

Draft Worker Cooperative Ordinance – December, 2015

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Executive Summary

The purpose of this set of recommendations is to facilitate the adoption of city policies that incentivize and enable the formation of worker cooperatives. Worker cooperatives are owned and democratically controlled by their employees, and are an important strategy for creating more resilient local economies. Worker cooperatives operate for the benefit of their workers rather than distant shareholders, thereby helping to combat income inequality and oppressive, low-wage jobs. Compared to typical corporations, worker cooperatives are more efficient wealth-creators, tend to reinvest in the local economy, and typically provide salaries and benefits that exceed industry standards.

Local governments can be instrumental in fostering development of worker cooperatives by enacting policies that remove key barriers and incentivize a thriving cooperative economy. Barriers to cooperative development include:

- Lack of public awareness and education about the worker cooperative business model and its benefits,
- Limited sources of technical support for forming, operating, or converting a business to a worker cooperative,
- Difficulty obtaining financing for cooperative formation or conversion, and
- Start-up costs and regulatory obstacles.

A city strategy that creates an environment conducive to worker cooperative success should prioritize the following three strategies:

- Develop expertise in worker cooperatives at the city level and promote cooperatives as an economic development strategy,
- Use the city's convening power to forge strategic connections within the cooperative ecosystem, and
- Allocate grant funding for incubation and technical assistance with a focus on worker cooperatives or networks with 50-100+ jobs.

This paper uses the city of Oakland, California, as a case study to demonstrate how a worker cooperative ordinance can fit into an existing city code. Oakland, like most other cities, has already adopted ordinances and invested resources in the creation of small businesses, affordable housing, and anti-poverty measures. Promoting worker cooperatives is a strategic means of achieving these same ends, and has the potential to be more effective than traditional economic development models. Investment in cooperatives supports entrepreneurship, creates jobs, raises workers' income, increases the local tax base, and leads to reinvestment in local communities.

The model ordinance below provides specific language tailored to Oakland's current Municipal Code that will enable the following suggested policies:

- Cultivate expertise in worker cooperatives at city-supported business development centers,
- Promote worker cooperatives as a business model through outreach and education,
- Facilitate succession planning among businesses with retiring owners, including sale to workers as an exit strategy,
- Create markets for worker cooperatives by giving preference to cooperatives in city contracting and purchasing,
- Facilitate access to funding by providing loan guarantees to financial institutions that lend to OWCs,

- Invest in worker cooperatives through grants to cooperative incubators and low-interest loans to finance cooperative start-ups and conversions, and
- Streamline regulatory processes and reduce land use fees and business taxes for newly formed worker cooperatives (start-ups or conversions).

Introduction and Policy Priorities

Worker cooperatives are playing a key role in ushering in a more democratic and equitable economy. Worker ownership and empowerment not only protects individuals from the exploitation of insecure, low-wage jobs,¹ but also benefits cities and communities, because cooperatives also tend to reinvest more in their local economies.² Cooperative enterprises provide truly local economic development, with limits on external shareholders so benefits accrue to the local worker-owners. Wage differentials between lowest and highest paid workers are typically greatly reduced because workers decide key business policies. Workers own their jobs, tend to be more productive and happy at work,³ and tend to operate their business in ways that truly benefit the local community and protect the local environment.

Worker cooperatives face a unique set of barriers, due in large part to widespread lack of familiarity with the cooperative business model. Entrepreneurs wishing to start a cooperative, or employees seeking to

¹ Jessica Gordon Nembhard, *Benefits and Impacts of Cooperatives* 8-9 (Feb. 2014) (“Many of the worker-owned cooperatives, in particular, increase industry standards in wages and benefits, as well as provide self-management or team work between management and “labor”, job ladder opportunities, skill development and capacity building, job security, and general control over income and work rules”), available at <http://community-wealth.org/content/benefits-and-impacts-cooperatives>; Hilary Abell, *Worker Cooperatives: Pathways to Scale* 11 (June 2014) (Noting that workers at Cooperative Home Care Associates and Women’s Action to Gain Economic Security earn above-market pay and benefits and have fuller work schedules than the industry average.), available at <http://www.project-equity.org/worker-cooperatives-pathways-to-scale>.

