

**DRAFT**

CITY ATTORNEY'S OFFICE

## **OAKLAND CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_ C.M.S.**

**INTRODUCED BY COUNCILMEMBER LOREN TAYLOR, COUNCILMEMBER TREVA REID, AND COUNCILMEMBER NOEL GALLO**

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**RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE VOTERS AT THE NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION AN AMENDMENT TO THE OAKLAND CITY CHARTER TO ADD ARTICLE XVII TO: (1) ESTABLISH THE "EMERALD NEW DEAL FUND" FOR CANNABIS BUSINESS TAX REVENUE TO BE USED FOR SERVICES AND PROGRAMS TO ADDRESS RACIALLY INEQUITABLE IMPACTS OF THE WAR ON DRUGS ON INDIVIDUALS, FAMILIES, AND COMMUNITIES IN THE CITY OF OAKLAND; AND (2) RE-ESTABLISH THE CANNABIS REGULATORY COMMISSION, AS THE "END-HARM CANNABIS REGULATORY COMMISSION," WITH REVISED MEMBERSHIP AND RESPONSIBILITIES, INCLUDING TO ADVISE THE COUNCIL ON EXPENDITURE OF THE EMERALD NEW DEAL FUND; AND DIRECTING THE CITY CLERK TO TAKE ALL ACTIONS NECESSARY UNDER LAW TO SUBMIT THIS ITEM TO THE VOTERS AT THE NOVEMBER 8, 2022 GENERAL ELECTION**

**WHEREAS**, the War on Drugs, is the effort in the United States since the 1970s to combat illegal drug use by greatly increasing penalties, enforcement, and incarceration for drug offenders. The War on Drugs began in June 1971 when U.S. Pres. Richard Nixon declared drug abuse to be "public enemy number one" and increased federal funding for drug-control agencies and drug-treatment efforts. In 1973 the Drug Enforcement Administration was created out of the merger of the Office for Drug Abuse Law Enforcement, the Bureau of Narcotics and Dangerous Drugs, and the Office of Narcotics Intelligence to consolidate federal efforts to control drug abuse; and

**WHEREAS**, the War on Drugs was a relatively small component of federal law-enforcement efforts until the presidency of Ronald Reagan, which began in 1981. Reagan greatly

expanded the reach of the drug war and his focus on criminal punishment over treatment led to a massive increase in incarcerations for nonviolent drug offenses, from 50,000 in 1980 to 400,000 in 1997; and

**WHEREAS**, in 1986, Congress passed the Anti-Drug Abuse Act, which established mandatory minimum prison sentences for certain drug offenses. This law was later heavily criticized as having racist ramifications because it allocated longer prison sentences for offenses involving the same amount of crack cocaine (used more often by black Americans) as powder cocaine (used more often by white Americans). Five grams of crack triggered an automatic five-year sentence, while it took 500 grams of powder cocaine to merit the same sentence; and

**WHEREAS**, the War on Drugs has resulted in the pain and suffering of everyone in Oakland, not only the individuals that have been incarcerated, their families, communities, businesses, and neighborhoods, but also the wider community that experiences living in a city with increasing and visible numbers of unhoused, unemployed, and uncared for persons and families, vacant storefronts, and blighted neighborhoods; and

**WHEREAS**, the City Council recognizes that as Oaklanders we all have a linked fate across color lines and communities, which means that the struggle of those who have been enveloped in the system of incarceration affects our entire City's ability to meet our aspirations for a safe, secure, thriving, healthy, clean, inviting, just, and stable City; and

**WHEREAS**, in Oakland between 1995 and 2015 12,665 arrests were made for crimes related to cannabis offenses with Black people comprising 77% of those arrested and LatinX people comprising 15% of those arrested; and

**WHEREAS**, sixty-seven percent of formerly incarcerated individuals were still unemployed or underemployed five years after their release; and

**WHEREAS**, the City of Oakland has been a leader in regulating medical cannabis and adult use cannabis businesses to protect the public health, safety and general welfare of the community, as well as the interest of patients who qualify to obtain, possess and use cannabis for medical purposes; and

