

Measure Z Committee

“SPECIAL MEETING”

AGENDA

Thursday, April 1, 2010, 6:00 p.m.
Hearing Room 3, City Hall, First Floor
Oakland, California 94612
(Please Note Location Change)

Members:

Dale Gieringer	District 1	Keith Stephenson	District 7
Joseph E. Villatoro	District 2	TC Everett	At Large
Richard Lee	District 3	Leslie Bonett	Mayor
James Anthony	District 4	Wendy Herndon	City Auditor
Matt Hummel	District 5	Jeff Baker	City Administrator
Vacant	District 6		

Available on-line at: <http://www.oaklandnet.com/measurez>

AGENDA

- A. Roll Call and Determination of Quorum
- B. Open Forum / Public Comment
- C. Review of the Pending List
- D. Approval of the Draft Minutes, Measure Z Committee Meeting of February 18, 2010.
- E. Reports for Discussion and Possible Action:
 1. Review of Oakland Police Department Report on Department Activities Related to Arrests for Criminal Marijuana Offenses for 2009
 2. Review, Approve and Forward Resolution From the Measure Z Committee to the Oakland City Council to Urge the Oakland City Council to Adopt Resolution in Support of the “Regulate, Control and Tax Cannabis Act of 2010”
- F. Election of Officers

Persons may speak on any item appearing on the agenda; however a Speaker Card must be filled out and given to a representative of the Measure Z Commission. Multiple agenda items cannot be listed on one speaker card. If a speaker signs up to speak on multiple items listed on the agenda, the Chairperson may rule that the speaker be given an appropriate allocation of time to address all issues at one time (cumulative) before the items are called. All speakers will be allotted 3 minutes or less – unless the Chairperson allots additional time.

♿ This meeting is wheelchair accessible. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in the meetings of the Measure Z Commission, please contact the Office of the City Clerk (510) 238-3612. Notification two full business days prior to the meeting will enable the City of Oakland to make reasonable arrangements to ensure accessibility. In compliance with Oakland's policy for people with chemical sensitivities, please refrain from wearing strongly scented products to events.

Questions or concerns regarding this agenda, or to review any agenda-related materials, please contact the Measure Z Commission at (510) 238-3301.

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OFFICE OF THE CITY CLERK
OAKLAND
2010 MAR 30 PM 12:21

Measure Z Committee Agenda
"Special Meeting" April 1, 2010
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- G. Review and Approval of Report from Measure Z Subcommittee re Guidelines for Fees on Measure Z Clubs
- H. Announcements.
- I. Adjournment.

Item C:

Review of Pending List

Pending, No Specific Date

1. Establishment of guidelines for Measure Z club's to deal with the issue of fees to be paid by licensed Measure Z Clubs. (R. Lee / K. Stephenson) *rev. Aug 08*
2. Develop guidelines for future enforcement (D. Gieringer)
3. Draft a proposed Training Bulletin for OPD for Measure Z (modeled after the Medicinal Cannabis Training Bulletin) for the implementation of the Measure Z lowest law enforcement priority, including protocols for OFD/OPD interaction, re: encountering cultivation operations in the course of their duties (J. Anthony and K. Stephenson) *rev. Aug 08*
4. Monitor, on an ongoing basis, "private, adult" marijuana offense arrests (J. Anthony)
5. A definition of "private" as it relates to cultivation in the law (R. Lee) *rev. Aug 08*
6. Annual Report from the Measure Z Committee to the Oakland City Council (D. Gieringer 7/20/06)
7. Review of Oakland compliance / non-compliance policies with the Drug Enforcement Agency (DEA) (R. Lee/D. Gieringer 9/20/07)
8. Discussion of "clear violations" of Measure Z (ex. People packaging personal use cannabis in their homes) as part of a dialog with OPD (invite public to share stories) (J. Anthony 12/20/07)
9. Review of environmental impacts of indoor / outdoor growing and possible regulations (M. Hummel 11/19/09)
10. Licensed cannabis smoking premises in the City of Oakland (D. Gieringer 3/19/09)
11. Report from the District Attorney – conviction vs. arrest statistics for CA Health & Safety Code section 11357 – misdemeanor arrests (L. Bonett 5/21/09)

For Tracking Purposes

1. Election of Officers – March 2011

(Rev. 19 Feb 2010)

Item D:

**Approval of Draft Minutes, Measure Z Committee Meeting of
February 18, 2010**

Measure Z Committee

Draft Meeting Minutes

Thursday, February 18, 2010, 6:00 p.m.

