



CITY OF OAKLAND

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2014 OCT 15 PM 3:30

AGENDA REPORT

TO: HENRY L. GARDNER
INTERIM CITY ADMINISTRATOR

FROM: Greg Minor

SUBJECT: Enforcement Efforts Related to
"Measure Z Clubs" and Unpermitted
Cannabis Dispensaries

DATE: October 7, 2014

City Administrator
Approval

Date

10-13-14

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the Public Safety Committee (PSC) accept this informational report on enforcement efforts related to "Measure Z clubs" and unpermitted cannabis dispensaries.

EXECUTIVE SUMMARY

This informational report is in response to a request by Councilmember Reid at a Rules Committee meeting for a report on enforcement efforts regarding "Measure Z clubs." "Measure Z clubs" are unpermitted cannabis dispensaries ostensibly operating under the protection of Measure Z, an initiative passed by the Oakland electorate in 2004 that made private adult cannabis offenses the City's lowest law enforcement priority. As the City Attorney articulated in a 2005 opinion, though, commercial settings are not shielded by Measure Z nor are they exempt from City building, fire and tax enforcement codes. "Measure Z clubs" also operate in complete contrast with the City's lawfully permitted medical cannabis dispensaries who abide by a number of health and safety restrictions and pay permit fees and business taxes.

As a result, City staff and law enforcement, while mindful of their many other priorities, employ enforcement processes against unpermitted cannabis dispensaries in response to complaints or when necessary to prevent commercial distribution of cannabis.

OUTCOME

This is an informational report to the PSC; there is no specific outcome.

BACKGROUND

On November 2, 2004 the Oakland electorate passed ballot Measure Z, a voter initiative that requires the City of Oakland to adopt specific policies concerning cannabis. These policies

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include advocating for changes in state law, establishing a system to tax and regulate cannabis sales as soon as authorized by state law, creating an oversight committee, and "Mak[ing] investigation, citation and arrest for *private* adult cannabis (marijuana) offenses the City's lowest law enforcement priority" (**Attachment A**)(emphasis added).

The City Attorney's impartial legal analysis advised the voters that "private" presumably refers to marijuana use, cultivation, sale possession, distribution that occurs in a private place, such as an adult's home. Nothing in the ballot initiative itself or in the ballot materials or City Attorney's impartial legal analysis would alert the voters that the intent of the measure was to apply the lowest law enforcement policy to commercial settings or private adult clubs.

The voters' intent in passing Measure Z is determined by the language of the measure and by the ballot materials, including but not limited to the City Attorney's impartial legal analysis. The ballot materials do not advise the voters that the intent of the measure was to apply the lowest law enforcement policy to commercial settings or establishments that sell alcoholic beverages such as private clubs. In fact, the measure is silent as to what constitutes "private adult cannabis offenses".

In December 2005, the Office of the City Attorney clarified and the City Council confirmed that "private adult cannabis (marijuana) offenses" under Measure Z are only adult cannabis offenses (violations of the law) that occur on private property in a non-public setting (**Attachment B**). Accordingly, use, cultivation, sale, possession, and distribution that occur in commercial settings, such as cafes, stores, or cabarets are not covered under Measure Z. The term "Measure Z club" is thus a misnomer as Measure Z does not shield commercial establishments that provide for the use and distribution of cannabis. Furthermore, Measure Z only affects law enforcement's priorities; the City's building, fire and business tax ordinances remain in full effect.

In contrast, the City currently has eight permitted medical cannabis dispensaries. These dispensaries are subject to strict permitting requirements under OMC 5.80, including a public hearing process, location restrictions, inspections by fire and other City staff, security measures, record keeping, prohibitions against onsite use of cannabis, and distribution only to qualified patients or primary caregivers. Additionally, these lawful dispensaries pay a \$60,000 a year permit fee and substantial business tax on all accounted revenue.

