

CITY OF OAKLAND

PROPOSED ORDINANCE

A proposed Ordinance (1) Creating A Special Parcel Tax And (2) Increasing The Parking Tax In Order To Fund Violence And Crime Prevention Programs

CITY OF OAKLAND MEASURE Y

Y MEASURE Y: To reduce violent crime and increase public safety, shall the City of Oakland increase successful after school, counseling, truancy, and job training programs, early intervention programs for children who witness violence, programs to prevent child abuse and domestic violence, and increase community police officers, paramedics and emergency fire personnel in each neighborhood by authorizing a surcharge on parking in commercial parking lots and parcel tax subject to annual performance and financial audits by a citizens oversight committee?	YES
	NO

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE Y

Title:

Violence Prevention and Public Safety Act of 2004. A Proposed Ordinance Creating A Parcel Tax And a Parking Surcharge on Parking in Commercial Parking Lots In Order To Fund Violence, Crime and Fire Prevention Programs

Summary:

This ordinance raises revenue to fund violence, crime and fire prevention programs in the City of Oakland.

The revenue will come from a new parcel tax along with a surcharge on those who park in commercial parking lots.

The permitted uses of the revenue are community and neighborhood policing (hiring and maintaining an additional 63 police officers above the currently budgeted 739 officers), violence prevention services with an emphasis on youth, and fire services. The revenue allocated to the violence prevention services will be not less than 40% of the total proceeds allocated for community and neighborhood policing plus violence prevention services. \$4 million of the tax proceeds will be allocated to fire services.

The parcel tax will be \$88.00 for a single family residential parcel, \$60.12 for each unit in a multi-family residential parcel. For non-residential parcels, the parcel tax varies depending on the frontage, area and use of the property. See the formula at Part 3, Section 2(c).

The surcharge for those who park in commercial parking lots will be 8 ½%.

s/JOHN RUSSO
City Attorney

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE Y

California cities may impose special taxes only if two-thirds of a city's voters approve the tax. (California Constitution Article 13(A) §4.) A "special" tax is a tax that the City can use only for the purposes specified in the tax measure. To fund violence and crime prevention programs, this measure asks Oakland voters to approve (1) a parcel tax and (2) a surcharge on parking in commercial lots. With the tax rates as calculated in this measure, and upon two-thirds voter approval, these taxes would be constitutional.

Purpose of the Tax

The revenue generated from this tax may be expended only:

- A. For fire services staff, equipment and paramedic services (\$4 million),
- B. For preventive social services, including youth outreach counselors, after-school and in-school programs for at-risk adolescents and children, domestic violence and child abuse counselors, and ex-offender employment training,
- C. To hire 63 new sworn police officers, including at least one officer for each existing community policing beat, for combating truancy, for a crime reduction team, for domestic violence and child abuse intervention, and for community policing training and equipment.

At least 40% of the tax revenues remaining after the \$4 million designated for fire services must be appropriated for preventive social services.

Independent Audit

This measure also requires an annual independent audit and establishes a "Violence Prevention and Public Safety Oversight Committee" to review the annual audits, evaluate the effectiveness of the programs, and make recommendations to the Mayor and City Council regarding regulations.

Term of the Tax: Amount of Tax

For ten years, this measure would impose (1) a parking surcharge of eight and one-half (8½) percent on every rented parking space in commercial parking lots in the City and (2) a parcel tax.

For residential property parcels, the annual parcel tax rate would be (1) \$88.00 for single-family parcels and (2) \$60.12 per unit for multi-unit residential parcels. For non-residential parcels, the tax would be \$45.07 multiplied by the number of "Single Family Equivalents ("SFE"). A property's SFE number is based on the parcel's frontage and square footage. (See the Proposed Ordinance, Part 3, Section 2(c) for the formula.)

Exemptions

Owners of undeveloped parcels are exempt from this parcel tax for each year that they can prove to the City that their parcel was undeveloped for at least six months of the year. All funds collected from the parcel tax and the parking surcharge will be deposited into a special fund.

The City may collect the taxes authorized by this measure only if the City's appropriation for sworn police officers (without including the taxes raised by this measure) is at least equal to the amount necessary to employ 739 officers.

s/JOHN RUSSO
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE Y

SUMMARY

This measure authorizes the City of Oakland to collect an annual tax on all parcels and to increase the parking tax rate until December 31, 2014, in order to raise revenue necessary to fund violence and crime prevention programs and enhance fire safety. These funds will be used for the following purposes:

1. To hire 63 officers assigned to Community and Neighborhood Policing
2. To expand Violence Prevention Services
3. To maintain staffing and equipment for Fire Services.

Applicants must demonstrate that their program meets the stated objectives in order to be eligible to receive distributed funds. The City Council will determine both the recipients and the amount of revenue distributed to each recipient.

A Citizen's Oversight Committee appointed by the Mayor and the City Council will be established to insure that all funds are spent on these programs and services. The ordinance states that an independent annual audit will be performed to assure accountability and that the proper disbursement of the incremental proceeds of the parcel and parking taxes are in accordance with the ordinance's stated objectives. The ordinance contains a provision to finance the costs of performing these audits.

FISCAL IMPACT

The City of Oakland projects that it would need to raise approximately \$19,920,000 annually to fully implement the violence and crime prevention programs. Each Single Family Residential parcel shall be taxed at an annual rate of \$88.00. All other parcels shall be taxed on a Single Family Residential Equivalent rate that includes occupancy, area and frontage components. The parking tax will increase by 8.5%. Estimates prepared by the City's independent consultants show that the proposed taxes should be sufficient to meet this goal as the following first year breakdown of tax revenues indicates:

Source of Funds: (Amounts in Millions)

New Parcel Tax	\$12.17
Parking Tax Surcharge	<u>7.75</u>
Total Revenue	<u>\$19.92</u>

The parcel tax rates shown above are the maximum rates that may be imposed for Fiscal Year 2004-2005. In subsequent years, this tax may be reduced or eliminated on or before June 30th in any year that the City Council determines that sufficient revenues exist to provide the services and programs described above.

There is a provision for annual increases in the tax assessment or rate increases, beginning in Fiscal Year 2004-2005. Each year thereafter, the City Council may increase the taxes imposed if it determines that an increase has occurred in the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for the San Francisco Bay Area as published by the U.S. Department of Labor. The increase is limited to the lesser of the rise in the CPI for five percent of the tax rates imposed by the City of Oakland.