City Council Chambers, City Hall, One Frank H. Ogawa Plaza

Members:

Dale Gieringer	District 1	Keith Stephenson	District 7
Joseph E. Villatoro	District 2	TC Everett	At Large
Richard Lee	District 3	Leslie Bonett	Mayor
James Anthony	District 4	Wendy Herndon	City Auditor
Matt Hummel	District 5	Jeff Baker	City Administrator
Vacant	District 6		

DRAFT MINUTES

A. Roll Call and determination of quorum

Members Present: Lee, Hummel, Everett, Stephenson, Baker and Vice Chairperson Gieringer

Members Excused: Villatoro, Bonett, Herndon and Chairperson Anthony

The February 18, 2010 meeting of the Measure Z Committee was called to order at 6:10 p.m., by Vice Chairperson Dale Gieringer

B. Open Forum / Public Comment

There was one speaker:

Michael Kain spoke in favor of the legalization of cannabis; cited 65% of Oakland residents voted for Measure Z and expressed hope that Oakland could lead way to legalization and regulation of cannabis on State and Federal level.

D. Approval of Draft Minutes, Measure Z Committee Meeting of December 17, 2009. (This Item was taken out of order at the direction of the Chairperson.)

Member Lee asked for the Rules Committee Meeting date for scheduling of the Measure Z Committee Resolution on the 2010 Initiative as referenced in Draft Minutes Item E-1, December 17, 2009.

Member Baker responded the Item is scheduled for Rules Committee Meeting of February 25, 2010.

Member Baker requested a correction to Item E-3, "Establishment of Guidelines for Measure Z Clubs to Deal with the Issue of Fees to be Paid by Licensed Measure Z

Item: _____
Measure Z
April 1, 2010

Clubs.” During the December 17, 2009 meeting, it was stated that the “guidelines were approved by the Public Safety Committee and the Oakland City Council.” The Public Safety Committee and Oakland City Council received and filed the Measure Y Annual Report. There was no review, discussion or approval of Measure Z Club Guidelines.

The Minutes of the December 17, 2009 Measure Z Committee were approved by consensus.

C. Review of the Pending List (This Item was taken out of order by direction of the Chairperson.)

Vice Chairperson Gieringer requested a report from the Oakland Police Department on the following for review and discussion at the March 2010 meeting:

1. Pending List Item (1): Information on marijuana arrests and citations, including data tables/matrix of marijuana offenses and arrests and other crime trends from the OPD.
2. Pending List Item (4): Draft a proposed Training Bulletin for OPD for Measure Z (modeled after the Medicinal Cannabis Training Bulletin) for the implementation of the Measure Z lowest law enforcement priority, including protocols for OFD/OPD interaction, re: encountering cultivation operations in the course of their duties.
3. A definition of “private” as it relates to cultivation in the law.

E. Reports for Discussion and Possible Action

There were no reports submitted for discussion and possible action.

F. Announcements:

Member Lee announced the monthly East Bay Activist meeting is held after this meeting at the Oaksterdam University Student Union, 7:30 p.m., with pizza and soft drinks. Secondly, there is a fundraiser scheduled this weekend for ASA & Tax Cannabis 2010, 4-6 pm., Student Union, with a \$20 admission.

G. Adjournment: *There being no further business, and upon the motion duly made, the Measure Z Committee adjourned.*

Staff to the Measure Z Committee

Item: _____
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April 1, 2010

Item E:

Reports for Discussion and Possible Action

- 1. Review of Oakland Police Department Report on Department Activities Related to Arrests for Criminal Marijuana Offenses for 2009**
- 2. Review, Approve and Forward Resolution From the Measure Z Committee to the Oakland City Council to Urge the Oakland City Council to Adopt Resolution in Support of the "Regulate, Control and Tax Cannabis Act of 2010."**

CITY OF OAKLAND

MEMORANDUM

To: Measure Z Committee
From: Oakland Police Department
Date: March 18, 2009

Subject: **Police Department Activities Related to Arrests for Criminal Marijuana Offenses for 2009**

The Oakland Police Department maintains a policy stating that the investigation, citation and arrest for private cannabis offenses is the lowest law enforcement priority. All officers receive training on the marijuana policy. As of this date, the Oakland Police Department has not drafted a training bulletin in that respect, however statistics bear out the fact that enforcement of private adult cannabis offenses is a low priority.

In 2009, the Oakland Police Department arrested/cited 5326 persons for drug related offenses. Of those persons, only 255 (4.7%) were arrested/cited for possession of less than one ounce of marijuana. Of the total, only 55 (1%) persons were arrested/cited for possession of more than an ounce of marijuana. The majority of persons arrested/cited for private cannabis possession were in a public place and often are the result of specific complaints or investigations into other criminal activity.

In 2010, the trend continues. For example, during the week of 15 – 21 February, the Oakland Police Department made 108 drug related citation/arrests. Of these, only three (2.7%) were for possession of less than one ounce of marijuana.

Criminal Marijuana Arrest Statistics for Calendar Years 2003 – 2009*:

Arrest Type	2003	2004	2005	2006	2007	2008	2009
Possession of Marijuana for Sale - § 11359 HS	297	198	377	311	508	618	571
Cultivation of Marijuana - § 11358 HS	8	20	4	9	13	29	37
Sales/Transportation of Marijuana - § 11360 HS	118	226	201	111	115	164	128

* NOTE: These arrest totals are for adults only. Juvenile arrest totals are not available.