² “Food cooperatives, for example, spend more revenues locally (38% compared with 24% spent by conventional grocers), buy more products locally (20% versus 6%) . . . for every \$1,000 spent at a food co-op, \$1,606 goes to the local economy—translating to 17% more money recirculating in the immediate community.” Nembhard, *supra* note 1, at 10.

³ Studies show that worker ownership correlates with greater business productivity and longevity. Worker cooperatives also have reduced employee turnover. Abell, *supra* note 1, at 12-13.

become worker-owners of their current business, require particular knowledge and technical support that most traditional business development offices and incubators are unable to provide because they don't have experience with the model. In addition, since cooperatives are generally not financed by equity capital, they are more reliant upon loans, which banks are more reluctant to offer them. These and other barriers put cooperatives at a disadvantage in the market, and the time has come to give cooperatives a powerful boost.

Throughout the world, governments and regulatory bodies are recognizing the value of cooperatives and the need to support them. In November 2014, Madison, Wisconsin allocated \$1 million per year for five years to promote cooperative enterprise formation, the largest allocation by a U.S. city to date.⁴ Five months earlier, New York City passed a budget initiative that committed \$1.2 million to organizations developing worker cooperatives in the city.⁵ In March 2015, New York City also passed a resolution that will "require the city to report on the number of city contracts awarded to worker cooperatives and the number of worker cooperatives that received assistance from the Department of Small Business Services (SBS)."⁶ The United Nations even declared 2012 the International Year of Cooperatives,⁷ an objective of which was to "[e]ncourage governments and regulatory bodies to establish policies, laws and regulation conducive to cooperative formation and growth."⁸

Additionally, timing could not be better for an innovative ordinance facilitating cooperative conversions. The U.S. is facing a "silver tsunami" of retiring baby boomers, a generation that owns 66% of all businesses with employees.⁹ Less than half of business owners who expect to retire in five

4 Ajowa Nzinga Ifateyo, *\$5 Million for Co-op Development in Madison*, Grassroots Economic Organizing (Jan. 26, 2015), <http://www.geo.coop/story/5-million-co-op-development-madison>.

5 *New York City Invests in Worker Cooperatives*, US Federation of Worker Cooperatives (June 25, 2014), <http://www.usworker.coop/news/new-york-city-invests-worker-cooperatives-0>

6 "Progressives Pass Bill to Support Worker Co-operatives" by the Progressive Caucus of the New York City Council. <http://nycprogressives.com/2015/02/26/progressives-pass-bill-to-support-worker-co-operatives/>. Find the bill language at "A Local Law to amend the administrative code of the city of New York, in relation to worker cooperatives" <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1853950&GUID=917F9D68-6081-4BE0-BABA-B9910461817F&Options=&Search=>

7 International Year of Cooperatives 2012, <http://social.un.org/coopsyear/objectives-of-the-year.html>.

8 *Id.*

9 <http://www.project-equity.org/business-conversions/>

years have succession plans, so many of these businesses will either close or be sold and relocated. Conversions to worker cooperatives can keep these businesses anchored in their communities, preserve jobs, create local wealth, and provide the selling owner with tax advantages.¹⁰

Cities are in a unique position to influence how money circulates through the local economy by promoting start-up cooperatives and cooperative conversions as a key job retention strategy for local wealth building. The end goal of such a city initiative should be a thriving and supportive ecosystem for worker cooperatives that creates a diversity of stable jobs and recirculation of local wealth. A well-informed strategy must guide the pursuit of this goal; merely allocating dollars toward cooperative development may do little to change the current situation. Likewise, selecting city policies arbitrarily from a menu of suggestions may not effectively position new cooperatives to succeed and grow to scale.

