

PLANNING SESSION AGENDA

Thursday, March 4, 2021, 6:30 pm
Teleconference Meeting

Pursuant to the Governor's Executive Order N-29-20, members of the Cannabis Regulatory Commission as well as City staff will participate via phone/video conference and no physical teleconference locations are required.

PUBLIC PARTICIPATION INSTRUCTIONS

TO OBSERVE:

- To observe the meeting by video conference, please click the link below to join the webinar:
<https://us02web.zoom.us/j/88476347912>
- To listen to the meeting by phone, please call the numbers below at the noticed meeting time: Dial (for higher quality, dial a number based on your current location):

US: +1 669 900 9128 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 646 558 8656
or +1 301 715 8592

For each number, please be patient and when requested, dial the following Webinar ID: 884 7634 7912

After calling any of these phone numbers, if you are asked for a participant ID or code, press #. Instructions on how to join a meeting by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663>, which is a webpage entitled "Joining a Meeting By Phone."

TO PROVIDE PUBLIC COMMENT: There are three ways to make public comment within the time allotted for public comment on an eligible Agenda item.

- Comment in advance. To send your comment to staff before the meeting starts, please send your comment, along with your full name and agenda item number you are commenting on, to Greg Minor at gminor@oaklandca.gov. All submitted public comment will be provided to the Cannabis Regulatory Commission prior to the meeting.
- By Video Conference. To comment by Zoom video conference, click the "Raise Your Hand" button to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. You will then be unmuted, during your turn, and allowed to participate in public comment. After the allotted time, you will then be re-muted. Instructions on how to "Raise Your Hand" are available at: <https://support.zoom.us/hc/en-us/articles/205566129>, which is a webpage entitled "Raise Hand In Webinar."

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 Cannabis Regulatory 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 Cannabis Regulatory 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 Cannabis Regulatory Commission at (510) 238-6370.

• **By Phone.** To comment by phone, please call on one of the above listed phone numbers. You will be prompted to “Raise Your Hand” by pressing STAR-NINE (“*9”) to request to speak when Public Comment is being taken on a eligible agenda item at the beginning of the meeting.

Once it is your turn, you will be unmuted and allowed to make your comment. After the allotted time, you will be re-muted. Instructions of how to raise your hand by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663>, which is a webpage entitled “Joining a Meeting by Phone.”

If you have any questions about these protocols, please e-mail Greg Minor, at gminor@oaklandca.gov

Members:

Lanese Martin	District 1	Frank Tucker	District 7
Tracey Corder	District 2	Chaney Turner	At Large
Austin Stevenson	District 3	Stephanie Floyd-Johnson	Mayor
Vacant	District 4	TiYanna Long	City Auditor
Claudia Mercado	District 5	Greg Minor	City Administrator
Vacant	District 6		

Available on-line at: <https://www.oaklandca.gov/boards-commissions/cannabis-regulatory-commission>

PLANNING SESSION AGENDA

- A. Roll Call and Determination of Quorum
- B. Public Comment on All Action Items Will Be Taken At this Time. Comments for Items Not on the Agenda Will Be Taken During Open Forum.
- C. Introductions: Who Are We? (30 minutes)
 - 1. Introduce Planning Session Facilitator Jonelyn Weed
 - 2. Why Did You Join the Cannabis Regulatory Commission and What Do You Bring to the Commission? (3 minutes maximum per Member)
- D. History and Context of CRC: How We Got Here (15 minutes)
 - 1. Presentation from Joe Devries (5 minutes)
 - 2. City of Oakland, State and Federal Cannabis Timeline Overview from Greg Minor (5 minutes)
 - 3. Questions (5 minutes)
- E. Break If Needed (15 minutes)
- F. Where Should the Commission Go from Here? (1 hour)
 - 1. What Should the Commission’s Top Three Priorities Be?
- G. Open Forum
- H. Debrief Close Out (15 minutes)
- I. Adjournment

OAKLAND CITY COUNCIL

REVISED
7/20/04

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Approved as to form & Legality

Barbara Calk

2004 JUL 22 10:53 AM
RESOLUTION NO.

78733

C.M.S.