Although our estimates are based upon the best data available at this time, it is difficult to make such estimates with precision; therefore, the actual results may vary from our estimates.

s/ROLAND E. SMITH, CPA, CFS
City Auditor

ARGUMENT IN FAVOR OF MEASURE Y

In March 2004, Measure R was placed on the ballot to reduce violent crime in Oakland. Although an overwhelming majority of voters approved of the measure, it failed by a few hundred votes to receive the 2/3 support needed to pass.

Following this narrow defeat, community leaders, city officials, and neighborhood groups came together to develop what is now a more comprehensive response to violent crime in our community, Measure Y.

Measure Y is a smart, fiscally responsible plan that funds the expansion of effective violence prevention programs and increases the number of police officers in Oakland neighborhoods.

Measure Y will provide job training, mentoring and counseling programs for children and young adults, and expand afterschool and truancy programs for at-risk youth. Early intervention programs for children who witness violence will be expanded and funding will be provided to prevent child abuse and domestic violence against women. Measure Y will increase services to eliminate teen and child prostitution.

Measure Y will decrease violent crime by adding at least one community policing officer in each neighborhood beat, and expand specialized teams focused on violent crime, drug dealing, and gang activities.

Measure Y will ensure rapid response to emergencies by increasing the number of paramedics and firefighters in Oakland neighborhoods.

Measure Y includes strict financial oversight and performance reviews of police and violence prevention programs. An annual, independent audit will be performed to ensure fiscal accountability.

Programs will be evaluated based on the number of people served and the rate of crime reduction achieved. If it is determined that a program is not meeting specific requirements, funding for that program will be redirected to more effective programs.

Oakland needs a smart, comprehensive, balanced solution to improve public safety in our community. Please vote YES to reduce crime and violence in Oakland.

s/BARBARA LEE

Member of Congress

s/IGNACIO DE LA FUENTE

President City Council

s/NANCY NADEL

City Councilmember

s/DON LINK

Chairperson, Community Policing Advisory Board

s/SANDRA FROST

Co-Chair, Oakland Community Organizations

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE Y

Measure Y would not give us what Oakland desperately needs – a safe city, effective and accountable violence prevention programs, and sufficient community police. When we need the police and call, they can't come because there are not enough officers. Most robberies and burglaries are no longer even being investigated.

Peace and safety should be the highest priority of the City within its existing \$800 million budget. Why then are they asking us to fund police and violence prevention with yet another parcel tax?

Violence prevention programs must be accountable, or the money will be wasted. Oakland already has a grab-bag of pork barrel projects, each spending on separate administration without coordination. Scandals like PUEBLO (\$185,000 embezzled) and the Job for Homeless Consortium (\$1.5 million owed back to the federal government) underline these dangers.

Measure Y is a blatantly unfair tax. Homeowners with a \$200,000 or a \$2,000,000 home would pay the same tax. In addition, a Safeway or a Bank of America pays little more than a homeowner.

The peace and safety of our families are too important for us to accept Measure Y's botched solution for the next ten years.

Tell the Council: Peaceful Streets must be Job Number One. Please join thousands of your fellow Oaklanders by voting **NO on Measure Y**.

s/CHARLES PINE

Allendale Neighborhood Action

s/JEANNETTE M. O'SULLIVAN

Oakland Resident

s/GENE V. MALONEY

Oakland Resident

ARGUMENT AGAINST MEASURE Y

Measure Y is a hastily cobbled \$19.5 million political compromise that adds 63 police officers to a 739 officer force that was just cut by 39 officers last year. It's another attempt to sidestep city responsibility for basic public services by transferring the burden for police and fire protection from general tax revenues to new, regressive parcel taxes.

The Council has slashed the police force to one half the police-to-resident ratio of Atlanta, Boston, and most other diverse cities. Given this gulf in staffing, the only impact of just 63 officers, with no plan for future additions, will be to leave citizen peace and safety in continued jeopardy.

Measure Y provides funds for unnamed social programs, but nothing prevents the council in the next budget crisis from cutting funding from existing programs for a net gain of zero.

Measure Y continues the endless stream of regressive parcel taxes, starting at \$88 per parcel for homeowners and rising every year with inflation, regardless of taxpayer income. Apartments will also be taxed, resulting in legal rent increases to tenants.

Measure Y gives \$6.4 million to unidentified social programs while existing ones have been rocked by waste and inadequate accountability. PUEBLO, funded by 1998's "Kids First" measure, has apparently cost Oakland taxpayers \$185,000 in embezzled funds, and it is but one example. City "oversight" went blind and it took a private lawsuit to discover the waste!

Measure Y's "oversight committee" will be appointed by the Council, analogous to the cooks appointing the food critics. We support police accountability. Social programs must be equally accountable before adding to the \$99 million already being spent on intervention, prevention, and rehabilitation programs.

Defeat Measure Y. We can then pass a citizen initiative with expanded community policing, violence prevention, and effective accountability.

s/CHARLES PINE

Chair, Allendale Neighborhood Action

s/JEANNETTE O'SULLIVAN

Retired – 40 year citizen

s/GENE V. MALONEY

Resident of Oakland, 75 years

REBUTTAL TO ARGUMENT AGAINST MEASURE Y

Opponents of Measure Y deliberately misinform voters with inaccurate and misleading statements. Some opponents say "more police is the only way to stop crime", other say, "more social programs is the only way to prevent violence". Neither extreme is correct.

Measure Y is a balanced solution that will increase public safety in Oakland. Measure Y has been carefully crafted to fund BOTH effective violence prevention programs AND expand the number of police officers to crack down on crime hot spots and gang activity.

Measure Y focuses violence prevention programs on children and at-risk youth. Measure Y funds job training, mentoring, counseling, after-school and early intervention programs to stop crime before it starts.

Measure Y will increase the number of officers that target the most dangerous violent crime. Measure Y will reduce gang violence, homicides, domestic violence, child abuse, and teen prostitution and will reduce overall crime in our city.

Measure Y ensures accountability. A yearly audit will be performed and independent oversight committee will review all Measure Y programs. Evaluation of programs will be based on the number of people served and the rate of crime or violence reduction achieved.

Violent crime in Oakland shatters lives and destroys families and neighborhoods. Now is the time to take action. It is time to stop talking about crime and violence and do something about it!