**WHEREAS**, on November 2, 2004, Oakland voters passed Measure Z, an initiative entitled the "Oakland Cannabis Regulation and Revenue Ordinance." The ordinance enacted a City law that established a City policy making the investigation, citation, and arrest for "private adult cannabis offenses" Oakland's "lowest law enforcement priority." Measure Z also created an eleven member Community Oversight Committee, with responsibilities that include overseeing implementation of the Private Adult Cannabis Offenses Policy and making recommendations to the City Council regarding appropriate regulations. The Community Oversight Committee later, informally, changed its name to the "Cannabis Regulatory Commission"; and

**WHEREAS**, in parallel with developments in state law, the City of Oakland amended its cannabis ordinances, Oakland Municipal Code (“OMC”) Chapters 5.80 and 5.81 in May 2016 to create a permitting process for the entire supply chain of cannabis businesses; and

**WHEREAS**, the City of Oakland adopted a landmark Equity Permit Program in the spring of 2017 to promote equitable ownership and employment opportunities 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 minimizing barriers of entry into the industry; and

**WHEREAS**, the voters of the City of Oakland adopted, imposed, and amended taxes on cannabis business activities, by adoption of ballot measures in 2009, 2010, and 2018, which taxes are codified at Oakland Municipal Code (“OMC”) Sections 5.04.480 and 5.04.481; and

**WHEREAS**, on December 10, 2019, the Oakland City Council adopted Ordinance No. 13573 C.M.S. amending OMC Sections 5.04.480 and 5.04.481 to create a tiered and category-based tax structure for cannabis businesses; and

**WHEREAS**, the Emerald New Deal is sponsored by Equity InAdvance, a racial justice organization based in Oakland is endorsed by more than 40 local organizations, including the Black Cultural Zone, Ella Baker Center for Human Rights, Urban Strategies Council, Spiritwurz, Oakland Rising, and West Oakland Environmental Indicators Project. Community advocates who are leading the effort to mobilize city wide support, emphasize how significant the impact it will have on Oaklanders who are healing from the War on Drugs; and

**WHEREAS**, the Emerald New Deal Healing And Reparations Measure will not adopt or impose any new taxes and this Measure would provide for previously adopted and imposed taxes for cannabis business activities to remedy the harm caused by the War on Drugs; and

**WHEREAS**, revising the membership criteria and responsibilities of the Commission, and renaming it as the “END HARM Cannabis Regulatory Commission,” including for its members to include individuals directly impacted by incarceration associated with the War on Drugs, and to charge the Commission with responsibility to oversee expenditures of cannabis taxes among other responsibilities, will help remedy the negative impacts of the War on Drugs; and

**WHEREAS**, the War on Drugs has caused the destruction of families, communities, businesses, and neighborhoods and the devastation directly caused by the War of Drugs has not

been remedied and affected communities continue to suffer from the trauma and economic consequences of arrests and mass incarceration; and

WHEREAS, the funding allocations identified in this measure will provide much needed resources to areas of Oakland impacted by the War on Drugs; however, nothing in this measure suggests that this funding will resolve all of the impacts of the War on Drugs or the problems that plague underinvested impacted communities, and additional fiscal and legislative solutions are needed for a short and long term restitution, and

WHEREAS, the City Council recognizes that acknowledging the devastating effects of the War on Drugs is a starting point, and the Council should continue to pursue additional policies and funding to tackle the challenges of Oakland’s most impacted communities, and

WHEREAS, the City Council recognizes that the City’s cannabis equity operators continue to disproportionately face challenges managing their businesses, and additional administrative and financial support will help them overcome many of their challenges, and

WHEREAS, more detailed program descriptions will be developed by the END HARM Cannabis Regulatory Commission in their strategic plan and through the detailed grant and budget recommendations that they advance to Council for adoption, and

WHEREAS, cannabis business tax revenue is currently absorbed into the city’s general fund without sufficient transparency or accountability for how funds are used to benefit cannabis equity operators, and the proposed charter amendment will implement a more transparent and accountable process for direct allocation of funds to the benefit of Oakland’s cannabis equity operators, and

WHEREAS, the Oakland City Council recognizes that by investing resources into the neighborhoods and communities most impacted by the War on Drugs the entire City will be uplifted; now, therefore, be it

**RESOLVED:** the Oakland City Council finds and determines that the forgoing recitals are true and correct; and be it

**FURTHER RESOLVED:** the Oakland City Council hereby submits to the voters at the November 8, 2022 General Municipal Election a proposed amendment to the Oakland City Charter to add Article XVII that reads as follows:

**ARTICLE XVII - THE EMERALD NEW DEAL HEALING AND REPARATIONS MEASURE**

## **Section 1700. Title**

This Charter Amendment may be referred to as the “Emerald New Deal Healing And Reparations Measure”.