ANALYSIS

In the context of cannabis, policy advocates and local, state and federal law often steer City staff in different directions. On one hand, cannabis advocates argue and Measure Z implies that the City's resources are better spent preventing criminal activity unrelated to cannabis. On the other hand, Measure Z's directions to law enforcement do not apply to commercial settings and amnesty for "Measure Z clubs" that dispense cannabis to anyone regardless of medical need, pay

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zero business tax and observe no health and safety restrictions would undermine the City's permitting process for medical cannabis dispensaries.

Accordingly, the City's enforcement efforts against "Measure Z clubs" and unpermitted cannabis dispensaries have focused on levelling the playing field with lawfully permitted cannabis dispensaries, preventing commercial distribution of cannabis, and minimizing law enforcement resources when possible.

Nuisance Abatement Division

The Office of the City Administrator's Nuisance Abatement Division (NAD) has identified at least forty-three possible unlawful cannabis dispensaries within Oakland since 2005. Due to resource and strategic considerations, the NAD has applied a range of enforcement mechanisms to address these identified dispensaries, including but not limited to, sending cease and desist letters, revoking, non-renewing or denying related permits, and issuing public nuisance administrative citations. These administrative efforts are initiated by referrals from neighbors of unpermitted dispensaries, law enforcement, or City staff. These efforts then conclude with either a site visit or the removal of the offending operator.

Oakland Police Department

The Oakland Police Department (OPD) has devoted resources to closing at least five prominent "Measure Z clubs" in the last year. Three operations took place in Police Area One, one at 377 17th Street on January 31, 2014, one at 389 17th street April 9, 2014, and the other at 1921 Martin Luther King Jr. Way on May 30, 2014. Two additional operations took place in Police Area Two, one at 55th Street and Martin Luther King Jr. Way on December 18, 2013, the other at 2415 San Pablo on March 13, 2014. These operations involved search warrants based on information developed by OPD or City staff and they uncovered tens of thousands of dollars in currency, substantial amounts of cannabis, and in some cases other controlled substances and firearms.

Revenue Management Bureau

The information obtained by OPD, the NAD and other sources enables the Revenue Management Bureau to conduct business tax audits and issue tax assessment notices to suspected unpermitted dispensaries and cannabis related businesses. Staff uses information developed from external sources as well as independent research to estimate an entity's annual gross receipts and length of operation.

The Bureau also provides information to the City Administrator's Office about firms suspected of failing to pay the City's cannabis business tax. Furthermore, the Revenue Management Bureau coordinates its tax enforcement actions with the City Administrator's regulatory compliance efforts.

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COORDINATION

The Office of the City Attorney, the Budget Office, the Oakland Police Department, and the City Administrator's Office were consulted for the preparation of this report.

COST SUMMARY/IMPLICATIONS

This is an informational report with no fiscal impacts.

SUSTAINABLE OPPORTUNITIES

Economic: Effective enforcement against unlawful dispensaries will assist those lawfully permitted dispensaries and encourage unlawful operators to either abide by current laws or lobby for legislative reform.

Environmental: There are no significant environmental effects associated with this report.

Social Equity: Enforcement against cannabis dispensaries operating outside the City's ordinances will level the playing field with those who are abiding by local and state law.

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

Reviewed by:

Arturo Sanchez, Interim Assistant City Administrator
Joe DeVries, Assistant to the City Administrator
Lt. Bolton, Oakland Police Department
Lt. Allison, Oakland Police Department
Chuck Maurer, Tax Auditor II

Prepared by:

Greg Minor, Assistant to the City Administrator

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Henry L. Gardner, Interim City Administrator

Subject: Enforcement Efforts Regarding Unpermitted "Measure Z Clubs"

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Encl:

Resolution No.78733 (Attachment A)

December 13, 2005 Report to Public Safety Committee (Attachment B)

Resolution No.79647 (Attachment C)

Letter from Cannabis Regulatory Commission (Attachment D)

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Attachment A

REVISED
7/20/04

OAKLAND CITY COUNCIL

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Approved as to form & Legality

Dan J. Calhoun

2004 JUL 22 RESOLUTION NO.

78783

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.

