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## *AGENDA REPORT*

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**DATE:** 5/15/19  
**TO:** City Councilmembers and Members of the Public Safety Committee  
**FROM:** Councilmember Noel Gallo  
**SUBJECT:** Decriminalizing Entheogenic Plants

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### **RECOMMENDATION:**

Councilmember Noel Gallo recommends that the City Council adopt:

**RESOLUTION SUPPORTING ENTHEOGENIC PLANT PRACTICES AND  
DECLARING THAT THE INVESTIGATION AND ARREST OF INDIVIDUALS  
INVOLVED WITH THE ADULT USE OF ENTHEOGENIC PLANTS ON THE  
FEDERAL SCHEDULE 1 LIST<sup>1</sup> BE AMONGST THE LOWEST PRIORITY FOR  
THE CITY OF OAKLAND**

### **SUMMARY:**

This legislation would decriminalize entheogenic plants and fungi such as mushrooms, cacti, iboga containing plants and /or extracted combinations of plants similar to Ayahuasca; and limited to those containing the following types of compounds: indole amines, tryptamines, phenethylamines, by restricting any city funds or resources to assist in the enforcement of laws imposing criminal penalties for the use and possession of Entheogenic Plants by adults.

### **BACKGROUND/ LEGISLATIVE HISTORY:**

While the United States generally prohibits entheogenic plants and fungi, the official position from the UN is "No plants are currently controlled under the Conventions. Preparations made from plants containing those active ingredients are also not under international control... Examples of such plants or

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<sup>1</sup> Refers to plants and natural sources (as defined herein), such as mushrooms, cacti, iboga containing plants and /or extracted combinations of plants similar to Ayahuasca; and limited to those containing the following types of compounds: indole amines, tryptamines, phenethylamines.

plant material include ayahuasca, a preparation made from plants indigenous to the Amazon basin of South America, mainly a jungle vine (*Banisteriopsis caapi*) and another tryptamine-rich plant (*Psychotria viridis*) containing a number of psychoactive alkaloids, including DMT; the peyote cactus (*Lophophora williamsii*), containing mescaline; *Psilocybe* mushrooms, which contain psilocybin and psilocin; and iboga (*Tabernanthe iboga*), a plant that contains ibogaine and is native to the western part of Central Africa.” However, the UN position is not recognized throughout the world, and the prohibition of entheogens differs for many different countries causing confusion and restricting those who could benefit simply due to the legal status of where they live.

Internationally, some mushrooms containing psilocybin are legal or decriminalized in Brazil, Jamaica, Netherlands, and Portugal. Within the United States, Denver voters recently approved of Initiative 301 to decriminalize mushrooms containing psilocybin. The official statement from Denver Mayor Hancock and the Denver City Attorney’s office following the vote is that they will “respect the decision of the voters and the Denver Police Department will enforce the law accordingly.” In New Mexico, the status of mushrooms containing psilocybin are in a grey area. In 2005, the Court of Appeals of New Mexico (*State v Pratt*) concluded “acts of cultivating or growing mushrooms, even if by artificial means, are not prohibited.” In 2000, the Coordination Centre for the Assessment and Monitoring of new drugs (CAM) carried out a risk assessment on mushrooms containing psilocybin and concluded the risk to the health of the individual, the public health, and the public order was judged to be low.

Internationally, iboga is not prohibited in Gabon, and in fact, is considered a national treasure. In New Zealand, Brazil, and South Africa, ibogaine is available through prescription or license. Iboga/ine is unregulated in Mexico and not specifically prohibited in the Netherlands, where many ibogaine treatment centers exist for treating addiction. Within the United States, legislative bills have been introduced in New York (2015), Vermont (2016), and most recently proposed in Iowa (2019) seeking to reclassify ibogaine and encouraging research on ibogaine for the treatment of opioid dependency.

Internationally ayahuasca, a plant preparation containing DMT, is not prohibited in countries such as Peru, Costa Rica, and in Brazil specifically for spiritual purposes. According to Herbert Schaepe (2001), the UN International Narcotics Control Board’s position is as follows: “No plants (natural materials) containing DMT are at present controlled under the 1971 Convention of Psychotropic Substances. Consequently, preparations made of these plants, including ayahuasca are not under international control and, therefore, not subject to any of the articles of the 1971 Convention.” While still prohibited in the United States, the Supreme Court has given protection to one church for the sacramental use of ayahuasca under the Religious Freedom Restoration Act of 1993 in *Gonzales, et al. v. O Centro Espirita Beneficente Uniao do Vegetal et al.* (opinion delivered by Chief Justice Roberts). In 2009, the United States District Court for the District of Oregon protected ayahuasca use for the Church of the Holy Light of the Queen.