## **Section 1701. Findings and Declarations**

The People of the City of Oakland hereby find and declare:

- A. This Emerald New Deal Healing And Reparations Measure will not adopt or impose any new taxes. Rather, it provides for previously adopted and imposed taxes for cannabis business activities to be expended to remedy the War on Drugs, and revises and re-establishes the Cannabis Regulatory Commission as the END HARM Cannabis Regulatory Commission, to include individuals impacted by the War on Drugs to oversee these expenditures, among other responsibilities.
- B. Previously, the voters of the City of Oakland adopted and imposed taxes on cannabis business activities, which taxes are codified at Oakland Municipal Code Sections 5.04.480 and 5.04.481.
- C. The City of Oakland should use these existing taxes to be the first large city in the nation to dedicate cannabis business taxes to take decisive actions to begin to restore the lives and circumstances of individuals, families, communities, businesses, and neighborhoods that have been impacted by the War on Drugs.
- D. The War on Drugs has resulted in the pain and suffering of everyone in Oakland, not only the individuals that have been incarcerated, their families, communities, businesses, and neighborhoods, but also the wider community that experiences living in a city with increasing and visible numbers of unhoused, unemployed, and uncared for persons and families, vacant storefronts, and blighted neighborhoods.
- E. Oaklanders know we have a linked fate across color lines and communities, which means that the struggle of those that have been enveloped in the system of incarceration affects our entire City’s ability to meet our aspirations for a safe, secure, thriving, healthy, clean, inviting, just, and stable City.
- F. Oakland Statistics demonstrate the terrible impacts of the War on Drugs that this Emerald New Deal Healing And Reparations Measure will help to remedy:
  1. 12,665 Oaklanders have been arrested for crimes related to cannabis use between 1995 (the “beginning of the War on Drugs”) and 2015, with black people comprising 81% of those in the system. (*Equity Analysis and Proposed Medical Cannabis Ordinance Amendments, March 17, City of Oakland*)
  2. While stable housing is the foundation of successful reentry, formerly incarcerated individuals comprise a minimum of 25 to 50% of the Oakland homeless population, and formerly incarcerated black people have unemployment rates that are more than three times as high as white unemployment rates. +
  3. Sixty-seven percent of formerly incarcerated individuals were still unemployed or underemployed five years after their release.
  4. For families with an incarcerated loved one, the average debt incurred for court related fines and fees alone was \$13,607, almost one year’s entire annual income for families who earn less than \$15,000 per year. Additional costs not included in this figure are for phone calls, for supplies from prison-preferred vendors such as

clothing or hygiene items, copays for medical care, per diem, and fees charged for money transfers and release cards. At least 45 fines and fees can be assessed from people exiting our local criminal justice system. (*Financial Justice Project of San Francisco: Criminal Justice Administrative Fees: High Pain for People, Low Gain for Government, 2018*)

5. Nearly 2 in 3 families (65%) with an incarcerated member were unable to meet their family's basic needs, including those for food.
6. Only 1 to 2 percent of students with incarcerated mothers and 13 to 25 percent of students with imprisoned fathers graduate from college. (*2013 Report from the American Bar Association*)
7. Deportations due to drug offenses, between 2007-2012, increased 22%. Of more than 260,000 deportations across the country during that time period, 25% involved cannabis. (*A Price Too High: US Families Torn Apart by Deportations for Drug Offenses June 2015*)

References + 2015 Ella Baker Center for Human Rights and Forward Together report, "Who Pays? The True Cost of Incarceration on Families" - Oakland

### **Section 1702. Purpose**

The purpose of this Measure is to amend the Oakland City Charter to:

- (1) Establish the Emerald New Deal Fund, a fund of the City of Oakland for depositing and disbursing existing cannabis business taxes to provide community and economic development services and/or programs to address the racially inequitable impacts of the War on Drugs to individuals, families, and communities in our City;
- (2) Establish guidelines and provide direction for disbursement and allocation of the monies deposited into the Emerald New Deal Fund; and
- (3) Re-establish Cannabis Regulatory Commission as the "END HARM Cannabis Regulatory Commission," including with members who are individuals directly impacted by incarceration associated with the War on Drugs, as a commission of the City of Oakland to advise the Council on strategic investments of the Emerald New Deal Fund and other responsibilities.

