, 2004 consistent with the provisions of state law; and,

FURTHER RESOLVED: that in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed initiative and said date shall be published in accordance with state laws; and be it

FURTHER RESOLVED: that each ballot used at said municipal election shall have printed therein, in addition to any other matter required by law the following:

PROPOSED VOTER INITIATIVE - ORDINANCE

MEASURE _____

Measure _____. Shall the ordinance requiring the City of Oakland (1) to make law enforcement related to private adult cannabis (marijuana) use, distribution, sale, cultivation and possession, the City's lowest law enforcement priority; (2) to lobby to legalize, tax and regulate cannabis for adult private use, distribution, sale, cultivation and possession; (3) to license, tax and regulate cannabis sales if California law is amended to allow such actions; and (4) to create a committee to oversee the ordinance's implementation, be adopted?	Yes	
	No	

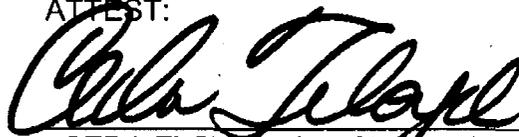
FURTHER RESOLVED, that the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the November 2, 2004, General Municipal Election and the City Council hereby authorizes and appropriates all money necessary for the City Administrator and City Clerk to prepare for and conduct the November 2, 2004 General Municipal Election consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA, _____ JUL 20 2004 _____, 2004

PASSED BY THE FOLLOWING VOTE:

AYES: - BROOKS, BRUNNER, ~~CHANG~~, NADEL, QUAN, ~~REID~~, WAN
 AND PRESIDENT DE LA FUENTE - 6
 NOES: - REID, CHANG - 2
 ABSENT: - 0
 ABSTENTION: - 0

ATTEST:



CEDA FLOYD, City Clerk and Clerk of the City Council of the City of Oakland, California

ATTACHMENT C

REVISED BY COUNCIL 3-7-17
OFFICE OF THE CITY CLERK
OAKLAND

2017 APR -4 PM 1:50

APPROVED AS TO FORM AND LEGALITY

Rocio V. Garcia
City Attorney's Office

OAKLAND CITY COUNCIL
RESOLUTION No. 86633 C.M.S.

Introduced by Councilmember Kaplan

**RESOLUTION ESTABLISHING BUDGET PRIORITIES FOR
EXPENDITURE OF CANNABIS BUSINESS TAXES COLLECTED BY
THE CITY PURSUANT TO OAKLAND MUNICIPAL CODE SECTION
5.04.480 AND 5.04.481**

WHEREAS, through the passage of Proposition 215, the voters of California authorized the use of cannabis for medical purposes in 1996; and

WHEREAS, by a 79% vote in favor of the proposition, the voters of Oakland overwhelmingly approved Proposition 215; and

WHEREAS, the City Council of the City of Oakland has adopted medical cannabis permitting ordinances to prevent nuisance, provide for effective controls, enable medical cannabis patients to obtain cannabis from safe sources, and provide appropriate licensing in a manner consistent with state law, as codified at Chapters 5.80 and 5.81 of the Oakland Municipal Code (hereinafter, "OMC"); and

WHEREAS, in November 2010, the City's electorate approved a 5% business license tax for medical cannabis businesses and a 10% business license tax for adult use cannabis businesses, both of which are respectively codified in OMC Section 5.04.480 and OMC Section 5.04.481; and

WHEREAS, a cannabis business' obligation to pay taxes pursuant to Chapter 5.04 of the Oakland Municipal Code is wholly independent of the business' right to operate the business under federal, state or city law, and the imposition and collection of such taxes do not confer any regulatory right to operate. (*See OMC Section 5.04.050- "the taxes prescribed by the provisions of this chapter constitute a tax for revenue purposes, and are not regulatory permit fees.*); and

WHEREAS, the payment of a business tax required by this chapter, and its acceptance by the City, and the issuance of a business certificate to any person shall not entitle the holder thereof (1) to carry on any business unless he or she has complied with all of the requirements of this chapter and all other applicable laws, nor (2) to carry on any business activity in any building or on any premises designated in such business tax certificate in the event that such business activity in the building or premises violates of any law; and

WHEREAS, certain low-income communities and communities of color have been negatively and disproportionately impacted by disparate enforcement of cannabis laws, and police arrest data reflect disproportionately higher arrests for cannabis offenses in certain police

beats; and

WHEREAS, individuals arrested and previously convicted for cannabis related offenses face significant barriers to obtaining employment, financial aid, housing, and other economic opportunities; and

WHEREAS, at the November 14, 2016 special council meeting, the City Council adopted the racial equity outcome goal of promoting equitable ownership and employment opportunities in the cannabis industry in order to decrease disparities in life outcomes for marginalized communities of color and to address the disproportionate impacts of the war on drugs in those communities; and

WHEREAS, at the November 14, 2016 special council meeting, the City Council directed the City Administrator to perform a race and equity analysis of medical cannabis regulations and return to the council with revised versions of Oakland Municipal Code Sections 5.80 and 5.81; and