Please join Congresswoman Barbara Lee, Oakland firefighters and emergency service providers, violence prevention advocates, educators and neighborhood safety organizations in voting Yes on Y.

s/JERRY BROWN

Mayor of Oakland

s/JEAN QUAN

City Councilmember

s/DEANE CALHOUN

Executive Director, Youth Alive!

s/BOB JACKSON

Bishop

s/SHANNON JONES-ELLIS

Family Violence Law Center

FULL TEXT OF MEASURE Y

WHEREAS, the citizens of the City of Oakland (the "City") are committed to a community-oriented approach to violence prevention in Oakland; and

WHEREAS, preventing violence and ensuring public safety requires an integrated system of social-services intervention, long-term crime-prevention programs, police services and fire-safety and paramedic support; and

WHEREAS, Oakland funds basic police and fire services at levels below those of similar-sized cities throughout the country; and

WHEREAS, the unemployment rate as of May, 2004 was 8.6%, and Oakland has a population of over 3,000 people on parole, many of whom have difficulty finding work; and

WHEREAS, in an effort to prevent violence and crime, the City has partnered with the State of California to work with parolees, to make sure they have an opportunity for successful reentry into society, including job opportunities, instead of resorting to crime; and

WHEREAS, in an effort to prevent violence and crime, Oakland currently funds or administers programs for youth recreation and counseling, recreation, job training, domestic violence intervention, and parole counseling;

WHEREAS, currently these programs are limited in scope or have been cut due to funding constraints; and

NOW, THEREFORE BE IT RESOLVED:

That the City Council of the City of Oakland does hereby submit to the voters at the November 2, 2004 general election, an ordinance, which reads as follows:

PART 1. GENERAL

Section 1. TITLE AND PURPOSE.

(A) **Title.** This ordinance may be cited as the "Violence Prevention and Public Safety Act of 2004."

(B) **Purpose.** The taxes imposed or increased under this ordinance are solely for the purpose of raising revenue necessary to retain and enhance services and programs to prevent violence and crime and enhance fire safety in the City of Oakland.

The parcel tax imposed in Part 2 is not an ad valorem tax on real property, nor a transaction tax or sales tax on the sale of real property. It is an excise tax on the privilege of using and use of municipal services. Such municipal services increase and provide a greater benefit to Owners of Parcels when programs aimed at preventing violence and crime in the City are enhanced. Because the proceeds of the tax will be deposited in a special fund restricted for the services and programs specified herein, the tax is a special tax.

Section 2. FINDINGS

1. Investing in an coordinated system of early intervention, community policing and violence-prevention efforts before injury occurs will reduce economic and emotional costs and be a cost-effective use of taxpayer dollars.

2. Violence and crime occurs at workplaces, on school grounds, and in residential neighborhoods within the Oakland community.

3. Due to budget constraints, the City's police depart-

ment is staffed at a level significantly lower than cities of similar size in the United States.

4. Due to budget shortfalls, Oakland's fire department is currently operating with limited fire trucks and crews that rotate among several stations, thereby leaving certain fire stations under staffed.

5. Fully staffing and equipping fire stations throughout the City will provide the necessary fire and medical response in case of critical emergencies or natural disasters.

6. This special tax is based on a community assessment of innovative prevention strategies and is intended to be proportional to and based on estimates of typical use and benefit from these municipal services.

7. Crime in Oakland disrupts local commercial activity, reduces business and industrial productivity, deters tourism and outside financial investments, and depreciates the value of real estate.

8. The apportionment of the parcel tax to various types of properties is based, in part, on the intensity of policing, violence prevention and fire protection services needed for different kinds of land uses and on the average number of occupants of a parcel of each type of property. Users of residential property typically generate more calls for service to the police and fire departments, and the intensity of use of police and fire protection services increases as the number of residential units on a parcel increases. On the other hand, because of the typically large size of commercial and industrial parcels, and because the employees who work for businesses located on such parcels and the customers who visit such businesses generally outnumber the residents of even a similarly sized parcel of residential property (partly because non-residentially developed real property often has more than one business operating on it), the tax on commercial/industrial properties is calculated based on single family equivalent units.

9. As the density of residential development increases, the cost of providing policing and violence and crime prevention services also increases. The differing tax rates accurately reflect the differing costs of providing services to the different densities of residential development.

10. Some services, such as fire protection services and an additional neighborhood police officer in each community policing beat, are not based on density of population.

11. The parcel tax rates established in this ordinance are intended to be proportional to and based on estimates of typical use of and benefit to occupants of different residential parcels of policing and violence prevention services. The rates are not tailored to individual use both because such tailoring is not administratively feasible and because the City must make police and fire protection services available to all parcels and owners of parcels equally.

12. Each occupant of a parcel derives value from the availability policing and violence and crime prevention and fire protection services. The value of such services is in their availability and benefit to all residents, and it would be unfair to charge their costs only to those persons who actually use the services. Even if such services are not presently used by an occupant, they may be used in the future and, in any event, their availability benefits each

occupant. The City's policing, violence prevention and fire protection services enhance the health, safety and welfare of all occupants of property in the City and improve their quality of life both directly and indirectly. Reducing violence and crime is vitally important to the health, safety, and welfare of the occupants.

13. Nothing in this ordinance is intended to preclude owners from recovering the tax from the occupant. Whether the occupant is charged depends on the occupancy agreement and the requirements of the Residential Rent Adjustment Program. Moreover, non-payment will not be a lien on the property but a personal obligation of the occupant or owner.

14. It is not feasible for the City to collect the tax from the non-owner occupants on whom it is imposed because the records available to the City do not include the names of non-owner occupants. Therefore, the only practical way to collect a tax imposed on occupants is to collect it from the owners of the occupied properties.

15. There are existing general taxes in the form of parking and business license, the proceeds of which are deposited in the general fund. Additional revenues received as a result of this ordinance will be used for the purposes set for in Section 3 and thus are special taxes.

16. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 210000 et seq., as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

Section 3. USE OF PROCEEDS

The tax proceeds raised by this ordinance may only be used as part of the following integrated program of violence prevention and public safety intervention, in accordance with the following specific purposes:

1. Community and Neighborhood Policing: Hire and maintain a least a total of 63 police officers assigned to the following specific community-policing objectives:
 - a. *Neighborhood beat officers*: each community policing beat shall have at least one neighborhood officer assigned solely to serve the residents of that beat to provide consistent contact and familiarity between residents and officers, continuity in problem solving and basic availability of police response in each neighborhood;
 - b. *School safety*: supplement police services available to respond to school safety and truancy;
 - c. *Crime reduction team*: at least 6 of the total additional officers to investigate and respond to illegal narcotic transactions and commission of violent crimes in identified violence hot spots;
 - d. *Domestic violence and child abuse intervention*: additional officers to team with social service providers to intervene in situations of domestic violence and child abuse, including child prostitution;
 - e. *Officer training and equipment*: training in community-policing techniques, establishing

police-social services referrals and equipping officers provided in this paragraph, the total costs of which shall not exceed \$500,000 in any fiscal year that this ordinance is in effect.

2. Violence Prevention Services With an Emphasis on Youth and Children: Expand preventive social services provided by the City of Oakland, or by adding capacity to community-based nonprofit programs with demonstrated past success for the following objectives:
 - a. *Youth outreach counselors*: hire and train personnel who will reach out, counsel and mentor at-risk adolescents and young adults by providing services and presenting employment opportunities;
 - b. *After and in school program for youth and children*: expand existing City programs and City supported programs that provide recreational, academic tutoring and mentoring opportunities for at-risk adolescents and children during after school hours; expand truancy enforcement programs to keep kids in school.
 - c. *Domestic violence and child abuse counselors*: make available counselors who will team with police and the criminal justice system to assist victims of domestic violence or child prostitution and to find services that help to avoid repeat abuse situations; expand early childhood intervention programs for children exposed to violence in the home at an early age.
 - d. *Offender/parolee employment training*: provide parolee pre-release employment skills training and provide employers with wage incentives to hire and train young offenders or parolees;
3. Fire Services: Maintain staffing and equipment to operate 25 (twenty-five) fire engine companies and 7 (seven) truck companies, expand paramedic services, and establish a mentorship program at each station with an amount not to exceed \$4,000,000 annually from funds collected under this Ordinance.
4. Evaluation: Not less than 1% or more than 3% of funds appropriated to each police service or social service program shall be set aside for the purpose of independent evaluation of the program, including the number of people served and the rate of crime or violence reduction achieved.
5. Mandated Apportionment to Social Service Programs: Of the total proceeds spent on programs enumerated in this Section 3, Paragraphs 1 and 2, not less than 40% of such proceeds must be allocated to programs enumerated in this Section 3, Paragraph 2 each year this Ordinance is in effect.

PART 2. OVERSIGHT, MINIMUM STAFFING AND TERM OF TAX IMPOSITION

Section 1. ANNUAL AUDIT.

An independent audit shall be performed to assure accountability and the proper disbursement of the proceeds of this tax in accordance with the objective stated

herein in accordance with Government Code sections 50075.1 and 50075.3. Tax proceeds may be used to pay for the audit.

Section 2. SPECIAL FUND

All funds collected by the City from the taxes imposed by this ordinance shall be deposited into a special fund in the City treasury and appropriated and expended only for the purposes authorized by this Ordinance.

Only the incremental taxes and surcharges approved by Parts 3, 4, 5, and 6 of this ordinance shall be dedicated to the purposes specified by this ordinance. Any portion of the parking and business license tax rate that were general taxes prior to the enactment of this ordinance shall remain general taxes.

Section 3. OVERSIGHT

To ensure proper administration of the revenue collection and spending, and the implementation of the programs mandated by this ordinance, the Mayor shall appoint three members of a "Violence Prevention and Public Safety Oversight Committee" and each council member shall appoint one member. The committee shall review the annual audit, evaluate, inquire and review the administration, coordination and evaluations of the programs and make recommendations to the Mayor and the City Council for any new regulations, resolutions or ordinances for the administration of the programs to comply with the requirements and intent of this Ordinance.

Section 4. MINIMUM POLICE STAFFING PREREQUISITE AT FISCAL YEAR 03-04 LEVEL

No tax authorized by this Ordinance may be collected in any year that the appropriation for staffing of sworn uniformed police officers is at a level lower than the amount necessary to maintain the number of uniformed officers employed by the City of Oakland for the fiscal year 2003-2004 (739).

Section 5. TERM OF TAX IMPOSITION

The taxes imposed by this Ordinance shall become effective on January 1, 2005 and shall continue in effect for 10 years.

Section 6. SAVINGS CLAUSE

If any provision, sentence, clause, section or part of this ordinance is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such provision, sentence, clause, section or part of this ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared to be the intention of the City, that the City would have adopted this ordinance had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.

If any tax or surcharge imposed by this ordinance is found to be unconstitutional, illegal or invalid, the amounts, services, programs and personnel (as set forth in Part 3) required to be funded from such taxes and surcharges shall be reduced proportionately by any revenues lost due to such unconstitutionality, illegality or invalidity.

Section 7. REGULATIONS

The City Council is hereby authorized to promulgate such regulations or ordinances as it shall deem necessary in order to implement the provisions of this ordinance.

Section 8. NO AMENDMENT

The tax rates may not be amended by action of the City Council without the applicable voter approval.

Section 9. CHALLENGE TO TAX

Any action to challenge the taxes imposed by this ordinance shall be brought pursuant to Government Code section 50077.5 and Code of Civil Procedure section 860 et seq.

PART 3. PARCEL TAX

Section 1. DEFINITIONS

For purposes of this part only, the following terms shall be defined as set forth below:

(A) "Building" shall mean any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind. The word "Building" includes the word "structure."

(B) "Family" shall mean one or more persons related by blood, marriage, domestic partnership, or adoption, who are living together in a single residential unit and maintaining a common household. Family shall also mean all unrelated persons who live together in a single Residential Unit and maintain a common household.

(C) "Hotel" shall mean as defined by Oakland Municipal Code section 4.24.020.

(D) "Multiple Residential Unit Parcel" shall mean a parcel zoned for a building, or those portions thereof, that accommodates or is intended to contain two or more residential units.

(E) "Non-Residential" shall mean all parcels that are not classified by this ordinance as Residential Parcels, and shall include, but not be limited to, industrial, commercial and institutional improvements, whether or not currently developed.

(F) "Occupancy" shall be as defined by Oakland Municipal Code section 4.24.020.

(G) "Operator" shall be as defined by Oakland Municipal Code section 4.24.020.

(H) "Owner" shall mean the Person having title to real estate as shown on the most current official assessment role of the Alameda County Assessor.