### **Section 1703. Definitions**

The following definitions govern the construction of this Article:

- A. "Cannabis Business Tax" means the existing taxes codified at Oakland Municipal Code Sections 5.04.480 and 5.04.481, which upon adoption of this Charter Amendment will become special taxes to be used for the specific purposes described herein, unless and until this Charter Amendment expires.
- B. "Cannabis Equity Assistance Program" means Oakland's strategies to promote equitable ownership and employment opportunities in the cannabis industry to address the disproportionate impacts of the war on drugs in marginalized communities of color, including the City's Equity Permit Program.
- C. "City" means the City of Oakland.

- D. “Communities Impacted by the War on Drugs” means people displaced upon reentry, and places that were most impacted by the racially inequitable impacts of the War on Drugs, including but not limited to impacts relating to arrest, conviction, incarceration, and migration caused by political and economic destabilization under United States foreign policy.
- E. “Emerald New Deal Fund” means the restricted fund in the City Treasury in which the proceeds of the Cannabis Business Tax are deposited to be used solely for the purposes specified in this Measure.
- F. “Families Impacted by the War on Drugs” means the relations necessary to sustain relationships, housing, jobs, and other basic needs for survival for individuals most impacted by the racially inequitable impacts of the War on Drugs, including but not limited to impacts relating to arrest, conviction, incarceration, and migration caused by political and economic destabilization under United States foreign policy. Examples of “family” may include, but are not limited to: all persons related to those incarcerated, whether by blood relation, marriage, partnership, adoption, guardianship, parental, extended kinships and other intimate association; and those persons providing subsistence, including housing, caregiving, transportation, childcare, and basic personal needs assistance that is not paid for by the formerly incarcerated person or family members as described. Cohabitation is not a requirement in the determination of “family”.
- G. “Individual Impacted by the War on Drugs” means a person impacted by the racially inequitable impacts of the War on Drugs, including but not limited to impacts relating to arrest, conviction, incarceration, and migration caused by political and economic destabilization.
- H. “Neighborhoods Impacted by the War on Drugs” means the historically redlined geographic areas most impacted by the racially inequitable impacts of the War on Drugs, including but not limited to impacts relating to arrest, conviction, incarceration, migration caused by political and economic destabilization. These areas are defined by the following 2010 census tracts: 4014, 4015, 4016, 4017, 4018, 4022, 4024, 4025, 4028, 4030, 4031, 4054.01, 4054.02, 4058, 4059.01, 4059.02, 4060, 4062.01, 4062.02, 4063, 4066.02, 4071.01, 4071.02 4072, 4074, 4075, 4085, 4086, 4087, 4088, 4089, 4091, 4092, 4093, 4094, 4095, 4096, 4097, 4101, 4102, 4104, 4104, and 4105.

To further identify the “Neighborhoods Impacted by the War on Drugs”, a focus on the red colored sections of the Oakland Redlined Map of 1932 can be used. This map demonstrates the discriminatory practice of denying financial loans and support to predominantly black neighborhoods and launching a series of racially based disinvestment in geographic areas and neighborhoods, setting the foundation for what transpired during the war on drugs.

- I. “END HARM Cannabis Regulatory Commission” means the new City of Oakland Commission responsible for determining how, to what extent, to whom, and which services and programs will be funded to address some of the impacts from the War on Drugs, as established by this Charter Amendment.

- J. “War on Drugs” means the global, state, and local campaigns waged by the United States federal government, state governments, and local governments—through civil, criminal, quasi-military, and military actions—on the production, distribution, and use of legal and illegal drugs.

**Section 1704. Special Fund- Emerald New Deal Fund.**

The Emerald New Deal Fund is hereby established.

Effective July 1, 2023, the proceeds of the Cannabis Business Tax received by the City shall be deposited into the Emerald New Deal Fund to be used solely for the purposes specified in section 1705, unless and until this Charter Amendment expires (see Section 1709—Expiration and Reauthorization).