WHEREAS, the City Administrator's March 7, 2017 race and equity analysis identified access to capital and real estate as well as the need for technical assistance as key barriers to achieving equity within the medical cannabis industry; and

WHEREAS, the City of Oakland seeks to address these barriers to equity in business ownership in the cannabis industry through the incorporation of an Equity Assistance Program that will provide financial and technical assistance to Equity Applicants under Oakland Municipal Code Sections 5.80 and 5.81; and

WHEREAS, said financial assistance shall include zero interest loans for business start-up, operations costs, equipment, technology and system upgrades, and preparation of business plans and compliance with all applicable laws; and

WHEREAS, to serve around thirty to thirty-five cannabis businesses annually, the City Administrator anticipates the Equity Assistance Program requiring an initial one-time seed fund of approximately \$3 million for the revolving no-interest loan program, and one-time funding in the amount of approximately \$400,000 to fund an outside entity to operate the program at the cost of up to \$200,000 annually; and

WHEREAS, the City Administrator and City Council desire to evaluate the Equity Assistance Program after two years to ensure it is achieving its intended goals of reducing equity barriers and promoting a more equitable cannabis industry; now, therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES RESOLVE AS FOLLOWS:

Section 1. Budget Priorities.

A. In the first year of the Equity Assistance Program, the City will appropriate \$200,000 from the general fund to pay for a consultant to administer zero interest loans and provide technical assistance, preparation of business plans, and compliance with all applicable law. The general fund will be reimbursed from incoming business taxes collected pursuant to Sections 5.04.480 and 5.04.481 of the Oakland Municipal Code from cannabis operations.

B. The City Administrator shall allocate the first \$3.4 million of incoming business taxes collected from cannabis operations (other than the initial eight licensed medical cannabis dispensaries) pursuant to OMC Sections 5.04.480 and 5.04.481 for the Cannabis Equity Assistance Program consisting of the following services:

1. \$3 million of one-time funds towards financial assistance for cannabis equity applicants in the form of zero interest loans for business start-up, operations costs, equipment, technology and system upgrades; and
2. \$400,000 of one-time funds towards a consultant to administer the financial assistance described above for the first two years (\$200,000 per year), and provide technical assistance, in the community through trusted advocates, to cannabis equity applicants; including preparation of business plans and compliance with all applicable laws. Part of these funds will be used to reimburse the general fund, as provided in Section A, above. Ongoing funding will be determined by the City Administrator and City Council in conjunction with the evaluation of the Equity Assistance Program's performance after two years.
3. The initial \$3.4 million of business taxes collected from cannabis operations (other than the City's initial eight licensed medical cannabis dispensaries) will be deposited in the General Purpose Fund (1010), Treasury: Operations Org (08721), Local Taxes: Business Tax Account (41511), DP080 Administrative Project (1000007), Financial Management Program (IP59), and upon receipt of these revenues the City Administrator is authorized to appropriate this one-time funding in the City Administrator's Organization (02111) for the Cannabis Equity Assistance Program described above.

C. After the initial \$3.4 million allocation, the City Administrator shall allocate and budget for the expenditure of 20% of the taxes collected pursuant to OMC Section 5.04.480 for the purposes listed below. The City Council will determine the specific services and programs selected at a future date.

1. One third for job training and other job-preparation and placement services.
2. One third for blight abatement, prevention and cleanup of illegal dumping, graffiti abatement, and services for homeless persons.
3. One third to fund loans for lower-income, under-served persons or entities who seek to open, or to continue operating, medical marijuana dispensaries or cultivation facilities in the City's jurisdiction, in compliance with OMC Chapters 5.80 and/or 5.81.

Section 2. Severability. The provisions of this Resolution are severable. If a court of competent jurisdiction determines that any word, phrase, clause, sentence, paragraph, subsection, section, chapter or other provision (collectively called "Part") is invalid, or that the application of any Part of this Resolution to any person or circumstance is invalid, such decision shall not affect the validity of the remaining Parts of this Resolution. The City Council declares that it would have adopted this Resolution irrespective of the invalidity of any Part of this Resolution or its application to such persons or circumstances have expressly excluded from its coverage.

Section 3. California Environmental Quality Act Requirements. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., including without limitation" Public Resources Code section 21065, CEQA Guidelines 15378(b)(4) and 15061(b)(3), 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.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 07 2017

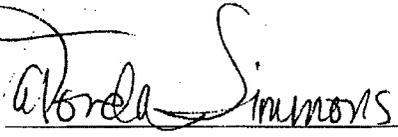
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY,
~~WILSON~~, KALB, KAPLAN AND PRESIDENT REID- 7

NOES- *Guillen- 1*

ABSENT- *0*

ABSTENTION- *0*

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

2072533v4

ATTACHMENT D



CITY OF OAKLAND

MEMORANDUM

TO: Cannabis Regulatory Committee

FROM: Oakland Police

SUBJECT: Citations and Arrests for Marijuana Offenses 2017

DATE: June 25, 2018

Background

The Oakland Cannabis Regulation and Revenue Ordinance (aka Measure Z), passed with the support of 65 percent of Oakland voters on November 2, 2004. The ordinance became effective on December 7, 2004. Measure Z provides that the City of Oakland make the enforcement of laws related to the private adult cannabis (marijuana) use, distribution, sale, cultivation and possession, the City's lowest law enforcement priority.