The following sample ordinance encompasses many different ways a city can encourage cooperative development. However, to be most effective, cities should prioritize these three strategies:

1. **Allocate grant funding for incubation and technical assistance with a focus on worker cooperatives or networks with 50-100+ jobs.** Worker cooperatives typically need training and technical assistance as a first step before accessing capital. It is not uncommon for loan funds earmarked for cooperatives to be underutilized, because the cooperatives were not “loan ready.” And even if there is a place in an anchor’s supply chain for cooperatives (see #3 below), those cooperatives still need to be viable and competitive. A first priority for city funds, therefore, should be strategic investment in incubators and technical assistance providers that support growth-oriented new cooperatives or outreach for, then support of cooperative conversions. Cities should evaluate grant proposals based on whether the program requires its cooperative participants to have the intent to grow and/or replicate, and whether the program will provide multi-year support for newly-formed cooperatives. Cities should support a mix of grant proposals—

¹⁰ Project Equity, Case Studies: Business Conversions to Worker Cooperatives, 6 (April 2015), available at http://www.project-equity.org/wp-content/uploads/2015/04/Case-Studies_Business-Conversions-to-Worker-Cooperatives_ProjectEquity.pdf. The selling owner can avoid capital gains tax through the 1042 Rollover. *Id.*

some supporting start-up or existing coops, and some supporting coop conversions. Coop conversion proposals should include aggressive outreach and education to business owners and employees about the opportunity to convert to cooperatives. The funding should also require that incubators or technical assistance providers facilitate well-rounded business skills training, either in-house or through partnerships with existing cooperatives and other organizations. Applicants should additionally have a plan for reaching historically marginalized populations like people of color, immigrants, and low-income workers.

2. Develop expertise in cooperatives at the city level and promote cooperatives as an economic development strategy. Economic development strategies as usual are not sufficient to create family-sustaining employment opportunities for low and moderate-income communities, let alone facilitate worker cooperative development. Rather than creating low-wage jobs and race-to-the-bottom corporate expansion, cities should focus on strategies for local wealth creation and job ownership. Cities must gain some fluency in cooperatives before they can facilitate a shift in the vision for economic development in their city and raise awareness of the benefits of cooperatives. City-funded technical assistance should employ staff with expertise in worker cooperatives, include tailored support for worker cooperatives, and encourage conversion to a cooperative as a succession plan. Cities should also actively incorporate cooperatives (both creation of new ones and conversions of conventional businesses) into their job retention strategies and sector initiatives. Finally, cities can make proclamations and initiate public relations campaigns to bring cooperatives into the mainstream.

3. Use the city's convening power to forge strategic connections within the cooperative ecosystem. The city government can play a strategic role in both connecting worker cooperatives to supply chains, and connecting existing businesses ready for conversion to technical assistance providers. For worker cooperatives to succeed, they must meet a need in the market. Connecting cooperatives to the supply chain of place-based institutions and businesses can facilitate this. This is known as an "anchor institution strategy." "Anchors" could

include universities, hospitals, cultural institutions, health care facilities, public utilities, existing cooperative businesses, or the city government itself. Cities must convene cooperative practitioners and others to identify where cooperatives can fit into the supply chain of local businesses or institutions, identify sectors ready for cooperatives, and help connect businesses nearing retirement to competent technical assistance providers who can facilitate cooperative conversion. To achieve this, the city might consider forming a cooperative ecosystem council. The city of Quebec, which has passed innovative policies to support cooperatives, took this approach. The council would administer city grants and negotiate with the city about programs and policies on behalf of its members.¹¹

What follows is a sample ordinance based on the Municipal Code of Oakland, California, offering examples of how the city could incorporate incentives and support for worker cooperatives into its municipal code. Amendments and additions that directly support the above three policies should be prioritized. This ordinance begins with a “Findings” section that highlights the need for and benefits of worker cooperatives in Oakland. It then offers the following amendments and additions to the Municipal Code:

- Creation of a **Worker Cooperative Preference Ordinance**, which 1) provides criteria for and a method of certifying Oakland Worker Cooperatives (OWCs), 2) adds OWCs to Oakland’s existing system of bid discounts and preferences in contracting with local businesses, 3) establishes outreach requirements, and 4) creates a financing program for OWC contractors and subcontractors,
- Amendments to the **City’s Purchasing System** ordinance, instituting a preference for OWCs in purchases of supplies, and adding OWCs to the City’s pre-qualified business lists for City contracts,
- Creation of a **Worker Cooperative Support Program** that requires city-level cooperative expertise and establishes a

¹¹ Jennifer Jones Austin, Federation of Protestant Welfare Agencies, *Worker Cooperatives for New York City: A Vision for Addressing Income Inequality* 27 (Jan. 2014), available at http://www.fpwa.org/binary-data/FPWA_BINARY/file/000/000/697-1.pdf.