**Section 1705. Use of Revenue**

Monies deposited into the Emerald New Deal Fund will be used solely for the purposes identified in this section. These include:

- A. Management, Oversight, and Planning. Up to fifteen percent (15%) of the revenue deposited in any fiscal year into the Emerald New Deal Fund may be expended for the following purposes.
1. The costs to the City to recruit, establish and maintain the END HARM Cannabis Regulatory Commission, including the financial support for formerly incarcerated or systems-impacted persons serving on the Planning and Oversight Commission in the form of stipends beginning at \$1,200.00 per year increased by three percent (3%) per annum, to defray the inherent costs of serving including but not limited to a set of clothing and shoes suitable for public meetings; funds for travel and parking; and funds for childcare during member attendance at regular and special meetings and other City functions pertaining to duties as a member of the Planning and Oversight Commission.
  2. The reimbursement for costs to the City Attorney and City Auditor to respond to questions approved for submittal by the END HARM Cannabis Regulatory Commission.
  3. Reimbursements to City departments and agencies for administering the Emerald New Deal Fund. Reimbursable administrative costs include, but are not limited to:
    - i. The reimbursement for costs to the City Administrator’s Office associated with developing legislation and regulations to implement this Emerald New Deal Healing And Reparations Measure provided that those costs are



incurred within the first 180 days of City Council declaring the results of the election in which this Measure was approved in.

- ii. The cost of an audit every two years on the use of monies in the Emerald New Deal Fund.
- iii. The costs to the City associated with monitoring and enforcing compliance with this Emerald New Deal Healing And Reparations Measure.
- iv. Expenses including attorneys' fees associated with any proceedings needed to enforce the requirements of this Emerald New Deal Healing And Reparations Measure.

- 4. The administrative costs of extending and/or expanding the current Cannabis Equity Assistance Program for cannabis businesses applying for an equity permit, including a revolving zero-interest loan program and technical assistance fund.

B. City of Oakland Programs. Up to ~~thirtytwo~~-five percent (~~3525~~%) of available funds may be allocated to City of Oakland Departments to pay for City programs that benefit individuals and neighborhoods most impacted by the War on Drugs, pursuant to the Strategic Investment Plan. Prior to the Commission's completion of the Strategic Investment Plan, the City Council may allocate available revenue in the Emerald New Deal Fund as follows:

- a. Approximately one third for job training and other job-preparation and placement services.
- b. Approximately one third for blight abatement, prevention and cleanup of illegal dumping, graffiti abatement, The Mobile Assistance Community Responders of Oakland (MACRO) Program, and services for homeless persons.
- c. Approximately 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.

C. Outside Programs. Up to ~~fifty-forty~~ percent (~~5040~~%) of available funds may be allocated to private, non-profit, and public agencies, following an open and fair application process, to support existing or emerging programs that benefit Individuals Impacted by the War on Drugs and Neighborhoods Impacted by the War on Drugs, pursuant to the Strategic Investment Plan. Prior to the Commission's completion of the Strategic Investment Plan, the City Council may allocate available revenue in the Emerald New Deal Fund.

~~C.D.~~ Support For Cannabis Equity Operators. Up to twenty percent (~~20~~%) of available funds may be allocated for the support of Cannabis Businesses permitted through the Equity Permit Program (OMC 5.80.050). Allocation can be direct assistance to operators or assistance to City of Oakland or outside programs that support such businesses as specified by the END HARM CRC in accordance with the Strategic Investment Plan.

**Section 1706. END HARM Cannabis Regulatory Commission of the Emerald New Deal Fund**

The END HARM Cannabis Regulatory Commission of the Emerald New Deal Fund is hereby established.