Measure Z does not change state law, which regulates medical and recreational cannabis use, or federal law, which prohibits cannabis use. The Oakland Police Department (OPD) maintains the discretion to continue law enforcement activities related to private adult cannabis offenses. Measure Z does not apply to minors, and thus does not mandate OPD to treat cannabis offenses committed by minors (possession, distribution, or consumption) as a low priority.

In 2005, the Office of the City Attorney (OCA) defined private adult cannabis offenses that are covered by the lowest law enforcement policy as those that occur on private property and in a setting that is not in public. "Private" does not include commercial settings such as cafes, markets, retail outlets, cabarets or on City owned or leased property. The City Council amended the ordinance to include this definition of "private."

2017 Marijuana Citations & Arrests

In 2017, OPD issued 15 citations for possession of less than one ounce of marijuana under Section 11357(b) H&S (Health and Safety Code) (See Table 1 below), which equates to a 92 percent decrease from 2016. Approximately 38 percent of incidents involved vehicle stops for traffic violations where marijuana was observed or found after the stop. A majority of the remaining incidents involved walking stops where persons were observed with marijuana in a public place.

Table 1: 2017 11357(B) Citations by Sex and Race

Race	Male	Fem	Total	Percent
African American	6	3	9	60%
Asian	1	0	1	7%
Hispanic	4	0	4	27%
White	1	0	1	7%
Other	0	0	0	0%
Total	12	3	15	100%

Cannabis Regulatory Committee

Citations and Arrests for Marijuana Offenses - 2017

Date: June 25, 2018

The number of citations dropped by 78 percent per month (from an average of 18 per month to an average of four per month) upon passage California Proposition 64 passed in November 2016.

In 2017, OPD made six arrests for possession of more than one ounce of marijuana under Section 11357(c) H&S.

In 2017, the Oakland Police Department's Homicide Section investigated 72 deaths that were classified as homicides per Federal Bureau of Investigation (FBI) Uniform Crime Report (UCR) guidelines. The motive in four of these murders involved marijuana.

In 2017, OPD made two arrests for marijuana cultivation (Section 11358 H&S). Both of the arrests were from the same case and a firearm was recovered. Arrests for the sale of marijuana decreased nearly 61 percent from 286 in 2016 to 112 in 2017. Arrests involving the sale and transportation of marijuana decreased 85 percent from 52 in 2016 to 8 in 2017. Police beats 20X and 15X had the highest number of arrests at 10 and nine, respectively. Beats 10X, 26Y, 30X, and 34X each had six arrests per beat. Tables 2 through 4 below provide an overview of marijuana arrests by statute, sex/race and police beat.

Table 2: 2008 to 2017 Marijuana Arrests for Calendar Years

Statute	2008	2009	2010	2011	2012
Cultivation - 11358 H&S	29	37	58	8	24
Possession for Sales - 11359 H&S	618	571	517	275	192
Sales/Transportation - 11360(A) H&S	164	128	136	29	33
Total	811	736	711	312	249
Statute	2013	2014	2015	2016	2017
Cultivation - 11358 H&S	1	9	21	17	2
Possession for Sales - 11359 H&S	180	238	267	286	112
Sales/Transportation - 11360(A) H&S	55	94	43	52	8
Total	236	341	331	355	122

Table 3: 2017 Marijuana Arrests by Sex & Race

Statute	African American		Asian		Hispanic		White		Other		Total
	Male	Fem	Male	Fem	Male	Fem	Male	Fem	Male	Fem	
11358 H&S	0	0	1	0	1	0	0	0	0	0	2
11359 H&S	70	0	6	1	25	0	5	1	4	0	112
11360(A) H&S	3	0	2	0	3	0	0	0	0	0	8
Total	73	0	9	1	29	0	5	1	4	0	122

Table 4: Marijuana Arrests by Beat

Beat	Arrests	Beat	Arrests	Beat	Arrests	Beat	Arrests
20X	10	27Y	4	04X	2	18Y	1
15X	9	30Y	4	05X	2	21Y	1
19X	6	02X	3	05Y	2	24Y	1
26Y	6	03X	3	06X	2	27X	1
30X	6	07X	3	08X	2	29X	1
34X	6	10Y	3	18X	2	31Z	1
17X	5	26X	3	35X	2	77X	1
31Y	5	32Y	3	01X	1		
32X	5	33X	3	13Y	1		
21X	4	99X	3	14X	1		
23X	4	02Y	2	17Y	1		
Total	66	Total	34	Total	18	Total	7

/s/
Roland Holmgren
Captain of Police