INTRODUCED BY
COUNCILMEMBER _____

Resolution Submitting to the Voters a Proposed Initiative Ballot Measure – An Ordinance that would require that the City of Oakland (1) Make investigation, citation and arrest for private adult cannabis (marijuana) offenses the City’s lowest law enforcement priority; (2) Advocate through its lobbyist and City officers for changes in state and other laws to (a) allow and authorize taxation and regulation of cannabis (marijuana) for adults and eliminate criminal penalties for private, adult cannabis use, (b) grant local control to cities and counties to license and regulate cannabis businesses and collect appropriate fees and taxes, and (c) end the prosecution arrest, investigation and imprisonment for adult private cannabis offenses; (3) Establish a system to license, tax and regulate cannabis (marijuana) sales if California law is amended to allow and authorize such actions; and (4) Create a committee to oversee the ordinance’s implementation and disbursement of revenue from licensing and taxation of businesses that sell cannabis at the General Municipal Election to be held on Tuesday, November 2, 2004; and directing the City Clerk to fix the date for submission of arguments and to provide for Notice and Publication in accordance with law and requesting the County Board of Supervisors to consolidate Oakland’s Election with the Statewide General Election

WHEREAS, the City Clerk of the City of Oakland has certified to the Oakland City Council that petitions for a proposed initiative ballot measure entitled “Cannabis Regulation – An Ordinance that would require that the City of Oakland (1) Establish a system to License, Tax and Regulate Cannabis (Marijuana) Sales as soon as possible under California Law; (2) Create a committee to oversee the Ordinance’s implementation and disbursement of Revenue from Licensing and Taxation of Businesses that sell Cannabis (3) Adopt law enforcement policies related to Cannabis; and (4) Advocate for changes in laws to support implementation and goals of the Ordinance” has been accompanied by verified signatures of ten (10%) percent of the registered electors of the City; and

WHEREAS, the City Council has a ministerial duty pursuant California Elections Code section 9215 to either adopt the initiative without alternation as a City ordinance or submit the initiative to the voters; and

WHEREAS, the next municipal election at which this proposed initiative ballot measure can be voted upon will occur on Tuesday, November 2, 2004; and Elections Code Section 10400 et seq. allows for the General Municipal Election to be consolidated with the statewide general election to be held on the same date; now, therefore be it

WHEREAS, the City Council does hereby submit to the qualified electors of the City of Oakland the aforesaid proposed initiative ballot measure to be voted upon at the General Municipal Election consolidated with the Statewide General Election to be held on Tuesday, November 2, 2004, now therefore be it

RESOLVED: that the proposed initiative ballot measure text shall read as follows:

Section 1: TITLE

Oakland Cannabis Regulation and Revenue Ordinance

Section 2: FINDINGS

The people of Oakland, California find as follows:

WHEREAS it is a goal of the people of Oakland to keep drugs off the streets and away from children, and to eliminate street dealing and violent crime; and

WHEREAS each year California spends over \$150 million enforcing cannabis (marijuana) laws, expending valuable law enforcement resources that would be better spent on fighting violent and serious crimes; and

WHEREAS medical and governmental studies have consistently found cannabis to be less dangerous than alcohol, tobacco and other drugs; and

WHEREAS otherwise law-abiding adults are being arrested or imprisoned for nonviolent cannabis offenses, clogging our courts and jails; and

WHEREAS controlling and regulating cannabis so that it is only sold by licensed businesses would undermine the hold of street dealers on our neighborhoods; and

WHEREAS in the face of the severe state and local budget crisis, the revenues from taxing and licensing cannabis would help fund vital Oakland city services; and

WHEREAS the current laws against cannabis have needlessly harmed patients who need it for medical purposes, and impeded the development of hemp for fiber, oil, and other industrial purposes; and

WHEREAS it is the hope of the people of Oakland that there will be state and federal law reform that will eliminate the problems and costs caused by cannabis prohibition;

THEREFORE the people of the City of Oakland do hereby enact the following ordinance establishing the cannabis policy of the city.

Section 3: DEFINITION

"Cannabis" - Means "marijuana" as currently defined in California Health & Safety Code Section 11018.

Section 4: PURPOSE

The purpose of this ordinance is:

- a) To direct the City of Oakland to tax and regulate the sale of cannabis for adult use, so as to keep it off the streets and away from children and to raise revenue for the city, as soon as possible under state law.
- b) To direct the Oakland Police Department to make investigation, citation, and arrest for private adult cannabis offenses the lowest law enforcement priority, effective immediately upon passage of this ordinance.

c) To advocate for changes in state law (and at other levels as necessary) to authorize the taxation and regulation of cannabis and eliminate criminal penalties for private, adult cannabis use.