A. The END HARM Cannabis Regulatory Commission shall:

- a. Hold regular public meetings to develop and authorize planning and oversight policies and programs, explain the Commission’s proposed policies and actions, update the community on progress in reaching goals, and solicit input on a “War on Drugs Impact Report”, Strategic Investment Plan, and other matters pertaining to the Commission’s purview.
- b. Publish, within two years of the Commission’s first meeting, a “War on Drugs Impact Report” on the War on Drugs generally and the City of Oakland’s role and responsibility in the War on Drugs specifically. This report will include an analysis of which laws and policies of the City of Oakland have advanced and continue to advance the War on Drugs. This report will seek to identify causes of racial disparities related to the War on Drugs.
- c. Develop and publish a Strategic Investment Plan every four years, beginning no more than four years after the Commission’s first meeting, to establish program funding priorities and opportunities for the Emerald New Deal Fund that address the racially inequitable impact of the War on Drugs. The Strategic Investment Plan will be developed with the involvement of residents and organizations impacted by the War on Drugs. The Strategic Investment Plan will include both general procedures for project sponsors to initiate a project as well as identify an implementation schedule and the programming of funds’ availability based on successful calls for projects. The Strategic Investment Plan will include the evaluation criteria for prioritization of projects.
  - i. The Strategic Investment Plan will assess the availability, quality, access to, and overall ability to meet the community’s needs of currently existing programs designed to support Individuals Impacted by the War on Drugs, Families Impacted by the War on Drugs, and Neighborhoods Impacted by the War on Drugs. This includes but is not limited to programs relating to Community and Economic Development; jobs, sustainable wages, and job quality; mental health housing access and affordability; savings and investment, credit establishment or restoration, business ownership, and other economic self-sufficiency programs; mental, physical, and spiritual health; re-acclimation classes or workshops, educational programs, grants, and stipends; loans; and record remedying and collateral consequences of criminal conviction and other professional support services.
  - ii. The Strategic Investment Plan will give preference to organizations that practice high standards for workers’ rights. Greatest preference will be given to organizations that have a current collective bargaining agreement

with the union that represents their employees and organizations whose lowest paid hourly workers are compensated at a rate no lower than the living wage calculated by the Living Wage Calculator developed by Dr. Amy K. Glasmeier for the Massachusetts Institute of Technology, or similar living wage calculation.

- iii. The Strategic Investment Plan shall, to the greatest extent feasible, provide for funding per both the following criteria:

Criterion One: Individuals Impacted by the War on Drugs who have resided, or whose family members have resided, for at least ten years from 1970 to 2010 in (A) any combination of Oakland police beats 2x, 2y, 6X, 7X, 19X, 21X, 21Y, 23X, 26Y, 27Y, 29X, 30X, 30Y, 31Y, 32X, 33X, 34X, 35X; and/or (B) census tracts 4014, 4015, 4016, 4017, 4018, 4022, 4024, 4025, 4028, 4030, 4031, 4054.01, 4054.02, 4058, 4059.01, 4059.02, 4060, 4062.01, 4062.02, 4063, 4066.02, 4071.01, 4071.02, 4072, 4074, 4075, 4085, 4086, 4087, 4088, 4089, 4091, 4092, 4093, 4094, 4095, 4096, 4097, 4101, 4102, 4104, 4104, or 4105; and

Criterion Two: Individuals Impacted by the War on Drugs, or their family members (A) who were arrested in Oakland and convicted for a cannabis crime after November 5, 1996; (B) who received a fine or citation under Oakland's Anti-Loitering Ordinance in effect between 1983 and 2018 when the Oakland City Council ended the controversial program; (C) whose assets and property were seized under the Civil Asset Forfeiture Program without a conviction before September 29, 2016 when SB 443 took effect in California; or (D) who were impacted by other local policies and practices used under the guise of the War on Drugs that disproportionately affected residents in the targeted geographic neighborhoods as borne out of the research conducted by the Commission.

- d. Solicit funding applications from private, non-profit, and public agencies through an open and fair application process to support existing or emerging programs that support Individuals Impacted by the War on Drugs and Neighborhoods Impacted by the War on Drugs in Oakland.
- e. Select applications to fund and submit packages of recommendations for funding to the City Council—for approval. The Council shall either to decide whether to approve, the package of recommendations without amendment, or remand send the recommendations back to the Commission without approval, requesting a different package of recommendations.
- f. Receive an independent evaluation of the Emerald New Deal Fund's effectiveness in meeting the services or program goals identified in the Strategic Investment Plan, and submit this evaluation to the City Council every two years for review and acceptance.

B. The END HARM Cannabis Regulatory Commission of the Emerald New Deal Fund shall consist of eleven (11) members who are all residents of the City of Oakland. All members shall be appointed by the Mayor and confirmed by the City Council. Nineteen members of whom shall be nominated by the Mayor and Councilmembers, one of whom shall be nominated by the City Auditor, and one of whom shall be nominated by the City Administrator. All members shall be appointed by the Mayor and confirmed by the City Council.

Existing members of the Cannabis Regulatory Commission established by Measure Z in 2004, whose terms have not expired, shall continue as members of the END HARM Cannabis Regulatory Commission until their terms expire.