Worker Cooperative Development Fund to advance technical support and incubation for cooperatives, and a *Worker Cooperative Revolving Loan Fund* to provide low interest loans to new cooperatives and businesses converting to cooperatives,

- Addition of a section exempting OWCs from payment of business tax and business registration fees in their first year, and reducing business taxes in subsequent years, and
- Creation of a set of land use incentives for OWCs to make the review process less burdensome.

Model Ordinance for the City of Oakland

SECTION 1. The City Council finds and declares as follows:

- A. Unemployment, poverty, and income inequality are serious concerns in Oakland.
1. The unemployment rate in Oakland increased from 5.6% to 16.9% between 2000 and 2010. In parts of West Oakland, 44-45% are unemployed; in East Oakland, 31-35% are unemployed. The poverty rate in Oakland was 22.3% in 2010, compared to 11.7%, the poverty rate in the East Bay as a whole.¹²
 2. In 2010, half of all income earned went to the top 20% of households while the remaining 80% of households shared the other half.¹³
- B. Local, cooperative businesses have the potential to benefit local economies far more than absentee-owned businesses or even traditional local businesses.
1. Locally based stores typically invest more in local labor rather than consolidate their administrative functions elsewhere. They

¹² East Bay Alliance for a Sustainable Economy, *The State of Work in the East Bay and Oakland: Wealth Concentration Amidst Bottoming Out for Low and Middle-Income Families*, 1 (May 2012), available at <http://www.workingeastbay.org/sowebo>.

¹³ *Id.* at 2.

are also more likely to purchase goods and services from within their local economies.¹⁴

2. Wealth generated by worker cooperatives tends to stay in the local economy, by virtue of the fact that profits are generally distributed to workers or reinvested in the cooperative.
 3. Wealth generated by worker cooperatives is more equitably allocated, since profits generated by worker-members are generally distributed to worker-members on the basis of their labor input rather than to outside investors on the basis of their stock ownership.¹⁵
 4. One recent study showed that, per square foot, local businesses have four times the economic impact of chain stores.¹⁶
 5. Poverty reduction is more likely with the development of worker cooperatives, rather than traditional economic development, because worker cooperatives provide their workers with the opportunity to build wealth through joint ownership of the enterprise, rather than merely offering low-wage, dead-end jobs.¹⁷
- C. Worker cooperatives can provide higher wages and greater job security for their workers.
1. The shared ownership structure of worker cooperatives causes each worker-member to be less vulnerable to unemployment, withholding of payment, and low-wage exploitation. This leads cooperative businesses to become more stable, as there is less employee turnover, as well as increased profitability and longevity.¹⁸

¹⁴ Civic Economics, *Economic Impact Analysis: A Case Study, Local Merchants vs. Chain Retailers* 6 (2002), available at

<http://www.civiceconomics.com/app/download/5841748704/Lamar+Retail+Analysis.pdf>.

¹⁵ Scott L. Cummings, *Community Economic Development as Progressive Politics: Toward a Grassroots Movement for Economic Justice*, Stan. L. Rev. 399, 475 (2011).

¹⁶ The Urban Conservancy in partnership with Civic Economics, *Thinking Outside the Box: A Report on Independent Merchants and the New Orleans Economy* 10 (Sept. 2009), available at <http://civiceconomics.com/app/download/5841600904/Magazine+Street+2009.pdf>.

¹⁷ See Evan Casper-Futterman, *Back to (Non)Basics: Worker Cooperatives as Economic Development*, Berkeley Plan. J., 115, 124 (2011).