Within the United States, sacramental peyote practices such as found in the Native American Church gained legislative protection for religious practices through the Religious Freedom Restoration Act of 1993 and the American Indian Religious Freedom Act Amendments in 1994. However, despite specific religious exemption for possessing peyote in California, it is illegal to grow or cultivate despite concerns around peyote’s sustainability. Individual states recognize peyote as a sacrament for various populations and intentions, specifying exemptions ranging from Native American descent only, to anyone with sincere religious intent.

## ANALYSIS:

For millennia, cultures have respected entheogenic plants and fungi for providing healing, knowledge, creativity, and spiritual connection. Recently, scientific studies are demonstrating entheogens can be beneficial for treating conditions such as end-of-life anxiety, substance abuse, addiction, cluster-headaches, PTSD, neurodegeneration, anxiety, obsessive-compulsive disorder, and treatment resistant depression, as well as reduce rates of intimate partner violence and recidivism. On October 2018, the U.S. Food and Drug Administration (FDA) granted Breakthrough Therapy designation for studies on psilocybin therapy for treatment-resistant depression, supporting the Federal position that there can be medical benefits to natural substances on Schedule 1. In addition to treating a variety of conditions, entheogens can also be valuable for personal and spiritual growth. A Johns Hopkins study on healthy-normals” found over 75% of the respondents considered their psilocybin experience to be one of the top five most meaningful experiences of their lives. Yet despite numerous studies showing the potential benefits of entheogenic plants and fungi, they are Schedule 1, meaning they have no medical value, and are highly addictive, both of which have proven to be false. This also sets up a false dichotomy, privileging and requiring authorization through the medical system to be Federally decriminalized, while Indigenous groups throughout the world have been engaging in entheogenic plant and fungi practices for millennia without needing the approval of the Western medical system.

The development of scientific and medical research and FDA Break Through designation provides support for centuries of anecdotal evidence emerging from traditional entheogenic cultures. Unfortunately, the development of the synthetic compounds required for FDA trials, such as psilocybin (which occurs naturally in Psilocybe mushrooms) may cost upwards of \$7-10,000 per gram, and must be prescribed by a medical or clinical professional. Residents of Oakland expressed concern that this dominant model will have high barriers of entry, both in cost and ethos, for those most in need, limiting their opportunities. For those who could afford the treatment, fit the inclusion criteria, and were willing to have their experience with a clinician or a therapist, they would still need to rely upon a laboratory made synthetic compound created by the pharmaceutical industry. The consequences of this reliance are people are dependent on industry and authority for access to entheogenic experiences, disconnecting them from their place in the natural ecosystem. By choosing to decriminalize nature, this empowers Oakland residents to be able to grow their own entheogens, share them with their community, and choose the appropriate setting for their intentions. As this national conversation on entheogens grows, we feel it is essential to influence the debate now and take a stand for disenfranchised communities who may be left out of the dominant model by opening a way for individual and community access.

This initiative aims to empower the Oakland community by restoring their relationship to nature. The Oakland community behind this initiative believe it is an inalienable right to develop their own relationship with nature, both as a measure of personal liberty and to embrace what it means to be human on Planet Earth. Entheogenic plant practices have long historical roots in the Americas, Africa, Asia, and Europe, yet this connection was severed for most of the global population long ago. Decriminalizing nature provides individual and community sovereignty to explore different levels of the human experience, including mystical and spiritual states of consciousness. By supporting this initiative, further educational outreach and support can emerge from the underground and provide Oakland residents with tools and resources to empower communities to share knowledge and continue building an above-ground infrastructure around entheogens. The depth and diversity of the Oakland community demands a path

toward equitable access, and Oakland has a unique opportunity to lead by example, and guide the nationwide conversation.

### **FISCAL IMPACT:**

The legislation would reduce resources that would be spent to assist in the enforcement of laws imposing criminal penalties for the use and possession of Entheogenic Plants by adults.

### **PUBLIC OUTREACH/INTEREST:**

Decriminalize Nature Oakland (DNO) began their outreach at the beginning of 2019, discussing their intentions with residents and City of Oakland officials, including Councilmember Noel Gallo and his colleagues. DNO hosted their first public educational event in Temescal in March and had over 175 attendees and the participation of seven community organizations. DNO has begun a robust social media campaign, and has already been mentioned in Forbes, Rolling Stone, and the Washington Post. DNO has the support of Bay Area organizations such as Sacred Garden Community, Entheogenic Research, Integration, and Education (ERIE), Psychedelic Society SF, the 9/20 Coalition, Bloom Network, Operation EVAC, Sage Integrative Health, Root Wisdom, and Supernova Women, many of whom have been providing educational resources to the Bay Area on this topic for years. DNO will continue to conduct outreach about this legislation with community representatives throughout Oakland.