Item: E-1
Measure Z
April 16, 2009

City of Oakland Overall Crime Statistics:

Statute	Total 2008	Total 2009	% Change
Homicide	119	97	-18%
Aggravated Assault			
Shootings	665	494	-26%
Other Assaults	2031	1827	-10%
Rape	231	249	8%
Robbery			
Robbery	3486	3149	-10%
Carjacking	341	278	-18%
Burglary			
Auto	3568	3456	-3%
Residential	3105	3489	12%
Commercial	817	581	-29%
Other	267	229	-14%
Unknown	168	189	13%
Larceny	6640	6212	-6%
Arson	288	202	-30%
Vehicle Theft	8164	6272	-23%
Grand Totals	29890	26724	-11%

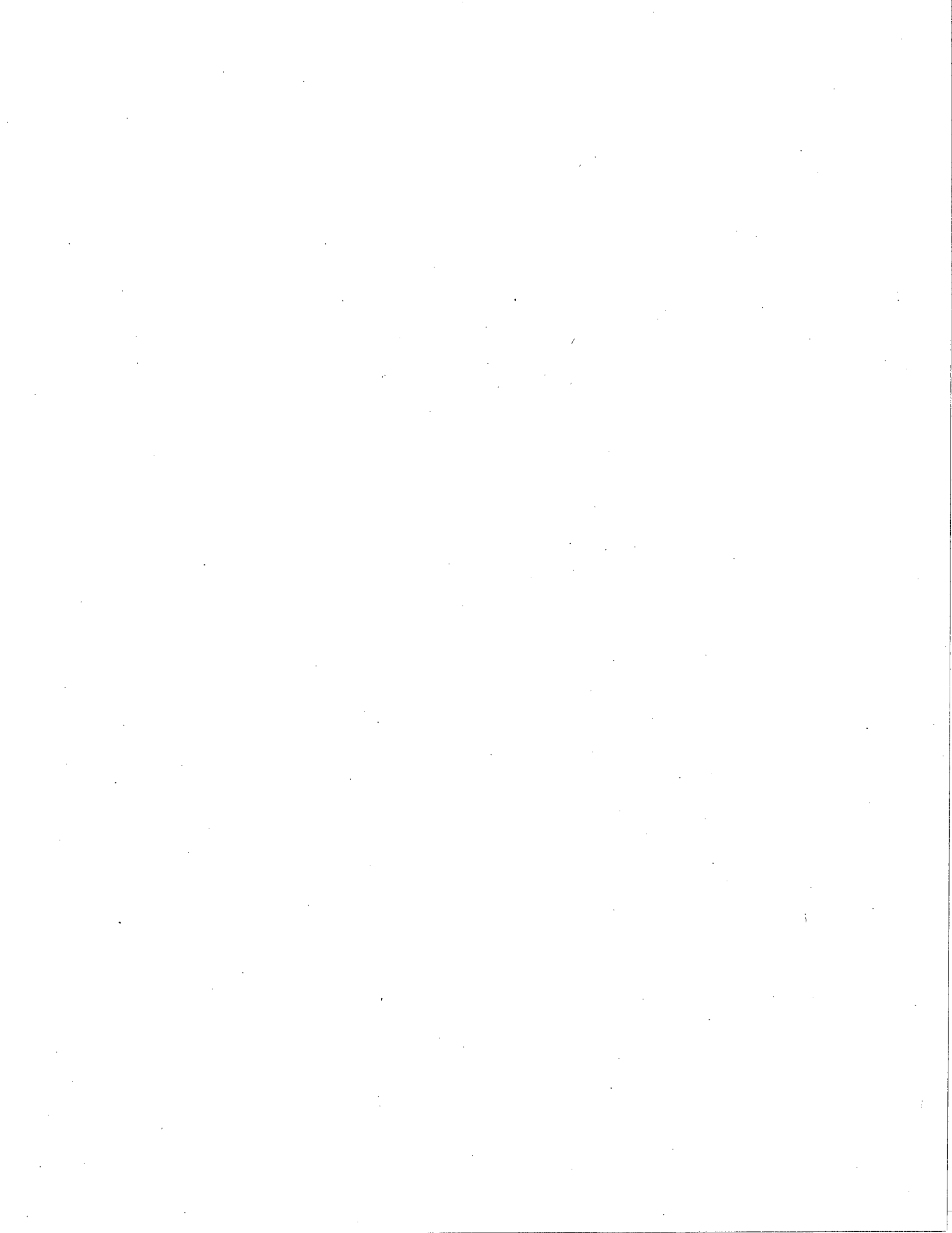
Crime Trends:

A troubling crime trend emerged in 2009; one that relates to crimes associated with marijuana cultivation operations. There were a number of robberies and burglaries which took place at marijuana cultivation sites. There were two homicides directly related to cultivation operations.