2. Worker cooperatives can allow marginalized workers in industries such as day labor and domestic work to consolidate their bargaining power and combat worker exploitation.¹⁹
3. Because worker-members, rather than investors, control the business, the employees have a say in their work conditions and the business is focused on member benefits rather than merely profit. Worker-owners in the Bay Area's Prospera cooperatives (formerly Women's Action to Gain Economic Security) saw an increase of 158% in their incomes and an average return of 22 times their initial investments.²⁰ The largest cooperative Prospera incubated, Natural Home Cleaning Professionals, pays its members twice the average starting wage for commercial cleaners in the county.²¹ Prospera-incubated cooperatives also provide benefits such as health and dental insurance and flexible vacation time.²²
4. The average pay ratio between the lowest- and highest-paid employee in a Fortune 500 company is 341:1; in a worker cooperative it is rarely more than 4:1.²³

D. Local, cooperative businesses provide wide-reaching benefits to communities.

1. Studies have shown that communities where local businesses make up a substantial portion of the economy have lower crime rates and poverty rates, and their residents are more engaged in community and civic organizations. Conversely, as big-box retailers enter a community, civic engagement declines.²⁴

¹⁸ Scott L. Cummings, *Developing Cooperatives as a Job Creation Strategy for Low-Income Workers*, N.Y.U. Rev. L. & Soc. Change, 181, 187 (1999).

¹⁹ *Id.* at 477.

²⁰ *2013 Year in Review*, Women's Action to Gain Economic Security, available at http://prosperacoops.org/sites/default/files/1_yir_2013_final.pdf.

²¹ *Alumni Prospera*, <http://prosperacoops.org/alumni-co-ops>.

²² *Id.*

²³ Sara Tonnesen, *Stronger Together: Worker Cooperatives as a Community Economic Development Strategy*, Geo.J. on Poverty L. & Pol'y, 187, 196 (2013).

²⁴ Stacy Mitchell, *Locally owned businesses can help communities thrive—and survive climate change*, Institute for Local Self-Reliance (April 26, 2013), <http://www.ilsr.org/locally-owned-businesses-communities-thrive-survive-climate-change>.

2. Worker cooperatives are uniquely suited to promote both community-based job creation and political involvement, as they are built on democratic principles and can encourage collective action.²⁵
- E. Converting existing businesses to worker cooperatives can transform low-wage jobs into empowering careers, and preserve local jobs as business owners retire.
1. Low-wage workers typically cannot afford to quit their jobs and become small business entrepreneurs, but could become co-owners of their workplaces through cooperative conversion.
 2. The US is facing a “silver tsunami” of retiring baby-boomers, who own 66% of all business with employees.²⁶ Most do not have a succession plan in place, leaving many workplaces at risk of closing or being relocated. The time is ripe to equip businesses to convert to worker ownership, and the city can play a key role in facilitating these transitions.
- F. City contracts and procurement can create stable markets for worker cooperatives and contribute to the economic development of the city.
1. Targeted purchasing and contracting with worker cooperatives will keep wealth from flowing out of the community and create empowering local jobs. Giving preference to worker cooperatives provides an alternative to relying on large corporations and minimum wage jobs to meet the city’s needs.
 2. A promising model for promoting worker cooperatives and addressing urban poverty is the “anchor institution” strategy used in Cleveland.²⁷ This strategy calls for the development of contract agreements between large, place-based “anchor” institutions (such as schools and hospitals) and worker cooperatives. By leveraging the procurement contracts from anchor institutions, Cleveland’s minority-owned worker cooperatives were able to acquire financing for their capital-

²⁵ Cummings, *supra* note 9, at 473-75.

²⁶ <http://www.project-equity.org/business-conversions/>

²⁷ See <http://community-wealth.org/content/cleveland-model-how-evergreen-cooperatives-are-building-community-wealth>.

intensive industries, such as a commercial dry cleaning services for the area hospital. The City of Oakland can likewise act as an “anchor,” and partner with other local institutions, to develop markets for worker-owned businesses by channeling expenditures to these enterprises or working with cooperative developers to incubate businesses that will meet the needs of the city.

G. Worker cooperatives are a unique and less familiar form of business, in need of targeted technical assistance and funding to level the playing field.

1. Conventional small business development resources do not meet the needs of entrepreneurs seeking to start new worker cooperatives, or workplaces seeking to convert to worker-ownership.
2. Worker cooperatives have a harder time accessing funding due to lack of familiarity, difficult providing personal guarantees for loans, and legal restraints on outside equity investments.
3. City small business support centers are rarely equipped to assist worker cooperatives. Oakland’s Business Assistance Center could take advantage of local expertise on worker cooperatives and become an important source of technical support for worker cooperative startups and conversions.
4. City investments could support worker cooperatives through strategies such as funding targeted training, capitalizing a revolving loan fund, offering guarantees on loans to worker cooperatives, and linked deposits.