(I) "Parcel" shall mean a unit of real estate in the City of Oakland as shown on the most current official assessment role of the Alameda County Assessor.

(J) "Person" shall mean an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(K) "Possessory Interest" as it applies to property owned by any agency of the government of the United States, the State of California, or any political subdivision thereof, shall mean possession of, claim to, or right to the possession of, land or Improvements and shall include any

exclusive right to the use of such land or Improvements.

(L) "Residential Unit" shall mean a Building or portion of a Building designed for or occupied exclusively by one Family.

(M) "Single Family Residential Parcel" shall mean a parcel zoned for single-family residences, whether or not developed.

(N) "Transient" shall mean any individual who exercises Occupancy of a hotel or is entitled to Occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any individual so occupying space in a Hotel shall be deemed to be a Transient until the period of thirty (30) consecutive days as elapsed.

Section 2. IMPOSITION OF PARCEL TAX.

There is hereby imposed a special tax on all Owners of parcels in the City of Oakland for the privilege of using municipal services and the availability of such services. The tax imposed by this Section shall be assessed on the Owner unless the Owner is by law exempt from taxation, in which case, the tax imposed shall be assessed to the holder of any Possessory Interest in such parcel, unless such holder is also by law exempt from taxation. The tax is imposed as of July 1 of each year on the person who owned the parcel on that date.

The tax hereby imposed shall be at the following rates, subject to annual adjustment as provided in Section 6:

(A) For owners of all Single Family Residential Parcels, the tax shall be at the annual rate of \$88.00 per Parcel.

(B) For owners of all Multiple Residential Unit Parcels, the tax shall be at the annual rate of \$60.12 per occupied Residential Unit. Owners of units that are vacant for six months or more per year, maybe apply to the Director of Finance to have the rate reduced by 50% to \$30.06 per vacant Residential Unit located on the Parcel.

(C) The tax for a Non-Residential Parcels is calculated using both frontage and square footage measurements to determine total Single Family Residential Unit Equivalents. A frontage of 80 feet for a commercial/industrial parcel, for example, is equal to one (1) single family resident unit equivalent. (See matrix.) An area of 6,400 square feet for the commercial industrial parcel is equal to one (1) single family resident unit equivalent. The tax is the annual rate (\$45.07) multiplied by the total number of Single Family Equivalents (determined by the frontage and square footage).

LAND USE CATEGORY	FRONTAGE	AREA (SF)
Commercial Institutional	80	6,400
Industrial	100	10,000
Public Utility	1,000	100,000
Golf Course	500	100,000
Quarry	1,000	250,000

Example: assessment calculation for an owner of a commercial parcel with a frontage of 160 feet and an area of 12,800 square feet:

Frontage	Area
160 feet	12,800 sf
80 ft./SFE = 2 SFE	6,400 SF/SFE = 2 SFE
2 SFE + 2 SFE = 4 SFE	4 SFE x \$45.07 = \$180.28

(D) An Owner of An Undeveloped Parcel is exempt from this parcel tax if the owner can prove that the parcel was undeveloped for at least six months of the year in question.

Section 3. HOTELS

The tax imposed by this Ordinance shall be imposed on each Hotel within the City in accordance with the following:

1. Residential Hotels. If rooms in a Hotel were occupied by individuals who were not Transients for 80% or more of the previous fiscal year, such Hotel shall be deemed a Residential Hotel, and such rooms shall be deemed Residential Units and shall be subject to the Parcel tax imposed on Multiple Residential Units. The remainder of the Building shall be subject to the applicable Square Footage tax computed in accordance with the Single Family Residential Unit Equivalent calculations.

2. Transient Hotels. Notwithstanding the previous subsection, if 80% or more of the Operator's gross receipts for the previous fiscal year were reported as rent received from the Transients on a return filed by the Operator in compliance with section 4.24.010 of the Oakland Municipal Code (commonly known as the Uniform Transient Occupancy Tax of the City of Oakland), such Hotel shall be deemed a Transient Hotel. The entire Building shall be deemed a Non-Residential Parcel, categorized as Commercial, Institutional, and shall be subject to the Square Footage and Single Family Residential Unit Equivalent calculations set forth in Section 4(C), and the parcel tax imposed on Residential Units shall not apply.

Section 4. EXEMPTIONS.

Low income household exemption. Exempt from this tax are owners of single family residential units in which they reside whose combined income, from all sources for the previous calendar year, is at or below the income level qualifying as "very low income" for a Family of such size under Section 8 of the United States Housing Act of 1937 (42 U.S.C.A. Sections 1437 et. seq.) for such year. Owners must apply for the exemptions provided for in this section annually by petition to the Director of the Finance and Management Agency of the City of Oakland ("Director of Finance") in the manner and time set forth in procedures established by the Director of Finance. Such petitions shall be on forms provided by the Director of Finance and shall provided such information as the Director of Finance shall require, including, but not limited to, federal income tax returns and W-2 forms of owner-occupants eligible for this exemption.

Section 5. REDUCTION IN TAX; RATE ADJUSTMENT.

(A) Subject to paragraph (B) of this section, the tax

rates imposed by this ordinance are maximum rates and may not be increased by the City Council above such maximum rates. The tax imposed by the ordinance may be suspended, reduced or eliminated by the City Council for a subsequent fiscal year upon a vote of the City Council on or before June 30th in any year in which the City Council determines that after such suspension, reduction or elimination there will be sufficient revenues available to balance the City Council's Adopted Policy Budget and provide the services and programs described in Section 3 above. Such suspension, reduction or elimination shall be effective for the fiscal year following such vote.

(B) Beginning in Fiscal Year 2004-2005, and each year thereafter, the City Council may increase the tax imposed hereby only upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor Statistics, has increased. The percentage increase of the tax imposed hereby shall not exceed such increase, using Fiscal Year 2003-2004 as the index year and in no event shall any annual adjustment exceed 5% (five percent).

Section 6. DUTIES OF THE DIRECTOR OF FINANCE; NOTICE OF DECISIONS.

It shall be the duty of the Director of the Finance and Management Agency ("Director of Finance") to collect and receive all taxes imposed by this ordinance, and to keep an accurate record thereof.