Since the beginning of 2010, there have been two burglaries and three robberies at marijuana cultivation operations within the City. This issue is not specific to Oakland. Throughout the state; marijuana growing operations are being targeted by people intent on stealing the valuable crop. Persons involved in growing marijuana often take to arming themselves to protect their crop; however this can lead to violent confrontations.

Additionally, on a state wide level, large marijuana growing operations are being discovered, usually on public land. They are mainly the product of Mexican drug gangs and in addition to the violence that is associated with protecting the crops, significant environmental harm has occurred from the use of illegal fertilizer, the fouling of water supplies, wildfires and the removal of native plants.

Michael Poirier
Lieutenant of Police



Measure Z Committee

April 15, 2010

Oakland City Council Rules Committee

Council Chambers, City Hall, One Frank H. Ogawa Plaza

To: Chairperson Brunner, Members of the Rules Committee

From: James Anthony, Chairperson, Measure Z Committee

Re: Recommendation from the Measure Z Committee to Urge
The Oakland City Council to Adopt A Resolution in Support
of the "Regulate, Control and Tax Cannabis Act of 2010"

During the December 17, 2009 Measure Z Committee, the following Motion was made and action taken:

Member Richard Lee made a Motion that the Measure Z Committee forward the Final Language of the "Regulate, Control and Tax Cannabis Act of 2010" to the Oakland City Council for endorsement and adoption of a City Council Resolution of support of the Initiative. The Motion was seconded by Member Joseph E. Villatoro.

A roll-call vote was taken:

On the Motion:

Member Gieringer – Aye

Member Villatoro – Aye

Member Lee – Aye

Member Hummel – Aye

Member Everett – Abstain

Member Bonett - Aye

Member Baker - (Not Sworn In)

Chairperson Anthony – Aye

The Motion passed with six affirmative votes.

Attachments

Item: _____
Rules Committee
April 15, 2010

LAW OFFICES OF JAMES WHEATON

CALIFORNIA BUILDING
1736 FRANKLIN STREET, 9TH FLOOR
OAKLAND, CALIFORNIA 94612

TEL: 510/208-4554
FAX: 510/208-4562
WHEATON@WELL.COM

27 July 2009

09-0024

Amdt. #/S

The Honorable Jerry Brown
Attorney General of California
ATTN: Mr. Neil Amos
Initiative Coordinator
Office of the Attorney General
1300 I Street, 17th floor
Sacramento, CA 95814
916/445-4752

RECEIVED

AUG 04 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

By Overnight courier

Re: Initiative Measure 09-0024: "Regulate, Control, Tax Cannabis"

Dear Mr. Amos:

Please find enclosed an amendment package for this proposed initiative measure.

The amendments are technical and nonsubstantive. They do not change the chief purposes or points of the measure.

For your convenience, a redlined copy showing the amendments is attached as Exhibit A. They are limited to pages 2, 3 and 5.

In addition, the complete text of the initiative as amended is attached as Exhibit B to this letter.

Last, I attach original signatures of the proponents approving and explaining the precise amendments. as Exhibit C.

Cordially,

James Wheaton

Enclosures: as noted

The Regulate, Control and Tax Cannabis Act of 2010

Section 1: Name

This Act shall be known as the "Regulate, Control and Tax Cannabis Act of 2010."

09 - 0024

Amdt. #1 S

Section 2: Findings, Intent and Purposes

This Act, adopted by the People of the State of California, makes the following Findings and Statement of Intent and Purpose:

A. Findings

1. California's laws criminalizing cannabis (marijuana) have failed and need to be reformed. Despite spending decades arresting millions of non-violent cannabis consumers, we have failed to control cannabis or reduce its availability.
2. According to surveys, roughly 100 million Americans (around 1/3 of the country's population) acknowledge that they have used cannabis, 15 million of those Americans having consumed cannabis in the last month. Cannabis consumption is simply a fact of life for a large percentage of Americans.
3. Despite having some of the strictest cannabis laws in the world, the United States has the largest number of cannabis consumers. The percentage of our citizens who consume cannabis is double that of the percentage of people who consume cannabis in the Netherlands, a country where the selling and adult possession of cannabis is allowed.
4. According to The National Research Council's recent study of the 11 U.S. states where cannabis is currently decriminalized, there is little apparent relationship between severity of sanctions and the rate of consumption.
5. Cannabis has fewer harmful effects than either alcohol or cigarettes, which are both legal for adult consumption. Cannabis is not physically addictive, does not have long term toxic effects on the body, and does not cause its consumers to become violent.
6. There is an estimated \$15 billion in illegal cannabis transactions in California each year. Taxing and regulating cannabis, like we do with alcohol and cigarettes, will generate

billions of dollars in annual revenues for California to fund what matters most to Californians: jobs, health care, schools and libraries, roads, and more.