Section 5: REGULATION

The City of Oakland shall establish a system to license, tax and regulate cannabis for adult use as soon as possible under California law. At that time, the City Council shall promulgate regulations that include, but are not limited to, the following provisions consistent with California law:

- a) The sale and distribution to minors will be strictly prohibited;
- b) The city shall establish a licensing system for cannabis businesses, with regulations to assure good business practices, compliance with health and safety standards, access for persons with disabilities, and nuisance abatement;
- c) Minors shall not be permitted in areas where cannabis is sold, nor shall minors be employed by licensed cannabis businesses;
- d) No business licensed to sell cannabis will be located within 600 feet of a school;
- e) Cannabis businesses shall be required to pay taxes and licensing fees;
- f) The public advertising of cannabis through television, radio or billboards will be prohibited; and
- g) Onsite consumption shall be licensed so as to keep cannabis off the streets and away from children, subject to reasonable air quality standards.

Section 6: LOWEST LAW ENFORCEMENT PRIORITY

- a) The Oakland Police Department shall make investigation, citation, and arrest for private adult cannabis offenses Oakland's lowest law enforcement priority.
- b) This "lowest law enforcement priority" policy shall *not* apply to distribution of cannabis to minors, distribution or consumption of cannabis on streets or other public places, or motor vehicle violations.

Section 7: COMMUNITY OVERSIGHT COMMITTEE

A Community Oversight Committee shall be appointed to oversee the implementation of the Oakland Cannabis Regulation and Revenue Ordinance. The Committee will be composed of:
1 community member appointed by each member of the Oakland City Council,
1 community member appointed by the Mayor of Oakland,
1 representative of the Oakland City Auditor,
1 representative of the Oakland City Manager.

Responsibilities of the Committee shall include:

- a) Ensure timely implementation of this ordinance
- b) Oversee the implementation of the Lowest Law Enforcement Priority policy;
- c) Make recommendations to the Oakland City Council regarding appropriate regulations, in accordance with Section 5 above;
- d) Oversee the disbursement of revenues generated through the sale of cannabis by licensed cannabis businesses to ensure that funds go to vital city services such as schools, libraries and youth programs; and
- e) Report annually to the Council on implementation of this ordinance.

Section 8: ADVOCACY FOR LEGISLATIVE REFORM

The City of Oakland shall advocate, through its lobbyist and other city officers, for changes to state law (and laws at other levels of government as necessary) to support the goals and implementation of this ordinance. Legislative changes to be advocated include:

- a) Allow for taxation and regulation of cannabis for adults;
- b) Grant local control to cities and counties to license and regulate cannabis businesses, and collect appropriate fees and/or taxes; and
- c) End the prosecution, arrest, investigation and imprisonment for adult, private cannabis offenses.

Section 9: SEVERABILITY

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

and be it,

FURTHER RESOLVED: that the City Council of the City of Oakland does hereby request that the Board of Supervisors of Alameda County order the consolidation of the General Municipal Election of November 2, 2004, with the statewide general election of November 2, 2004 consistent with the provisions of state law; and,

FURTHER RESOLVED: that in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed initiative and said date shall be published in accordance with state laws; and be it

FURTHER RESOLVED: that each ballot used at said municipal election shall have printed therein, in addition to any other matter required by law the following:

PROPOSED VOTER INITIATIVE - ORDINANCE

MEASURE _____

Measure _____. 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	

FURTHER RESOLVED, that the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the November 2, 2004, General Municipal Election and the City Council hereby authorizes and appropriates all money necessary for the City Administrator and City Clerk to prepare for and conduct the November 2, 2004 General Municipal Election consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA, _____ JUL 20 2004 _____, 2004

PASSED BY THE FOLLOWING VOTE:

AYES: - BROOKS, BRUNNER, ~~CHANG~~, NADEL, QUAN, ~~REID~~, WAN
 AND PRESIDENT DE LA FUENTE - 6

NOES: - REID, CHANG - 2

ABSENT: - 0

ABSTENTION: - 0

ATTEST:



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

OFFICE OF THE CITY ATTORNEY CITY OF OAKLAND

Frequently Asked Questions (FAQs)

Regarding the 2004 Oakland Cannabis Regulation and Revenue Ordinance (“Measure Z”), and the Authority and Duties of the Cannabis Regulatory Commission

Issued: April 17, 2019

Revised:

Issued by: Barbara J. Parker, Oakland City Attorney



I. INTRODUCTION

On November 2, 2004, Oakland voters passed Measure Z, an initiative entitled the “Oakland Cannabis Regulation and Revenue Ordinance.” The ordinance enacted a City law that established a City policy making the investigation, citation, and arrest for “private adult cannabis offenses” Oakland’s “lowest law enforcement priority.” Measure Z also created an eleven member Community Oversight Committee to oversee implementation of the Private Adult Cannabis Offenses Policy. The Community Oversight Committee later, informally, changed its name to the “Cannabis Regulatory Commission” (“the Commission”).¹

Measure Z grants the Commission advisory power to make *recommendations* to the City Council regarding the licensure, taxation, and regulation of cannabis for adult use. Authority over the disbursement of adult use cannabis sales tax revenue, issuance of commercial cannabis activity permits, and regulation of the advertising of cannabis products rests with the City Administrator and City Council.

This memorandum answers frequently asked questions regarding the Commission’s authority and duties. This memorandum provides general information and does not constitute legal advice. The FAQs provide general information and do not cover all issues or circumstances that might apply to a particular fact situation.

For more information please refer to Measure Z, Oakland Municipal Code Chapters 5.80 and 5.81, any applicable City regulations, and Proposition 64. You also may contact Assistant to the City Administrator Greg Minor at gminor@oakland.gov.

¹ Measure Z identifies the commission as the “Community Oversight Committee”. Therefore, a voter initiative amending Measure Z is required to formally change the name of the commission.

Frequently Asked Questions (FAQs)

Regarding Measure Z and the Authority and Duties of the Cannabis Regulatory Commission

Issued: April 17, 2019

Issued by: Barbara J. Parker, Oakland City Attorney

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II. FREQUENTLY ASKED QUESTIONS REGARDING MEASURE Z AND THE AUTHORITY AND DUTIES OF THE CANNABIS REGULATORY COMMISSION

1. Is Measure Z a City Charter amendment or an ordinance?

Answer: Measure Z is an ordinance. Ordinances cannot conflict with Oakland's City Charter ("Charter") because the Charter is the supreme law of the City. Accordingly, ordinances must be consistent with the Charter. Ordinances that include provisions that conflict with the Charter are unenforceable.

2. What is the legal effect of Measure Z?

Answer: Measure Z is a City law that makes the investigation, citation, and arrest for private adult cannabis offenses Oakland's lowest law enforcement priority, and establishes a Community Oversight Committee, now known as the "Cannabis Regulatory Commission" to oversee the implementation of the lowest law enforcement priority policy and to make recommendations to the City Council regarding the licensure, taxation, and regulation of cannabis for adult use.

3. What are "Private Adult Cannabis Offenses"?

Answer: Measure Z does not define "Private Adult Cannabis Offenses." In 2005, the Council passed Resolution Number 79647 C.M.S. ("Resolution 79647")² which defines "Private Adult Cannabis Offenses" as follows:

The use, sale, distribution, preparation and/or cultivation of cannabis in settings that are not private, including markets, stores, cabarets, establishments selling alcoholic beverages, cafes and restaurants, retail outlets, stores and other commercial establishments.

² Prior to passage of Measure Z, the City's existing lowest law enforcement policy applied to medical cannabis only. Resolution 79647 aligned this existing City policy with Measure Z by declaring that private adult cannabis offenses, whether medical or for adult use, shall be the City's lowest law enforcement priority.

Frequently Asked Questions (FAQs)

Regarding Measure Z and the Authority and Duties of the Cannabis Regulatory Commission

Issued: April 17, 2019

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Resolution 79647 also states that “Private Adult Cannabis Offenses” does not mean:

The use, sale, distribution, preparation, and/or cultivation of cannabis on City owned or leased property; regardless whether or not the property is rented or leased by private parties for a private purpose such as a party, meeting, or other activity.

4. What is the function of the Cannabis Regulatory Commission?

Answer: Pursuant to Measure Z, the functions of the Commission are to:

- Ensure timely implementation of Measure Z;
- Oversee the implementation of lowest law enforcement priority policy;
- Make recommendations to the Council regarding implementation of the “lowest law enforcement policy”;
- Make recommendations to the City Council regarding implementation of City licenses, taxes, and regulations for adult use of cannabis; and
- Report annually to the Council on the implementation of Measure Z.