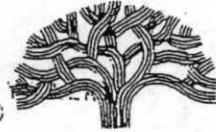
and be it,

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:

CITY OF OAKLAND



2005 DEC -2 AM 9: 39

ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
John A. Russo
City Attorney
Barbara J. Parker
Chief Assistant City Attorney

December 13, 2005

(510) 238-3601
FAX: (510) 238-6500
TTY/TDD: (510) 238-3254
(510) 238-3815

HONORABLE PUBLIC SAFETY COMMITTEE
Oakland, California

Re: Report Providing a Definition of "Private Adult Cannabis Offenses" Under Ballot Measure Z – A Voter Initiative Entitled "Oakland Cannabis Regulation and Revenue Ordinance," and Recommending that Council Amend Resolution No. 78331 which Declared the City's Low Priority Policy Related to Medical Cannabis to Clarify that Private Adult Cannabis (Marijuana) Offenses are the City's Lowest Law Enforcement Priority

Dear Chairperson Reid and Members of the Public Safety Committee:

Summary

The City Attorney previously recommended that the Council

- (1) adopt an ordinance providing the qualifications, terms, procedure to remove and responsibilities of members of the Community Oversight Committee that Measure Z created; and
- (2) amend Resolution No. 78331 "Declaring a Low Police Priority related to Medical Marijuana Consistent with Oakland Municipal Code Section 5.80 and Senate Bill 420" to clarify that the City lowest law enforcement priority is private adult cannabis (marijuana) offenses.

As we discussed in the prior report, "private adult cannabis offenses" are not a priority for City of Oakland law enforcement activities. Private adult cannabis offenses come to the City's attention pursuant to complaints or violations of other laws, such as sale of illegal substances, responses to burglar alarms, etc. However, because the City's low priority policy currently addresses only medical cannabis, we recommended that the City amend its low priority resolution to clarify that its policy is consistent with Measure Z.

On July 19, 2004, the City Council adopted an ordinance that established the qualifications, terms, procedure to remove, and responsibilities of members of the Community Oversight Committee. However, the Public Safety tabled action on the amendment to the low

police priority Resolution and requested a definition of the term "private adult cannabis offenses". The Rules Committee subsequently tabled the item and it was placed on the Public Safety Committee's pending list.

This report defines what constitutes a "private adult cannabis offense" for purposes of the application of Measure Z's lowest law enforcement policy priority and requests that the Council amend the resolution to clarify that the City's lowest law enforcement priority is private adult cannabis (marijuana) offenses.

Although Measure Z makes such offenses the City's lowest law enforcement priority, non-medical use, cultivation, distribution, sale of cannabis continue to violate state and federal laws.

Fiscal Impact

Some staff resources will be dedicated to providing support for the Community Oversight Committee. A representative of the City Attorney's Office will provide legal advice and attend Committee meetings, as needed.

Background

On November 2, 2004 the Oakland electorate passed ballot Measure Z, a voter initiative entitled "Oakland Cannabis Regulation and Revenue Ordinance". Measure Z became effective on December 7, 2004. In the impartial legal analysis that was published in the voter pamphlet, the City Attorney advised voters that the lobbying and the regulation and taxation provisions of Measure Z are unconstitutional and therefore unenforceable.

Prior to the passage of Measure Z, the City's low law enforcement policy resolution applied only to medical cannabis. The resolution was consistent with (i) the City's policies enunciated in various resolutions that the Council passed beginning in the early 1990's, (ii) Proposition 215 (the Compassionate Use Act) and (iii) Senate Bill 420 (clarifying the scope of Proposition 215 and authorizing the City to regulate medical cannabis cooperatives consisting of patients and primary caregivers who meet the requirements of Proposition 215).