The Director of Finance is charged with the enforcement of this ordinance, except as otherwise provided herein, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this ordinance, including provisions for the re-examination and correction of returns and payments. The Director of Finance may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

Upon disallowing any claims submitted pursuant to this ordinance, the Director of Finance shall mail written notice thereof to the claimant at his/her address as shown on the Alameda County Assessor's property tax rolls.

Section 7. EXAMINATION OF BOOKS, RECORDS, WITNESSES; PENALTIES.

The Director of Finance or his/her designee is hereby authorized to examine assessment rolls, property tax records, records of the Alameda County Recorder and any other records of the County of Alameda deemed necessary in order to determine ownership of Parcels and computation of the tax imposed by this ordinance.

The Director of Finance or his/her designee is hereby authorized to examine the books, papers and records of any person subject to the tax imposed by this ordinance for the purpose of verifying the accuracy of any petition, claim or return filed and to ascertain the tax due. The Director of Finance, or his/her designee is hereby authorized to examine any person, under oath, for the purpose of verifying the accuracy of any petition, claim or return filed or to ascertain the tax due under this ordinance and for this purpose may compel the production of books, papers and records before him/her, whether as parties or witnesses, whenever

s/he believes such persons have knowledge of such matters. The refusal of such examination by any person subject to the tax shall be deemed a violation of this ordinance.

Section 8. COLLECTION OF TAX; INTEREST AND PENALTIES.

The tax levied and imposed by this ordinance shall be due and payable on July 1 of each year, but it may be paid in two installments due no later than December 10 and April 10. The tax shall be delinquent if not received on or before the delinquency date set forth in the notice mailed to the Owner's address as shown on the most current assessment roll of the Alameda County Tax Collector and shall be collected in such a manner as the City Council may decide.

A one-time penalty at a rate set by the City Council, which in no event shall exceed 25% of the tax due per year, is hereby imposed by this ordinance on all taxpayers who fail to timely pay the tax provided by this ordinance; in addition, interest shall be assessed at the rate of 1% per month on the unpaid tax and the penalty thereon.

Every penalty imposed and such interest as accrues under the provisions of this ordinance shall become a part of the tax herein required to be paid.

The City may authorize to have the taxes imposed by this ordinance collected by the County of Alameda in conjunction with and at the same time and in the same manner as the County's collection of property taxes for the City. If the City elects to so collect the tax, penalties and interest shall be those applicable to the nonpayment of property taxes.

In no event shall anything herein be construed to impose a tax lien on the Parcel to secure payment of the tax.

Section 9. COLLECTION OF UNPAID TAXES.

The amount of any tax, penalty, and interest imposed under the provisions of this ordinance shall be deemed a debt to the City. Any person owing money under the provisions of this ordinance shall be liable to an action brought in the name of the City for the recovery for such amount.

Section 10. REFUND OF TAX, PENALTY, OR INTEREST PAID MORE THAN ONCE; OR ERRONEOUSLY OR ILLEGALLY COLLECTED.

Whenever the amount of any tax, penalty, or interest imposed by this ordinance has been paid more than once, or has been erroneously or illegally collected or received by the City it may be refunded provided a verified claim in writing therefore, stating the specific ground upon which such claim is founded, is filed with the Director of Finance within one (1) year from the date of payment. The claim shall be filed by the person who paid the tax or such person's guardian, conservator of the executor of her or his estate. No claim may be filed on behalf of other taxpayers or a class of taxpayers. The claim shall be reviewed by the Director of Finance and shall be made on forms provided by the Director of Finance. If the claim is approved by the Director of Finance, the excess amount collected or paid may be refunded or may be credited against any amounts

then due and payable from the Person from who it was collected or by whom paid, and the balance may be refunded to such Person, his/her administrators or executors. Filing a claim shall be a condition precedent to legal action against the City for a refund of the tax.

Section 11. MISDEMEANOR VIOLATION.

Any Owner who fails to perform any duty or obligation imposed by this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than \$1,000 or by imprisonment for a period of not more than one year, or by both such fine and imprisonment.

The penalties provided in this section are in addition to the several remedies provided in this ordinance, or as may otherwise be provided by law.

Section 12. BOARD OF REVIEW.

Any person dissatisfied with any decision of the Director of Finance adversely affecting the rights or interests of such person made by the Director of Finance under the authority of this ordinance, may appeal therefrom in writing to the Business Tax Board of Review (the "Board") within sixty (60) days from the date of mailing such decision by the Director. All filings with the Board relating to appeals or otherwise shall be made to the Chairperson of the Business Tax Board of Review in care of the Revenue Department, 250 Frank Ogawa Plaza, 1st Floor, Oakland, CA 94612. The Board may affirm, modify or reverse such decision or dismiss the appeal therefrom, as may be just, and shall prescribe such rules and regulations relating to appeals as it may deem necessary. The Board's decision on appeal will become final upon mailing notice thereof to the Person appealing the Board's decision at such Person's last known address shown on the Tax Records.

Any tax, penalty or interest found to be owed is due and payable at the time the Board's decision becomes final.

The Board shall approve, modify or disapprove all forms, rules and regulations prescribed by the Director of Finance in administration and enforcement of this tax. Such forms, rules and regulations shall be subject to and become effective only on such approval.

All decisions rendered by the Board shall be final, and no further administrative appeal of these decisions is provided or intended.

PART 4. PARKING TAX SURCHARGE

The Municipal Code is hereby amended to add as set forth below (section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed). Section 4.16.031 of the Municipal Code is hereby added to read as follows:

4.16.031 Imposition of Surcharge

Subject to the provisions for the collection of taxes and definitions in this chapter, there shall be an additional tax of eight and one-half (8 1/2) percent imposed on the rental of every parking space in a parking station in the City.

By adopting this ordinance the People of the City of Oakland do not intend to limit or in anyway curtail any

powers the City Council may exercise as to the subject matter of this ordinance, including, but not limited to, raising the rate of taxation or surcharge, lowering the rate of taxation or surcharge, eliminating the tax or surcharge, or creating or defining new categories of taxpayers under this ordinance.

PROPOSED ORDINANCE

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.

responsibilities include (1) ensuring timely implementation of the ordinance's provisions and (2) overseeing disbursement of revenues generated from licensing, regulation and taxation of licensed cannabis businesses to ensure that revenues are spent on City services such as schools, libraries and youth programs.