7. California wastes millions of dollars a year targeting, arresting, trying, convicting, and imprisoning non-violent citizens for cannabis related offenses. This money would be better used to combat violent crimes and gangs.
8. The illegality of cannabis enables for the continuation of an out-of-control criminal market, which in turn spawns other illegal and often violent activities. Establishing legal, regulated sales outlets would put dangerous street dealers out of business.

B. Purposes

1. Reform California's cannabis laws in a way that will benefit our state.
2. Regulate cannabis like we do alcohol: Allow adults to possess and consume small amounts of cannabis.
3. Implement a legal regulatory framework to give California more control over the cultivation, processing, transportation, distribution, and sales of cannabis.
4. Implement a legal regulatory framework to better police and prevent access to and consumption of cannabis by minors in California.
5. Put dangerous, underground street dealers out of business, so their influence in our communities will fade.
6. Provide easier, safer access for patients who need cannabis for medical purposes.
7. Ensure that if a city decides not to tax and regulate the sale of cannabis, that buying and selling cannabis within that city's limits remain illegal, but that the city's citizens still have the right to possess and consume small amounts, except as permitted under Health and Safety Sections 11362.5 and 11362.7 through 11362.9.
8. Ensure that if a city decides it does want to tax and regulate the buying and selling of cannabis (to and from adults only), that a strictly controlled legal system is implemented to oversee and regulate cultivation, distribution, and sales, and that the city will have control over how and how much cannabis can be bought and sold, except as permitted

under Health and Safety Sections 11362.5 and 11362.7 through 11362.9.

9. Tax and regulate cannabis to generate billions of dollars for our state and local governments to fund what matters most: jobs, healthcare, schools and libraries, parks, roads, transportation, and more.
10. Stop arresting thousands of non-violent cannabis consumers, freeing up police resources and saving millions of dollars each year, which could be used for apprehending truly dangerous criminals and keeping them locked up, and for other essential state needs that lack funding.
11. Allow the Legislature to adopt a statewide regulatory system for a commercial cannabis industry.
12. Make cannabis available for scientific, medical, industrial, and research purposes.
13. Permit California to fulfill the state's obligations under the United States Constitution to enact laws concerning health, morals, public welfare and safety within the State.
14. Permit the cultivation of small amounts of cannabis for personal consumption.

C. Intent

1. This Act is intended to limit the application and enforcement of state and local laws relating to possession, transportation, cultivation, consumption and sale of cannabis, including but not limited to the following, whether now existing or adopted in the future: Health and Safety Code sections 11014.5 and 11364.5 [relating to drug paraphernalia]; 11054 [relating to cannabis or tetrahydrocannabinols]; 11357 [relating to possession]; 11358 [relating to cultivation]; 11359 [possession for sale]; 11360 [relating to transportation and sales]; 11366 [relating to maintenance of places]; 11366.5 [relating to use of property]; 11370 [relating to punishment]; 11470 [relating to forfeiture]; 11479 [relating to seizure and destruction]; 11703 [relating to definitions regarding illegal substances]; 11705 [actions for use of illegal controlled substance]; Vehicle Code sections 23222 and 40000.15 [relating to possession].
2. This Act is not intended to affect the application or enforcement of the following state

laws relating to public health and safety or protection of children and others: Health and Safety Code sections 11357 [relating to possession on school grounds]; 11361 [relating to minors as amended herein]; 11379.6 [relating to chemical production]; 11532 [relating to loitering to commit a crime or acts not authorized by law]; Vehicle Code section 23152 [relating to driving while under the influence]; Penal Code section 272 [relating to contributing to the delinquency of a minor]; nor any law prohibiting use of controlled substances in the workplace or by specific persons whose jobs involve public safety.

Section 3: Lawful Activities

Article 5 of Chapter 5 of Division 10 of the Health and Safety Code, commencing with section 11300 is added to read:

Section 11300: Personal Regulation and Controls

- (a) Notwithstanding any other provision of law, it is lawful and shall not be a public offense under California law for any person 21 years of age or older to:
- (i) Personally possess, process, share, or transport not more than one ounce of cannabis, solely for that individual's personal consumption, and not for sale.
 - (ii) Cultivate, on private property by the owner, lawful occupant, or other lawful resident or guest of the private property owner or lawful occupant, cannabis plants for personal consumption only, in an area of not more than twenty-five square feet per private residence or, in the absence of any residence, the parcel. Cultivation on leased or rented property may be subject to approval from the owner of the property. Provided that, nothing in this section shall permit unlawful or unlicensed cultivation of cannabis on any public lands.
 - (iii) Possess on the premises where grown the living and harvested plants and results of any harvest and processing of plants lawfully cultivated pursuant to section 11300(a)(ii), for personal consumption.
 - (iv) Possess objects, items, tools, equipment, products and materials associated with

activities permitted under this subsection.