Key Issues and Impacts

Because Measure Z did not and could not change state or federal law, both of which prohibit non-medical cannabis use, the Oakland Police Department ("OPD") and the City have the right to continue law enforcement activities related to "private adult cannabis offenses". Further, the City's ordinances, including but not limited to, smoking prohibitions and health and safety ordinances (e.g. fire and building codes) also remain in full force and effect and the City is entitled to enforce its laws.

Measure Z requires only that the City make law enforcement activities related to "private adult cannabis offenses" its lowest priority. This means that the City's other law enforcement priorities must be higher priorities than its law enforcement priority for "private adult cannabis offenses".

Measure Z does not define "private adult cannabis offenses" or "public places". The rules of statutory construction require interpretation of a statute solely based on the language of the statute if the language of the statute is clear and unambiguous.

The meaning of "private" is not clear in this context and the statute is utterly silent on that issue. Although the ordinance makes a policy declaration that the lowest law enforcement priority policy will not apply to distribution to minors, distribution or consumption on streets or other public places or motor vehicles, it does not define what constitutes a "public place" or provide that all circumstances other than the ones expressly excluded are "private".

When the statutory language is unclear, as here, the language shall be interpreted in accordance with the voters' intent as discerned from the ballot materials, including but not limited to the City Attorney's analysis in the ballot book. The drafters' intent is not relevant to the interpretation.

In the impartial legal analysis, the City Attorney stated that private adult cannabis offenses are not defined in the statute and that the term "presumably refers to marijuana use, cultivation, sale, possession, distribution that occurs in a private place, such as an adult's home." Nothing in the ballot initiative itself or in the ballot materials or City Attorney's impartial legal analysis would alert the voters that the intent of the measure was to apply the lowest law enforcement priority policy to commercial settings, such as cafes and restaurants or liquor or other retail establishments, or to activities on publicly owned property, such as City property even if such property is rented or leased by a private party for a private purpose such as a meeting, recreational or other activity.

Accordingly, "private adult cannabis offenses" that are covered by the lowest law enforcement policy include adult cannabis offenses (i.e. violations of the law) that occur on private property and in a setting that is not public, such as an adult's home. "Private adult cannabis offenses" do not include offenses such as use, cultivation, sale, possession, distribution that occurs in commercial settings such as cafes, markets, stores, restaurants, retail outlets, liquor stores, cabarets, establishments selling alcoholic beverages. Nor do "private adult cannabis offenses" include offenses that occur on City-owned or leased property whether or not the City property is rented or leased for a private purpose such as a meeting, party, recreational or other activity; otherwise the City would be a party to unlawful activities and subject to claims that the City violated or conspired to violate or aided and abetted violations of state and federal and perhaps local laws by permitting "adult cannabis offenses" on City property.

In summary, the lowest law enforcement priority policy regarding adult cannabis offenses does not apply to commercial settings, to City-owned or leased property or to other settings that are not private. Measure Z expressly provides that the lowest law enforcement priority policy "shall not apply to distribution of cannabis to minors, distribution or consumption on streets or other public places, or motor vehicle violations." (Section 6(b).)

Sustainable Opportunities

Economic – Measure Z may cause economic impacts; however, at this time it is not

possible to identify the impacts, if any.

Environmental – At this time this Office can't determine whether Measure Z will cause any environmental impacts.

Social Equity – At this time the City Attorney's Office is not aware of any social equity impacts or opportunities that Measure Z may bring.

Disability and Senior Access

Measure Z does not affect disability or senior access.

Recommendation and Rationale

To assure that the City's policies and procedures are consistent with Measure Z, we recommend that the Council take the following actions:

Council Should Amend City's Low Priority Policy Resolution: City Council should amend its low priority policy resolution to clarify that private adult cannabis offenses are not a priority of the City or that such offenses are the City's lowest law enforcement priority. The low priority policy resolution currently states that the City's low priority policy regarding cannabis applies only to specific types of *medical* cannabis activities.