5. Does the Commission have authority to oversee the disbursement of revenues generated by cannabis businesses?

Answer: No. The City Charter grants the City Council the authority to determine the City’s budget and allocate and disburse revenues. As we explained in the answer to Question No. 1, the City Charter is the supreme law of the City. Measure Z is an ordinance and cannot override or conflict with the City Charter. Accordingly, although Measure Z provides that one of the Commission’s responsibilities is to “[o]versee the disbursement of revenues generated through the sale of cannabis by licensed cannabis businesses to assure that funds go to vital city services such as schools, libraries and youth programs”, it cannot grant the Commission authority to “supervise”, “administer”, “direct” or “control” the disbursement of cannabis business revenues.³ The Measure Z provision conflicts with the City

³ Google’s online dictionary defines “oversee” as “supervise (a person or work), especially in an official capacity” and lists synonyms as “supervise, superintend . . . , administer, direct, guide, control, . . . rule, command.”

Frequently Asked Questions (FAQs)

Regarding Measure Z and the Authority and Duties of the Cannabis Regulatory Commission

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Council's budget authority and duties under the Charter.⁴ Therefore, the Measure Z provision purportedly granting the Commission the authority to oversee distribution of cannabis revenues is invalid.

6. Can the Charter be amended to authorize the Commission to oversee the disbursement of revenue generated by sale of cannabis?

Answer: Yes. The Charter can be amended by a voter-approved ballot measure that would authorize the Commission to oversee the disbursement of revenue generated by the sale of cannabis. The City Council or a citizen, through the ballot initiative process, can place such a measure on the ballot for voters to decide.

7. Can the City Council amend Measure Z by adopting an ordinance to grant the Commission additional powers and duties?

Answer: No. The voters passed Measure Z, not the City Council. An ordinance adopted by voter approval of a ballot measure may be amended only by a subsequent voter-approved ballot measure unless the original measure includes a provision that expressly authorizes the City Council to amend the ordinance. Measure Z has no such provision. Accordingly, the City Council cannot adopt an ordinance expanding and/or altering the Commission's authority.

8. Does the Commission have authority to oversee the regulation of cannabis product advertising?

Answer: No. At the time Measure Z was adopted the City Council had not adopted any legislation to license, tax, advertise or otherwise regulate the legal use of recreational (adult) cannabis. Therefore, the Measure Z provision requiring the City to establish a system to license, tax, and regulate cannabis advertising⁵ required that the Council enact legislation *in the future*. California Constitution, Article 2, Section 8, authorizes voters to use the initiative power to adopt new laws or to reject or modify existing laws. Therefore, the Measure Z provision purporting to require that the City Council

⁴ Charter Section 801 requires that the City Council "adopt by resolution a budget of proposed expenditures and appropriations necessary . . . for the ensuing year." Charter Section 806 provides that "[a]ll monies received by the City shall be deposited in the City Treasury, and no monies shall be disbursed from the treasury without the approval of the City Administrator or of another officer duly authorized by him/her", and that "[n]o expenditure of City funds shall be made except for the purposes and in the manner specified by an appropriation of the Council . . ."

⁵ Measure Z, Section 5(f).

Frequently Asked Questions (FAQs)

Regarding Measure Z and the Authority and Duties of the Cannabis Regulatory Commission

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adopt new laws in the future is not within the ambit of the constitutional initiative power and is not valid.