- (b) "Personal consumption" shall include but is not limited to possession and consumption, in any form, of cannabis in a residence or other non-public place, and shall include licensed premises open to the public authorized to permit on-premises consumption of cannabis by a local government pursuant to section 11301.
- (c) "Personal consumption" shall not include, and nothing in this Act shall permit cannabis:
 - (i) possession for sale regardless of amount, except by a person who is licensed or permitted to do so under the terms of an ordinance adopted pursuant to section 11301;
 - (ii) consumption in public or in a public place;
 - (iii) consumption by the operator of any vehicle, boat or aircraft while it is being operated, or that impairs the operator;
 - (iv) smoking cannabis in any space while minors are present.

Section 11301: Commercial Regulations and Controls

Notwithstanding any other provision of state or local law, a local government may adopt ordinances, regulations, or other acts having the force of law to control, license, regulate, permit or otherwise authorize, with conditions, the following:

- (a) cultivation, processing, distribution, the safe and secure transportation, sale and possession for sale of cannabis, but only by persons and in amounts lawfully authorized;
- (b) retail sale of not more than one ounce per transaction, in licensed premises, to persons 21 years or older, for personal consumption and not for resale;
- (c) appropriate controls on cultivation, transportation, sales, and consumption of cannabis to strictly prohibit access to cannabis by persons under the age of 21;
- (d) age limits and controls to ensure that all persons present in, employed by, or in any way involved in the operation of, any such licensed premises are 21 or older;
- (e) consumption of cannabis within licensed premises;

- (f) safe and secure transportation of cannabis from a licensed premises for cultivation or processing, to a licensed premises for sale or on-premises consumption of cannabis;
- (g) prohibit and punish through civil fines or other remedies the possession, sale, possession for sale, cultivation, processing, or transportation of cannabis that was not obtained lawfully from a person pursuant to this section or section 11300;
- (h) appropriate controls on licensed premises for sale, cultivation, processing, or sale and on-premises consumption, of cannabis, including limits on zoning and land use, locations, size, hours of operation, occupancy, protection of adjoining and nearby properties and persons from unwanted exposure, advertising, signs and displays, and other controls necessary for protection of the public health and welfare;
- (i) appropriate environmental and public health controls to ensure that any licensed premises minimizes any harm to the environment, adjoining and nearby landowners, and persons passing by;
- (j) appropriate controls to restrict public displays, or public consumption of cannabis;
- (k) appropriate taxes or fees pursuant to section 11302;
- (l) such larger amounts as the local authority deems appropriate and proper under local circumstances, than those established under section 11300(a) for personal possession and cultivation, or under this section for commercial cultivation, processing, transportation and sale by persons authorized to do so under this section;
- (m) any other appropriate controls necessary for protection of the public health and welfare.

Section 11302: Imposition and Collection of Taxes and Fees

- (a) Any ordinance, regulation or other act adopted pursuant to section 11301 may include imposition of appropriate general, special or excise, transfer or transaction taxes, benefit assessments, or fees, on any activity authorized pursuant to such enactment, in order to permit the local government to raise revenue, or to recoup any direct or indirect costs associated with the authorized activity, or the permitting or licensing scheme, including

without limitation: administration; applications and issuance of licenses or permits; inspection of licensed premises and other enforcement of ordinances adopted under section 11301, including enforcement against unauthorized activities.

- (b) Any licensed premises shall be responsible for paying all federal, state and local taxes, fees, fines, penalties or other financial responsibility imposed on all or similarly situated businesses, facilities or premises, including without limitation income taxes, business taxes, license fees, and property taxes, without regard to or identification of the business or items or services sold.

Section 11303: Seizure

- (a) Notwithstanding sections 11470 and 11479 of the Health and Safety Code or any other provision of law, no state or local law enforcement agency or official shall attempt to, threaten to, or in fact seize or destroy any cannabis plant, cannabis seeds or cannabis that is lawfully cultivated, processed, transported, possessed, possessed for sale, sold or used in compliance with this Act or any local government ordinance, law or regulation adopted pursuant to this Act.

Section 11304: Effect of Act and Definitions

- (a) This Act shall not be construed to affect, limit or amend any statute that forbids impairment while engaging in dangerous activities such as driving, or that penalizes bringing cannabis to a school enrolling pupils in any grade from kindergarten through 12, inclusive.
- (b) Nothing in this Act shall be construed or interpreted to permit interstate or international transportation of cannabis. This Act shall be construed to permit a person to transport cannabis in a safe and secure manner from a licensed premises in one city or county to a licensed premises in another city or county pursuant to any ordinances adopted in such cities or counties, notwithstanding any other state law or the lack of any such ordinance

in the intervening cities or counties.

- (c) No person shall be punished, fined, discriminated against, or be denied any right or privilege for lawfully engaging in any conduct permitted by this Act or authorized pursuant to Section 11301 of this Act. Provided however, that the existing right of an employer to address consumption that actually impairs job performance by an employee shall not be affected.