### **COORDINATION:**

This report was reviewed by the Office of Councilmember Noel Gallo-District 5 and Decriminalize Nature Oakland.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** Decriminalize Nature Oakland (DNO) believes entheogenic plants and fungi should not be commodified, but services surrounding entheogenic plant practices will bring opportunities to the Oakland community, such as facilitators, hospice care, addiction therapists, educators, researchers, and entheogenic integration support. Additional economic opportunities include the development of gardens, community centers, collectives, and trade schools to offer accessible education and resources.

**Environmental:** The entire DNO campaign brings attention to the environment and how it is being affected by our disconnection to nature. In addition, DNO supports educational outreach on gardening and planting sacred plants for gardens and natural beautification.

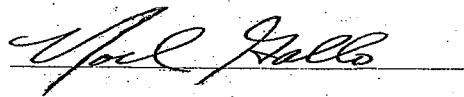
**Social Equity:** DNO is creating and protecting an opportunity for equitable access by allowing home grows or personal gardens, where Oakland residents can develop their own relationship with nature, free from external interference. DNO's approach to social equity also includes bringing general awareness and information to the community, as well as access to entheogenic specific knowledge such as facilitator training, gardening and botany workshops, and guidelines and mentorship for developing peer integration

circles. Since DNO believes entheogens should not be commodified, there will be no sales of entheogenic plants and fungi and we will work closely with local communities to share resources. As an approach to accessibility also includes those individuals who cannot grow their own entheogens for a variety of reasons, concepts such as collectives could provide a space to have an experience, or “road people” who could visit those in hospice care or unable to leave their home.

For questions regarding this report, please contact Mar Velez, Office of Councilmember Noel Gallo at (510) 238-6126.

Respectfully submitted,

Councilmember Noel Gallo, District 5

A handwritten signature in cursive script, appearing to read "Noel Gallo", is written over a horizontal line.

Prepared by:  
Mar Velez, Office of  
Councilmember Noel Gallo, District 5

Attachments:  
A – Proposed Resolution

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

19 MAY 15 PM 1:46

Approved as to Form and Legality

  
City Attorney's Office

## OAKLAND CITY COUNCIL

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

INTRODUCED BY COUNCILMEMBER NOEL GALLO

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**RESOLUTION SUPPORTING ENTHEOGENIC PLANT PRACTICES  
AND DECLARING THAT THE INVESTIGATION AND ARREST OF  
INDIVIDUALS INVOLVED WITH THE ADULT USE OF ENTHEOGENIC  
PLANTS ON THE FEDERAL SCHEDULE 1 LIST BE AMONGST THE  
LOWEST PRIORITY FOR THE CITY OF OAKLAND**

**WHEREAS**, Entheogenic Plants, based on the term "entheogen", originally conceived by Ott, Ruck, and other colleagues from a working group of anthropologists and ethnobotanists in 1979; and defined herein as the full spectrum of plants, fungi, and natural materials deserving reverence and respect from the perspective of the individual and the collective, that can inspire personal and spiritual well-being<sup>i</sup>, can benefit psychological<sup>ii</sup> and physical wellness<sup>iii</sup>, and can reestablish human's inalienable and direct relationship to nature; and

**WHEREAS**, substance abuse<sup>iv</sup>, addiction, recidivism<sup>v</sup>, trauma, post-traumatic stress symptoms, chronic depression, severe anxiety<sup>vi</sup>, end-of-life anxiety, grief<sup>vii</sup>, diabetes<sup>viii</sup>, cluster headaches<sup>ix</sup>, and other conditions are plaguing our community and that the use of Entheogenic Plants have been shown to be beneficial to the health and well-being of individuals and communities in addressing these afflictions via scientific and clinical studies and within continuing traditional practices, which can catalyze profound experiences of personal and spiritual growth; and

**WHEREAS**, practices with Entheogenic Plants have long existed and have been considered to be sacred to human cultures and human interrelationships with nature for thousands of years<sup>x</sup>, and continue to be enhanced and improved to this day by religious and spiritual leaders, practicing professionals, mentors, and healers throughout the world, many of whom have been forced underground; and

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<sup>1</sup> Refers to plants and natural sources (as defined herein), such as mushrooms, cacti, iboga containing plants and/or extracted combinations of plants similar to Ayahuasca; and limited to those containing the following types of compounds: indole amines, tryptamines, phenethylamines.

