

**RESOLUTION RENEWING THE CITY COUNCIL'S DECLARATION OF A  
LOCAL PUBLIC HEALTH EMERGENCY WITH RESPECT TO SAFE,  
AFFORDABLE ACCESS TO MEDICAL CANNABIS IN THE CITY OF  
OAKLAND**

**WHEREAS**, under federal law, the Controlled Substance Act ("CSA") regulates the cultivation, possession, and distribution of cannabis regardless of whether it is possessed for legitimate medical purposes; and

**WHEREAS**, on November 5, 1996, the voters of California passed Proposition 215, the Compassionate Use Act of 1996, by a YES vote of 55.7 percent, and the residents of Oakland voted YES for Proposition 215 by an overwhelming 79.3 percent; and

**WHEREAS**, marijuana has been shown to help alleviate pain and discomfort in people suffering from a variety of illnesses including AIDS, cancer, glaucoma, and multiple sclerosis when no other medications have been effective; and

**WHEREAS**, the City Council of the City of Oakland finds that many of Oakland's residents are suffering from life-threatening or serious illnesses whose painful symptoms are alleviated by the ingestion of cannabis; and

**WHEREAS**, there is a need to ensure that patients have access to a safe and affordable supply of medical grade marijuana and cannabis products; and

**WHEREAS**, in 1996 the Oakland City Council passed Resolution No. 72516 C.M.S. supporting distribution of medical cannabis and declaring it to be the policy of the City of Oakland that the investigation and arrest of certain individuals involved with the medical use of marijuana should be a low priority for the City of Oakland; and

**WHEREAS**, on October 13, 1998 the federal district court authorized the U.S. Marshal to enforce the aforesaid preliminary injunction by entering the cooperative's premises located at 1755 Broadway in Oakland, evicting any and all tenants and padlocking the doors to such premises; and

**WHEREAS**, on October 19, 1998, the Oakland Cannabis Buyers' Cooperative voluntarily ceased its operations at 1755 Broadway; and

**WHEREAS**, the Oakland Cannabis Buyers' Cooperative provided medical cannabis to two thousand two hundred (2,200) seriously ill persons, approximately two-thirds of whom are living with AIDS, leaving those patients with no safe and affordable access to medical cannabis and closure of the cooperative impaired public safety by encouraging a market for street narcotic peddlers to prey upon Oakland's ill residents by selling them marijuana that may be contaminated and will be of unknown content and potency; and

**WHEREAS**, on October 27, 1998, the City Council passed Resolution No. 74618 C.M.S. declaring a local public health emergency with respect to safe, affordable access to medical cannabis in the City of Oakland; and

**WHEREAS**, a dispensary that the City authorized pursuant to Oakland Municipal Code Chapter 5.80 to distribute medical cannabis to persons who qualify for such medicine under California Proposition 215, received a letter dated December 7, 2007 alerting the dispensary that the Drug Enforcement Administration ("DEA") has determined that the owner or operator of the dispensary is violating federal law and is subject to criminal prosecution, imprisonment, fines and forfeiture of assets; and

**WHEREAS**, on December 7, 2007, Representative John Conyers, Chair of the U.S. House Judiciary Committee, issued a letter to the Oakland Cannabis Buyers' Cooperative, dated December 7, 2007, stating that the U.S. Department of Justice is considering the possibility of prosecuting the Oakland Cannabis Buyers' Cooperative for violating federal law; and

formally guided prosecutors not to base prosecutions on the size of medical cannabis operations alone; and

**WHEREAS**, in February 2014 the U.S. Treasury Department and DOJ indicated that banks that offer financial services to cannabis based businesses in legalized states would not be punished if both the banks and its clients follow the basic business tenets set forth in the Cole Memo, as well as specific reporting requirements and due diligence expectations; and

**WHEREAS**, although the DOJ indicated banks insured by the FDIC will not be punished for working with cannabis businesses few banks are working with cannabis businesses in absence of an official change in federal law; and

**WHEREAS**, in the FYI 2015-2016 Federal budget, Congress issued the Fahr-Rohrbacher amendment which prohibits the use of federal funds to prevent states from implementing their own state laws that authorize the use, distribution, possession, or cultivation of medical marijuana; and

**WHEREAS**, California's 2015 enactment of the Medical Marijuana Regulation and Safety Act ("MMRSA") establishes a comprehensive regulatory system for California's medical cannabis industry; and

**WHEREAS**, the voters of California approved Proposition 64 on November 8, 2016, legalizing the use of cannabis for persons aged 21 or older under state law and establishing certain sales and cultivation taxes; and

**WHEREAS**, in 2017 the State legislature passed S.B. 94, or the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), the reconciliation legislation merging the regulation of medical and adult-use cannabis at the State level

illnesses and has the potential to and may already be exacerbating the local public health emergency that exists with respect to access to an affordable and safe supply of medical cannabis; now, therefore, be it

**RESOLVED:** That the City Council of the City of Oakland finds that a continuing public health emergency exists with respect to access to an affordable and safe supply of medical cannabis, and pursuant to Government Code section 8630 does so declare; and be it

**FURTHER RESOLVED:** That the City Council finds that the thousands of seriously ill persons who obtain medical cannabis from the medical cannabis dispensaries authorized by the Council pursuant to OMC Chapter 5.80, would endure great pain and suffering and in some cases may die as a result of the closure of Oakland's authorized medical cannabis dispensaries; and be it

**FURTHER RESOLVED:** That the City Council of the City of Oakland urges the federal government to desist from any and all actions that pose obstacles to access to cannabis for Oakland residents whose physicians have determined that their health will benefit from the use of marijuana and recommended or approved medical cannabis use for such residents; and be it

**FURTHER RESOLVED:** That the City Council finds that the public health emergency with respect to access to an affordable and safe supply of medical cannabis continues and is exacerbated by the DEA's December 2007 threats of peril to owners and operators of medical cannabis dispensaries and the federal government's efforts, since 2012, to seize Harborside Health Center's retail properties on which it operates as an authorized medical cannabis dispensary; and be it

**FURTHER RESOLVED:** That the City Council of the City of Oakland finds that the thousands of seriously ill persons who obtain medical cannabis from the medical cannabis dispensaries authorized by the Council pursuant to OMC Chapter 5.80, would endure great pain and suffering and in some cases may die as a result of the closure of Oakland's authorized medical cannabis dispensaries; and be it

use, distribution, possession, or cultivation of medical marijuana. A copy of this resolution shall be forwarded to him with this paragraph highlighted.

IN COUNCIL, OAKLAND, CALIFORNIA,

**JUL 20 2021**

PASSED BY THE FOLLOWING VOTE:

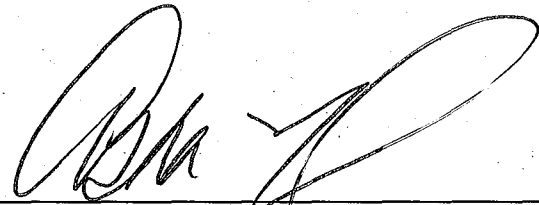
AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS — 8

NOES —

ABSENT —

ABSTENTION —

ATTEST:



ASHA REED

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