(d) Definitions

For purposes of this Act:

- (i) "Marijuana" and "cannabis" are interchangeable terms that mean all parts of the plant Genus Cannabis, whether growing or not; the resin extracted from any part of the plant; concentrated cannabis; edible products containing same; and every active compound, manufacture, derivative, or preparation of the plant, or resin.
- (ii) "One ounce" means 28.5 grams.
- (iii) For purposes of section 11300(a)(ii) "cannabis plant" means all parts of a living Cannabis plant.
- (iv) In determining whether an amount of cannabis is or is not in excess of the amounts permitted by this Act, the following shall apply:
- (a) only the active amount of the cannabis in an edible cannabis product shall be included;
- (b) living and harvested cannabis plants shall be assessed by square footage, not by weight in determining the amounts set forth in section 11300(a);
- (c) in a criminal proceeding a person accused of violating a limitation in this Act shall have the right to an affirmative defense that the cannabis was reasonably related to his or her personal consumption.
- (v) "residence" means a dwelling or structure, whether permanent or temporary, on private or public property, intended for occupation by a person or persons for residential purposes, and includes that portion of any structure intended for both

commercial and residential purposes.

(vi) "local government" means a city, county, or city and county.

(vii) "licensed premises" is any commercial business, facility, building, land or area that has a license, permit or is otherwise authorized to cultivate, process, transport, sell, or permit on-premises consumption, of cannabis pursuant to any ordinance or regulation adopted by a local government pursuant to section 11301, or any subsequently enacted state statute or regulation.

Section 4: Prohibition on Furnishing Marijuana to Minors

Section 11361 of the Health and Safety Code is amended to read:

Prohibition on Furnishing Marijuana to Minors

(a) Every person 18 years of age or over who hires, employs, or uses a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling any marijuana, who unlawfully sells, or offers to sell, any marijuana to a minor, or who furnishes, administers, or gives, or offers to furnish, administer, or give any marijuana to a minor under 14 years of age, or who induces a minor to use marijuana in violation of law shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

(b) Every person 18 years of age or over who furnishes, administers, or gives, or offers to furnish, administer, or give, any marijuana to a minor 14 years of age or older shall be punished by imprisonment in the state prison for a period of three, four, or five years.

(c) Every person 21 years of age or over who knowingly furnishes, administers, or gives, or offers to furnish, administer or give, any marijuana to a person aged 18 years or older but younger than 21 years of age, shall be punished by imprisonment in the county jail for a period of up to six months and be fined up to \$1,000 for each offense.

(d) In addition to the penalties above, any person who is licensed, permitted or authorized to perform any act pursuant to Section 11301, who while so licensed, permitted or authorized, negligently furnishes, administers, gives or sells, or offers to furnish, administer, give or sell, any

marijuana to any person younger than 21 years of age shall not be permitted to own, operate, be employed by, assist or enter any licensed premises authorized under Section 11301 for a period of one year.

Section 5: Amendment

Pursuant to Article 2, section 10(c) of the California Constitution, this Act may be amended either by a subsequent measure submitted to a vote of the People at a statewide election; or by statute validly passed by the Legislature and signed by the Governor, but only to further the purposes of the Act. Such permitted amendments include but are not limited to:

- (a) Amendments to the limitations in section 11300, which limitations are minimum thresholds and the Legislature may adopt less restrictive limitations.
- (b) Statutes and authorize regulations to further the purposes of the Act to establish a statewide regulatory system for a commercial cannabis industry that addresses some or all of the items referenced in Sections 11301 and 11302.
- (c) Laws to authorize the production of hemp or non-active cannabis for horticultural and industrial purposes.

Section 6: Severability

If any provision of this measure or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the measure that can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

DRAFT

Approved as to Form and Legality

INTRODUCED BY _____

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

A RESOLUTION FROM THE OAKLAND CITY COUNCIL ENDORSING THE CALIFORNIA REGULATE, CONTROL AND TAX CANNABIX ACT OF 2010

WHEREAS, California's laws criminalizing cannabis (marijuana) have failed and need to be reformed.

WHEREAS, California should regulate cannabis like we do alcohol, allowing adults to possess and consume small amounts of cannabis.

WHEREAS, there is an estimated \$15 billion in illegal cannabis transactions in California each year, but because cannabis remains illegal, our state sees none of the revenue.

WHEREAS, taxing and regulating cannabis, like we do with alcohol and cigarettes, will generate billions of dollars in annual revenue for California to fund what matters most to Californians: jobs, health care, schools and libraries, roads, and more.

WHEREAS, California should stop arresting thousands of non-violent cannabis consumers, freeing up police resources and saving millions of dollars each year, which could be used for apprehending truly dangerous criminals and keeping them locked up, and for other essential state needs that lack funding.

RESOLVED; That the Oakland City Council endorse the California Regulate, Control, and Tax Cannabis Act of 2010, appearing on the November 2010 Statewide ballot.