The amendment would provide:

“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

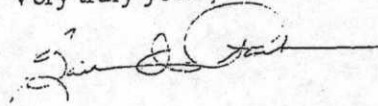
RESOLVED, private adult cannabis offenses do not include the use, sale, distribution, preparation and/or cultivation in settings that are not private, including but not limited to markets, stores, cabarets, establishments selling alcoholic beverages, cafes and restaurants, retail outlets, stores and 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


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

Action Requested of Council

The City Attorney's Office requests that Council pass the attached Resolution which amends the Council's low priority resolution to clarify that private adult cannabis offenses are the City's lowest law enforcement priority.

Very truly yours,



 JOHN RUSSO
City Attorney

Assigned Attorney:
Barbara J. Parker

Attachment C

Redlined Version

OAKLAND CITY COUNCIL

OFFICE OF THE CITY CLERK
OAKLAND

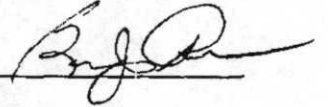
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RESOLUTION NO. _____

C.M.S.

2005 DEC -2 AM 9:39

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 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 comprised 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 markets, stores, cabarets, establishments selling alcoholic beverages, cafes and restaurants, retail outlets, stores 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

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, DEC 20 2005, 2005

PASSED BY THE FOLLOWING VOTE:

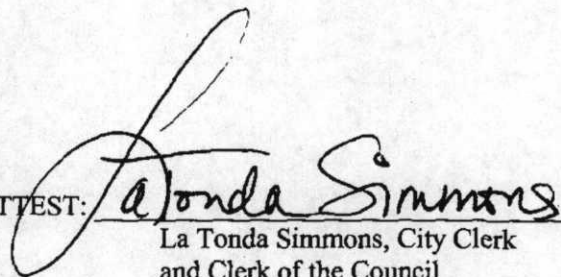
| AYES - ~~BROOKS~~, ~~BRUNNER~~, CHANG, DE LA FUENTE, KERNIGHAN, ~~NASEL~~, QUAN, REID, -5

| NOES - Brooks and Nadel - 2

| ABSENT - \emptyset

| ABSTENTION - Brunner - 1

ATTEST:



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

Attachment D

Oakland Cannabis Regulatory Commission

One Frank H. Ogawa Plaza
Oakland, CA 94612

Matt Hummel, Chair
A. Kathryn Parker, Vice Chair
Dale Gieringer
James Anthony
Sierra Martinez
Marlon Hendrix
Jake Sassaman
Amanda Reiman
Sean Donahoe

To: Oakland City Council,
Public Safety Committee

From: Matt Hummel, Chairperson,
Oakland Cannabis Regulatory Commission

Date: October 7, 2014

Re: Enforcement Efforts Related to "Measure Z Clubs" and Unpermitted Cannabis Dispensaries
Committee Chair Gallo, Council members Kalb, Schaaf, and McElhaney,

Based on concerns raised about the use of Police resources, the Cannabis Regulatory Commission unanimously adopted the following recommendation to the City Council to be shared along with today's report:

Because the City Council adopted a definition of 'private' in 2005 that excludes any commercially zoned areas of the City, when Measure Z activity occurs in commercial zones it is completely unregulated. In that unregulated environment there is the potential for inappropriate non-measure Z activity such as sales to minors and other nuisance activity. Therefore, the City Of Oakland should either regulate this activity or exercise discretion on verifiable complaints, enforcing that which is not tolerable such as sales to minors or nuisance activity. Furthermore, the procedures for handling such complaints should be solely an administrative-based process and not involve the Oakland Police Department or the expenditure of OPD resources.

The Commission believes that police resources are better spent elsewhere in the City and during the duration of the Commission's existence, dating back to 2006, Oakland did not see police resources expended to address these types of facilities. Instead they were addressed almost exclusively through administrative action. In the past one year, however, OPD appears to have taken a new approach that the Commission finds deeply troubling and against the spirit of Measure Z that directs law enforcement treat these offenses as its lowest priority.

Thank you for your consideration,

Matt Hummel, Chairperson