With respect to each member of the Cannabis Regulatory Commission established by Measure Z whose term expires within 60 days of City Council declaring the result of the election at which this measure is approved, the Mayor, City Councilmembers, the City Auditor, and the City Administrator shall nominate one (1) person each to serve on the END HARM Cannabis Regulatory Commission, subject to confirmation by the affirmative vote of five members of the City Council. Thereafter, the Mayor, City Councilmembers, the City Auditor, and the City Administrator shall nominate members to the END HARM Cannabis Regulatory Commission at least 60 days prior to the expiration of existing Commissioners' terms.

The END HARM Cannabis Regulatory Commission nominees must meet the following criteria:

- a. Six (6) nominees shall be an individual or family member of an individual who has been directly impacted by incarceration associated with the War on Drugs.
  - b. Five (5) nominees must meet at least one of the following criteria:
    - i. An individual or family member of an individual who has been directly impacted by incarceration associated with the War on Drugs.
    - ii. An individual with professional expertise in finance, grantmaking and auditing or other relevant experience in understanding and managing budgets and disbursing funds.
    - iii. A business owner, employee, or advocate of the cannabis industry.
- C. Members shall be appointed for a term of 2 years, except that an appointment to fill a vacancy before the expiration of a term shall be for the unexpired portion of the term only. Members shall serve no more than 3 consecutive terms plus any initial term to fill a vacancy that is for less than one year.

- D. A vacancy on the END HARM Cannabis Regulatory Commission will exist whenever a member dies or resigns. The City Council is authorized to remove a Commissioner who has ceased residing in the City, after providing notice and opportunity to be heard.
- E. Vacancies shall be filled by nomination by the Councilmember or Mayor who appointed the outgoing Commission member (or the successor to that Councilmember or Mayor), subject to confirmation by the affirmative vote of five members of the Council. If City Council does not vote to confirm or reject that nomination within 60 days, the nominated individual shall be deemed appointed.
- F. A quorum of the END HARM Cannabis Regulatory Commission shall be six (6) members.
- G. Members of the END HARM Cannabis Regulatory Commission may be removed for cause by their appointing authority, subject to confirmation by the affirmative vote of five members of the Council, only for substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office, or absence from three consecutive regular meetings except on account of illness or when absent by permission of the Commission, after written notice of the grounds on which removal is sought and opportunity to respond.
- H. The members shall elect a Chairperson and Vice Chairperson, who each shall serve for a one-year term. The Chairperson shall preside at meetings of the END HARM Cannabis Regulatory Commission, and the Vice Chairperson shall preside in the absence of the Chairperson.
- I. The END HARM Cannabis Regulatory Commission will generally meet at City Hall at an established date and time suitable for its purpose, not less than once every month. Due to the nature of this Commission's work, meetings may also be held in Oakland community centers or other publicly accessible meeting rooms.. All meetings shall be held in accordance with the state and municipal open meeting laws (Brown Act and Sunshine Ordinance).
- J. The END HARM Cannabis Regulatory Commission shall receive all necessary training and support in order to operate effectively as a Commission of the City of Oakland. Training should include, but not be limited to: the Brown Act and the Sunshine Ordinance; California Public Records Act; Robert's Rules of Order; the organization, operation, and responsibilities of Oakland City Government and its interrelated departments; racial equity and implicit bias; public ethics, conflict resolution; conflicts of interest; and other subject matter areas which are specified by City ordinance or requested by Commission members.
- K. The END HARM Cannabis Regulatory Commission, in consultation with the City Administrator, shall establish and maintain rules and procedures for the conduct of its business. A majority vote of the members present shall be required for the adoption of any motion or resolution.

- L. The END HARM Cannabis Regulatory Commission shall provide reports and submit to the Oakland City Council for its adoption the Strategic Investment Plan and funding recommendations. The City Council shall either adopt the Strategic Investment Plan and funding recommendations without amendment, or remand to the Commission.
- M. The END HARM Cannabis Regulatory Commission may create any standing and/or ad hoc committees.
- N. It is intended that the Mayor, City Administrator, and staff shall to the greatest extent feasible implement the expenditures authorized by the END HARM CRC without delay.

### **Section 1707. Accountability**

In accordance with, and supplementing, the requirements of California Government Code Sections 50075.1 and 50075.3, the following accountability measures, among others set forth above, shall apply:

- A. The City’s Chief Financial Officer shall file a report with the City Council no later than January 1, 2024, and at least once a year thereafter. The annual report shall contain the amount of funds collected and expended, and the status of any project required or authorized to be funded. A separate special restricted fund, referred to as the Emerald New Deal Fund, shall be created, into which the proceeds of the tax must be deposited.
- B. The City Auditor shall release in December of even years an audit of the Emerald New Deal Fund to ensure accountability and proper disbursement of the revenue, in accordance with the objectives stated herein and in compliance with provisions of California law.