The ordinance also requires that the City advocate for changes in state and other laws that would allow taxation and regulation of cannabis and end prosecution, arrest, investigation and imprisonment for adult, private cannabis offenses.

s/JOHN RUSSO
City Attorney

CITY OF OAKLAND MEASURE Z

Z MEASURE Z: Shall the ordinance requiring the City of Oakland (1) to make law enforcement related to private adult cannabis (marijuana) use, distribution, sale, cultivation and possession, the City's lowest law enforcement priority; (2) to lobby to legalize, tax and regulate cannabis for adult private use, distribution, sale, cultivation and possession; (3) to license, tax and regulate cannabis sales if California law is amended to allow such actions; and (4) to create a committee to oversee the ordinance's implementation, be adopted?	YES
	NO

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE Z

Title: Cannabis Regulation – An Ordinance that Would Require that the City (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

Summary: This proposed ordinance would require that the City of Oakland establish a system to license, tax and regulate cannabis for adult use as soon as possible under California law and adopt regulations regarding licensing and taxation of businesses that sell cannabis. The proposed ordinance makes investigation, citation, and arrest for private adult cannabis offenses Oakland's lowest law enforcement priority.

The proposed ordinance would require that the City create an eleven (11) member committee to oversee the implementation of the ordinance. The Committee's

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE Z

This voter initiative would make private adult cannabis (marijuana) offenses the City of Oakland's lowest law enforcement priority (§6); require the City to lobby to eliminate criminal penalties for private adult cannabis offenses (§8) and license, tax and regulate cannabis businesses if State of California laws are amended to allow such actions (§5); and create an oversight committee (§7).

Two of the Measure's Provisions are Unconstitutional

Sections 5 and 8 of this measure are unconstitutional and therefore unenforceable. Section 5 requires that the City of Oakland license, tax and regulate the sale of cannabis for adult use *if* state law is amended to permit such actions. Section 8 requires that the City of Oakland lobby for changes in laws to (1) eliminate criminal penalties for private adult cannabis use, distribution, sale, cultivation and possession and (2) allow cities and counties to license, regulate and tax cannabis businesses.

These provisions are unconstitutional because they do not enact a law. Neither the lobbying provision, nor the requirement that the City pass legislation that would regulate and tax cannabis businesses, if state law is amended, enacts a law.

The initiative power may be exercised only to adopt or reject laws. *Cal. Const. Art. 11, Section 8*; *American Federation of Labor v. Eu*, 36 Cal. 3d 687, 708 (1984) (invalidating an initiative that required state legislature to ask Congress to change federal law); *Marblehead v. City of San Clemente*, 226 Cal.App.3d 1504, 1509, 1510 (1991) (court struck down an initiative that directed City Council to amend the General Plan rather than amending the General Plan directly); *Fishman v. City of Palo Alto*, 86 Cal.App.3d 506, 509 (1978).

The City must Comply with the Other Provisions of the Measure if it Passes

If this initiative passes, the City must (1) make investigation, citation and arrest of private adult cannabis offenses (e.g. use, distribution, sale, cultivation and possession of cannabis for medical and non-medical purposes) its lowest law enforcement priority; and (2) create an eleven member (11) oversight committee to "oversee" the ordinance's implementation.

Passage of this Measure will not Change California and Federal Law Both of which Prohibit Non-Medical Cannabis Use

Private adult cannabis offenses would remain unlawful if this measure passes; both California and federal law prohibit non-medical use, possession, cultivation, distribution of cannabis. The City would continue to have the power to enforce laws prohibiting non-medical use, possession, cultivation, distribution and sale of cannabis, although the enforcement would be its lowest law enforcement priority.

The terms "lowest law enforcement priority" and "private adult cannabis offenses" are not defined in the measure. The common sense meaning of "lowest law enforcement priority" would require that the City make all other

law enforcement priorities a higher priority.

"Private adult cannabis offenses" presumably refers to marijuana use, cultivation, sale, possession, distribution that occurs in a private place, such as an adult's home. Nothing in this measure would limit the City's power to arrest, cite and investigate individuals for such activity so long as the enforcement action is consistent with the lowest law enforcement priority policy.

s/JOHN RUSSO
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE Z

SUMMARY

This measure authorizes the City of Oakland to submit to the voters a ballot measure that would require the City to:

1. make law enforcement related to private adult cannabis (marijuana) use the lowest law enforcement priority;
2. lobby to legalize, tax and regulate cannabis (marijuana) for adult private use, distribution, sale, cultivation and possession;
3. license, tax and regulate cannabis (marijuana) sales if California law is amended to allow and authorize such actions; and
4. create a Community Committee to oversee the ordinance's implementation.

The "lowest law enforcement priority" provision shall not apply to minors. The Community Oversight Committee (to insure the timely implementation of the Oakland Cannabis Regulation) shall be composed of members appointed by the City Council, the Mayor, the City Auditor, and the City Manager. The committee's responsibilities shall include implementation of the Lowest Law Enforcement Priority policy; making recommendations; monitoring the disbursement of funds generated by the cannabis revenue; and reporting annually to the Council on the implementation of this ordinance. The ordinance does not contain a specific provision to finance the costs of performing annual audits.

FISCAL IMPACT

The City of Oakland has not prepared an estimate related to changing enforcement priorities based on the passage of this measure. Therefore it is difficult to render an opinion with insufficient data.

s/ROLAND E. SMITH, CPA, CFS
City Auditor

ARGUMENT IN FAVOR OF MEASURE Z

The federal government's war on drugs has been costly, ineffective, and unjust. Criminalizing cannabis (marijuana) has unfairly imprisoned thousands of non-violent offenders, including a disproportionate number of people of color.

Measure Z allows Oakland police to focus their time and resources on fighting violent crime and reducing the murder rate, instead of wasting their time on adult nonviolent marijuana offenses.

Every year California spends \$150 million to arrest, prosecute and imprison marijuana offenders. It makes more economic sense to raise money by taxing and regulating the adult use of marijuana, instead of spending money to criminalize it.

Revenue raised will help pay for vital city services like schools, libraries, and health care. Furthermore, allowing marijuana to be sold by licensed businesses will get drug dealers off the streets and break their hold on our neighborhoods.

Measure Z makes it easier for medical patients to buy medical marijuana from licensed Oakland businesses. Patients deserve safe, secure and affordable access to medicine. While we can't change federal law, we can instruct our local police not to arrest or harass marijuana users.

Measure Z controls marijuana sales; it does not legalize sales on the streets, near schools or to minors. It does not promote marijuana use, or allow broadcast or billboard advertising.