Item G:

**Review and Approve Report from Measure Z Subcommittee re
Guidelines for Fees on Measure Z Clubs**

Measure Z

Oakland licensed Measure Z club Cannabis Fees Oversight Committee.

Sub-committee report on guidelines for licensed Measure Z club fees:

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History

The Oakland Cannabis Regulation and Revenue Ordinance became law in November 2004, when 65% of Oakland voters passed the Measure Z Ordinance, making private sales and private cultivation of cannabis Oakland law enforcement's lowest priority and mandated that Oakland establish cannabis tax, fee and licensing regulations, to be implemented in the event cannabis becomes legal. The goal of the ordinance is to regulate cannabis sales and to generate tax revenue for Oakland, thereby allowing Oakland's law enforcement personnel to prioritize and commit their resources in a more efficient and effective manner.

Therefore the Measure Z Committee proposes the following guidelines for private Measure Z clubs that are currently operating or will operate in the future.

Measure Z Clubs

It is the opinion of this committee that modeling cannabis sales, assessing fees and licensing requirements in a similar fashion as alcohol and/or Medical Cannabis Dispensaries (MCD) is the most effective manner in which to regulate cannabis sales under Measure Z. For the purpose of this report, "clubs" refers to cannabis "point of sale" locations.

For the purpose of assessing fees for the sale of cannabis, the following has been developed for Measure Z regulation.

1. Measure Z Club membership fees *shall* be determined by the number of members each club served during the previous calendar year.
2. Membership fees for each year shall be determined from the club membership monthly totals from the previous year.
3. Measure Z Club fees will be paid quarterly (January 1st, April 1st, July 1st & October 1st) for the previous year. Previous year fees will be based on the monthly average of the number of active members for that year.
4. First year fees for all Measure Z Clubs *shall* be due on first, second, third and fourth quarters of the second calendar year that the club is licensed to conduct business in Oakland and quarterly for each year thereafter.
5. Measure Z clubs will pay \$50 per member, per year. EXAMPLE: A Measure Z club with 100 active members will have a \$5,000 annual permit fee and a club with 200 active members would have a \$10,000 annual permit fee.

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6. Quarterly fee payment will be made to the O.C.R.R.O. administrative staff. The Administrative staff will collect fees, keep records of fee payments and transfer all payments to the appropriate City collections office.
7. Fee payment will be made payable to the City of Oakland.
8. Measure Z club proprietors are responsible for completing and filing the designated city of Oakland form for identifying previous year membership totals and for the fees due for the previous year. Forms *shall* be due not later than January 31 of each year.
9. A 10% late fee *shall* be applied to all form fee amounts when they are completed and filed after the January 31 due date and may be included to be paid in the normal course of the fee payment(s) schedule.
10. Failure to complete and file a membership/fee form by April 1 *shall* result in suspension of the Measure Z club's operating license.
11. Club business license suspension can only be rescinded and the operating license reinstated after the membership/fee form is completed, filed and after a 25% penalty of the fees due is paid in full at the time of reinstatement.
12. If after the second quarter of the calendar year, by May 1, a club fails to complete and submit the membership/fee form, the city *shall* deem that the club's license is revoked. All prior year fees *shall* then be assessed at a 100% club membership assessment and all taxes shall be assessed and due.
13. An active member is a cardholding member who has visited the club during the previous quarter.
14. Measure Z Clubs *shall* be required to issue membership identification cards to all active members, following the same requirement(s) as do the MCD identification cards, to their members and are required to maintain and to quarterly submit a list of active and non-active members for each year for fee calculating purposes.
15. At a minimum, membership identification *shall* include member's name, photo and club member identification number.
16. Membership identifications *shall* be issued only after member applicant's identification has been verified by reviewing member applicant's California Driver License, California Identification Card or another form of photo identification that has been issued by a recognized agency authorized to issue identifications in California.
17. Club member identification numbers *shall* be unique to that individual and *shall* be assigned by a state or local municipality. The assigning entity *shall* determine the most efficient method of assigning identification numbers to clubs; for tracking of numbers assigned to each club AND for insuring that club member identification numbers are only assigned to a single individual.
18. All Oakland Measure Z clubs *shall* maintain a reserve account with and be maintained and administered by the city of Oakland at a 150% club membership capacity fee amount. This account *shall* be utilized whenever a club terminates business within the city of Oakland and previous years' fees and/or city taxes are

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due. Previous year fees and taxes *shall* be allocated from the reserve account, payable to the city of Oakland; to pay **ALL** due or past due club fees and/or taxes. The remaining amount(s) *shall* then be distributed to the proprietor, owner, legal entity or legally designated person(s) of the closed Measure Z club.

19. All fees (100%) collected will be allocated for *non-administrative* purposes; (50%) to the Oakland Police Department to increase the number of active P.O.S.T. certified police officers and (50%) to the Oakland Public Schools for educational or after school programs.
20. Any changes to the percentage of Measure Z fee allocations *shall* only occur upon a 2/3 majority vote of the Oakland City Council.