**WHEREAS**, seeking to improve their health and well-being through the use of Entheogenic Plants use them in fear of arrest and prosecution; and

**WHEREAS**, the Entheogenic Plant practices of certain groups are already explicitly protected in the U.S. under the doctrine of religious freedom -- the Native American Church's use of peyote and the use of ayahuasca by two other churches, a Santo Daime congregation and the União do Vegetal; and

**WHEREAS**, The United Nations considers Entheogenic Plant material used for ritual purposes as excluded from Schedule 1 substances; and

**WHEREAS**, Entheogenic plants containing ibogaine, for example, have been shown to alleviate treatment resistant cases of opiate and methamphetamine addiction at significantly higher rates than all other treatments for addiction<sup>xi</sup>. In addition, ibogaine is reported to be beneficial for addiction therapy related to specific work-related PTSD encountered by first responders such as EMT, police, and firefighters, as well as military veterans; and

**WHEREAS**, Entheogenic Plants or combinations of plants such as Ayahuasca that contain forms of DMT, a naturally occurring compound in the human body that is listed as a Schedule 1 substance, can lead to experiences that are reported as mystical or experientially similar to near death experiences<sup>xii</sup> and that are can be demonstrably beneficial in treating addiction<sup>xiii</sup>, depression<sup>xiv</sup>, PTSD<sup>xv</sup>, and in catalyzing profound experiences of personal<sup>xvi</sup> and spiritual growth<sup>xvii</sup>; and

**WHEREAS**, Entheogenic cacti that contain phenethylamine compounds such as mescaline can be beneficial in healing drug and alcohol addiction<sup>xviii</sup> and for individual spiritual growth<sup>xix</sup>, and have been utilized in sacred initiation and community healing by diverse religious and cultural traditions for millennia and continuing use as religious sacraments in modern times; and

**WHEREAS**, psilocybin, naturally occurring in Entheogenic mushrooms, can alleviate end-of-life anxiety for hospice and terminal cancer patients<sup>xx</sup>, can reduce prison recidivism<sup>xxi</sup>, and can effectively treat substance abuse, depression<sup>xxii</sup>, cluster headaches<sup>xxiii</sup>; and

**WHEREAS**, a Johns Hopkins University study on "healthy-normals" found that psilocybin can occasion mystical-type experiences, which were considered one of the top five most meaningful experiences in a subject's life for over 75% of their subjects within the first year after the study, and also found continuing positive life-style changes after a 14-month follow-up; and

**WHEREAS**, the City of Oakland wishes to declare its desire not to expend City resources in any investigation, detention, arrest, or prosecution arising out of alleged violations of state and federal law regarding the use of Entheogenic Plants; now, therefore, be it

**RESOLVED:** That the Mayor and City Council hereby declare that it shall be the policy of the City of Oakland that no department, agency, board, commission, officer or employee of the city, including without limitation, Oakland Police Department personnel, shall use any city funds or resources to assist in the enforcement of laws imposing criminal penalties for the use and possession of Entheogenic Plants by adults; and be it

**FURTHER RESOLVED:** That the Oakland City Council directs the City Administrator to instruct the City's state and federal lobbyists to work in support of decriminalizing all Entheogenic Plants and plant-based compounds that are listed on the Federal Controlled Substances Schedule 1; and be it

**FURTHER RESOLVED:** That the Mayor and City Council hereby declare that it shall be the policy of the City of Oakland that the investigation and arrest of adult persons for planting, cultivating, purchasing, transporting, distributing, engaging in practices with, and/or possessing Entheogenic Plants or plant compounds on the Federal Schedule 1 list shall be amongst the lowest law enforcement priority for the City of Oakland; and be it

**FURTHER RESOLVED:** That the Mayor and City Council call upon the Alameda County District Attorney to cease prosecution of persons involved in the use of Entheogenic Plants or plant-based compounds on the Federal Schedule 1 List; and be it

**FURTHER RESOLVED:** That if any provision of this resolution is declared by a court of competent jurisdiction to be contrary to any statute regulation or judicial decision or its applicability to any agency person or circumstances is held invalid the validity of the remainder of this resolution and its applicability to any other agency person or circumstance shall not be affected.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND  
PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

ATTEST:

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



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### ii Entheogens and Psychological Wellness

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xii Ayahwasca Experience similar to Near-Death Experience

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<sup>xiii</sup> Ayahuasca for Addiction Therapy

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<sup>xvi</sup> Ayahuasca and Personal Growth

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