9. May the Commission issue Cannabis activity permits?

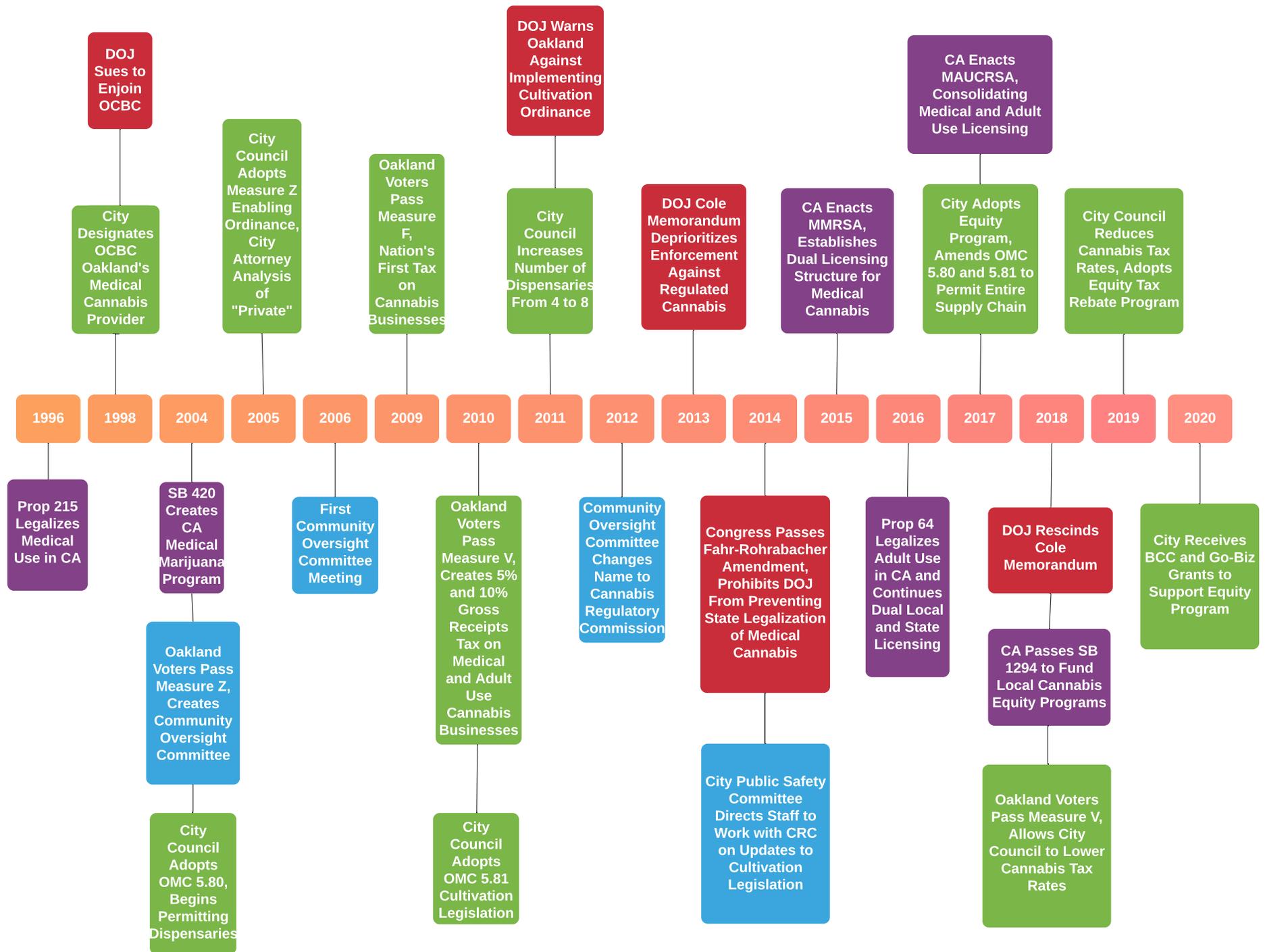
Answer: No. Charter Section 207 provides that the Council “shall be vested with all powers of legislation in municipal affairs.” The City Council has adopted operation and permitting regulations for Cannabis businesses as set forth in Oakland Municipal Code Chapters 5.80 and 5.81. Charter Section 500 provides that the “City Administrator . . . shall be the chief administrative officer of the City”, and Charter Section 504 provides that the “City Administrator shall have the power and it shall be his duty . . . (a) [t]o execute and enforce all laws and ordinances and policies of the Council and to administer the affairs of the city.” Therefore, only the City Administrator may enforce Cannabis regulations and issue cannabis activity permits and other permits.

10. Does Measure Z require that the City engage in advocacy for changes in state law?

Answer: No. Although Measure Z contains such a provision,⁶ as we explained in our answer to Question No. 8, above, it is invalid under California Constitution, Article 2, Section 8, to use the initiative process to require enactment of future laws. The initiative power can be used only to adopt a law or reject or modify an existing law. Because this provision requires the City to *advocate* for new laws, it is not within the ambit of the constitutional initiative power and is not valid.

⁶ Measure Z, Section 4(d).

Cannabis Regulatory Commission, City of Oakland, State, and Federal Cannabis Timeline



**CITY OF OAKLAND, STATE, AND FEDERAL
CANNABIS TIMELINE
LEGEND AND ABBREVIATIONS**

LEGEND



ABBREVIATIONS

- **Prop= Proposition**
- **DOJ= Department of Justice**
- **OCBC= Oakland Cannabis Buyers' Cooperative**
- **SB= State Senate Bill**
- **MMRSA= Medical Marijuana Regulation and Safety Act**
- **MAUCRSA= Medical and Adult Use Cannabis Regulation and Safety Act**
- **BCC= Bureau of Cannabis Control**
- **Go-Biz= Governor's Office of Business and Economic Development**