The Drug War has failed. It's time for a new approach. That's why community groups, elected officials, educators, religious leaders, and doctors all agree: Measure Z is the right thing to do. Measure Z is endorsed by the Metropolitan Greater Oakland Democratic Club, the Family Council on Drug Awareness, the Center on Juvenile and Criminal Justice, California Superior Court Judge James P. Gray, and many others.

Please join us in voting YES ON MEASURE Z. For more information, please visit www.YesonZ.org.

s/NATE MILEY

Alameda County Supervisor, District 4

s/DR. FRANK LUCIDO, MD

Family Practice Physician

s/DAN SIEGEL

Oakland School Board Member

s/THE REV. HAROLD MAYBERRY

Minister, First African Methodist Episcopal (FAME)
Church of Oakland

s/DESLEY BROOKS

Oakland City Councilmember, District 6

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE Z

Measure Z does nothing to stop the federal government's war on drugs. Instead, it will weaken Oakland's ability to keep the peace in neighborhoods where desperate young men lose their lives over drug sales.

Measure Z does not help the occasional pot smoker. California law governs marijuana use and already treats mere possession of marijuana like a parking ticket.

Measure Z offers nothing to keep our young people out of prison. It just floods our streets with more drugs and invites federal and state law enforcement to increase arrests of our young people

Measure Z is outside interests and marijuana marketers using Oakland for social experimentation. The top three donors to this measure are from New York, San Francisco, and Washington D.C., and they've already shelled out more than \$70,000!

Oakland already suffers from people coming from the suburbs to buy their drugs here. Yet, Oakland won't see a dime from marijuana sales because a city cannot legalize marijuana or tax it.

It would have been much fairer to start Measure Z in Beverly Hills where young people of color are not being gunned down in street corner drug disputes – disputes that include marijuana as well as crack and heroin. Few dealers specialize in one drug.

This measure won't help medical marijuana patients. Oakland already ensures that there are several well managed facilities that offer medical marijuana.

Don't start this social experiment in Oakland. It is unconstitutional and will cost Oakland in lives and dollars. Vote NO on Measure Z.

s/JOSEPH J. HARABURDA

President & CEO

Oakland Metropolitan Chamber of Commerce

s/LARRY E. REID

Councilmember, District 7

ARGUMENT AGAINST MEASURE Z

Marijuana growers, distributors and advocates from outside Oakland are spending hundreds of thousands of dollars on politicians and consultants to pass this Initiative.

Why? Because, if passed, this Initiative would force the City of Oakland to spend your TAX DOLLARS to lobby for statewide legalization of RECREATIONAL MARIJUANA USE.

It would require Oakland government to appoint and staff a committee to study how to sell and distribute marijuana. The Initiative would make Oakland the only California City that doesn't enforce against marijuana production, distribution and sales. Taxpayers would bear the health and safety costs of an unregulated mega-marketplace for marijuana buyers and sellers from all over the State.

This Initiative DOES NOT relate to medical marijuana, and threatens Oakland's medical marijuana program already in effect.

This Initiative DOES NOT allow Oakland to tax or regulate marijuana sales until the state government legalizes marijuana sales for recreational use. That won't happen anytime soon!

Oakland cannot afford this Initiative given the City's many unfunded priorities, such as violence prevention and fixing potholes. This Initiative provides NO RESOURCES for enforcement against sales to teenagers and children and NO MONEY to pay for treatment of smoking-related illnesses.

This Initiative threatens Oakland's carefully implemented medical marijuana program. Under this program, the City of Oakland has licensed nonprofit organizations to dispense quality and safe medicinal marijuana to those with health needs.

If passed, this reckless measure would flood our streets with unsafe and unregulated marijuana. It would invite unwelcomed attention from federal prosecutors who are eager to make an example of Oakland by shutting down our medical marijuana providers.

THE CITY ATTORNEY SAYS THIS INITIATIVE IS UNCONSTITUTIONAL AND ILLEGAL.

Don't put Oakland's medical marijuana patients, safety and tax dollars at risk for a reckless campaign to benefit marijuana growers and distributors! VOTE NO ON MEASURE Z.

s/DANNY WAN

Oakland City Councilmember

s/DAVID KAKISHIBA

School Board Director

s/ROBERT L. JACKSON

Bishop "Bob" Jackson

Acts Full Gospel Church

s/Fran MATARRESE

Community Leader

s/ELLEN WYRICK PARKINSON

West Oakland Community Leader.

REBUTTAL TO ARGUMENT AGAINST MEASURE Z

If the opponents of Measure Z really want to help medical marijuana patients, they should listen to those patients and the doctors who treat them and support Measure Z.

Opponents claim the city provides for medical patients; but the fact is Oakland has SHUT DOWN most of our medical marijuana dispensaries, forcing patients onto the streets. Measure Z makes it easier for patients to have safe access to medical marijuana. That's why patients and doctors support Measure Z.

Measure Z is a citizen initiative signed by 23,000 Oakland voters. It's a sensible approach that makes private adult marijuana offenses the lowest police priority for Oakland, as it is in Seattle. According to the *Seattle Times* "despite predictions of naysayers, there is no evidence of widespread public pot consumption as a result of the measure." Measure Z controls marijuana sales; it does not legalize sales on the streets, near schools or to minors. It does not promote marijuana use, or allow broadcast or billboard advertising.

Opponents claim Measure Z could cost the city money; in fact it raises money for vital city services by allowing for the taxed and regulated sale of marijuana.

People who fear reform often lay claims of unconstitutionality. They said that about the California medical marijuana initiative, Prop 215, but the initiative passed and took effect. Citizens have a constitutional right to voice their opinions.

The Drug War has failed. It's time for a new approach. That's why doctors, nurses, and patients agree: Yes on Z.

s/MARTHA KUHL

California Nurses Association

s/DON PERATA

California State Senator, District 9

s/DR. MIKE ALCALAY, MD

HIV Education and Prevention Project of Alameda County

s/JANE JACKSON

Medical Marijuana Patient

Founder, Mayor's Commission on Persons with Disabilities

Member, Oakland Medical Marijuana Task Force

s/STEPHANIE SHERER

Americans for Safe Access

FULL TEXT OF MEASURE Z

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 the passage of this ordinance.

c) To advocate for changes in state law (and at other lev-

els 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 busi-

nesses to assure 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.