### **Section 1708. General Fund Protections**

During an extreme financial crisis, the City Council may choose to allocate the entirety of the Cannabis Business Tax revenues for the most recently completed quarter to the City’s General Purpose Fund (“General Purpose Fund Protection Allocations”). City Council shall first verify the extreme nature of any such financial crisis by approving a published report from the City’s Finance Department finding that the three consecutive, most recently completed quarters each had 10% negative growth in General Purpose Fund revenue in addition to an economic forecast that does not identify positive growth in General Purpose Fund revenue within the subsequent (current) quarter. Negative growth shall be calculated as compound negative growth. After initially invoking this Section, City Council must verify quarterly by approval of subsequent quarterly reports published by the Finance Department the continuation of the extreme financial crisis by verifying that General Purpose Fund quarterly revenues have not increased to an amount greater than the lowest of the three quarters initially identified upon the identification of an extreme financial crisis in order to allocate the entirety of subsequent quarters’ Cannabis Business Tax to the General Purpose Fund. Initial and subsequent General Purpose Fund Protection Allocations may only be authorized at regular meetings of the City Council.

**Section 1709. Expiration and Reauthorization**

The Emerald New Deal Act shall expire after 40 years, unless extended by the voters. Years 21-40 shall only become effective upon affirmative vote of the City Council to do so. After expiration of the this Charter Amendment, Cannabis Business Taxes thereafter received shall not be deposited into the Emerald New Deal Fund, but the City and the END HARM Cannabis Regulatory Commission shall continue to implement this Charter Amendment until the monies in the Emerald New Deal Fund are exhausted.

**Section 1710. Severability.**

Should any provision of this Charter Amendment, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Charter Amendment or the application of this Charter Amendment to any other person or circumstance and, to that end, the provisions hereof are severable.

**Section 1711. California Environmental Quality Act.**

The City Council hereby determines that this Charter Amendment is not in-and-of-itself a "project" pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq., including without limitation pursuant to CEQA Guidelines Section 15378(b)(4), as this Charter Amendment constitute fiscal activities that do not commit the City to any particular project that may result in a potentially significant physical impact on the environment, and Section 15061(b)(3), as it can be seen with certainty that there is no possibility that the adoption of the Charter Amendment itself may have a significant effect on the environment.

**Section 1712. Approval; Effective Date**

This Charter Amendment, and all the provisions thereof, shall become effective only upon affirmative passage by a two-thirds majority vote of the voters voting on the Charter Amendment, pursuant to Article XIIIIC, section 2(d) of the California Constitution. This Charter Amendment shall be considered adopted on the date that the City Council declares the results of the election at which it was voted upon and shall be effective ten days thereafter.

**Section 1713. Council Amendments**

This Charter Amendment may not be amended by City Council.

; and be it

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

PROPOSED CHARTER AMENDMENT

Measure____. Shall the Measure to ..., be adopted?  <b>[FINAL QUESTION SUBJECT TO CITY ATTORNEY DRAFTING AND APPROVAL]</b>	<b>Yes</b>	
	<b>No</b>	

; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes and directs the City Clerk of the City of Oakland (the “City Clerk”) at least 88 days prior to the election to file with the Alameda County Clerk certified copies of this Resolution; and be it

**FURTHER RESOLVED:** That the City Council does hereby request that the Board of Supervisors of Alameda County include on the ballots and sample ballots the measure language to be voted on by the voters of the City of Oakland; and be it

**FURTHER RESOLVED:** That the City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election; and be it

**FURTHER RESOLVED:** That the City Clerk is hereby directed to cause the posting, publication, and printing of notices, pursuant to the requirements of the Charter of the City of Oakland, Chapter 3.08 of the Oakland Municipal Code, the Government Code, and the Elections Code of the State of California; and be it

**FURTHER RESOLVED:** That in accordance with the Elections Code and the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Ordinance and rebuttals, and said date shall be posted in the Office of the City Clerk; and be it

**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 General Municipal Election and appropriate all monies necessary for the City Administrator and City Clerk to prepare and conduct the special election.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California