H. Inflexible, fixed land use costs and business taxes can create barriers to start-up cooperatives, leaving them at a disadvantage compared to their better-funded competitors.²⁸

1. Waiving land use fees and providing tax incentives allow cooperatives to more effectively invest in their communities.

²⁸ See Stephen Clowney, *Invisible Businessman: Undermining Black Enterprise with Land Use Rules*, U. Ill. L. Rev. 1061, 1074-75 (2009) (describing the barriers that zoning expenses pose to small, black businesses compared to their white, multinational competitors).

SECTION 2. Worker Cooperative Preference in Contracting and Procurement

Oakland Municipal Code Title 2, Chapter 2.44 is created to read as follows:

Chapter 2.44 WORKER COOPERATIVE PREFERENCE ORDINANCE

2.44.010 Title.

This chapter shall be known as the Worker Cooperative Preference Ordinance.

2.44.020 Purpose and Intent.

The purpose of this program is to encourage and incentivize the development of worker-owned businesses in Oakland by creating new markets and providing financial assistance to enable worker cooperatives to obtain city contracts. This ordinance will require city preference of worker cooperatives in purchasing and contracting, and require targeted outreach to obtain bids from worker cooperatives. It will establish a city certification process for worker cooperatives, allowing streamlined application for various incentives. This program will promote economic development that creates resilient and democratic enterprises, reduces poverty, and enhances the public safety, health, and welfare of the City.

2.44.040 Oakland Worker Cooperative Certification.²⁹

- A. **Criteria for Oakland Worker Cooperative certification.³⁰** Only city-certified Oakland Worker Cooperatives shall be eligible for the

²⁹ See The Sustainable Economies Law Center & Green Collars Community Clinic at East Bay Community Law Center, *Think Outside the Boss: How to Create a Worker-Owned Business* (March 2013), available at <http://www.theselc.org/cooperatives-program>; Cummings, *supra* note 8, at 472-474.

³⁰ If useful, the City could consider including the “union model” of cooperatives as a requirement of certification, and/or consider them a class of cooperatives eligible for additional incentives. A proposed definition of such a cooperative is one that: “includes the right of members to (i) select a committee to address and resolve with management issues such as wages, working conditions, grievances, etc., (ii) choose to affiliate with an existing trade union for such purposes, or (iii) choose neither option and resolve such issues on an individual basis or majority vote by the members of the cooperative.”

incentives available to such entities under the Oakland Municipal Code, Planning Code, and relevant city programs. The City Administrator shall certify as an Oakland Worker Cooperative (“OWC”)³¹ any business that meets either of the following sets of criteria:

1. Worker cooperative corporations.
 - i. **Local business.** The business has its principal place of business within the geographical boundaries of Oakland.
 - ii. **Worker Cooperative Corporation.** The business was incorporated under the California Cooperative Corporation Law and elected to form as a worker cooperative under that law.³²
2. Worker-owned businesses formed as other legal entities must meet all of the following criteria.
 - i. **Local business.** The business has its principal place of business within the geographical boundaries of Oakland.
 - ii. **Control by worker-owners.** A majority of voting power must be held by owners who work in the business.
 - iii. **Most workers are owners.** A majority of the cooperative’s workers are voting worker-owners, and the majority of the work done by the workers in the cooperative is done by worker-owners, as opposed to non-owner employees.
 - iv. **Democratic worker-owner control.** Worker-owners shall elect the majority of the board of directors. Worker-owners shall vote in board elections and on major decisions on a

³¹ The label “Oakland Worker Cooperative” is meant to convey that this certification merely denotes eligibility for certain city benefits; the certification does not convey a broader accreditation of the business as a worker cooperative, a term that has no universally embraced definition.

³² This first set of criteria takes advantage of AB 816, which amends California’s cooperative corporation statute and goes into effect January, 2016. The worker cooperative community in the Bay Area spearheaded AB 816, which will create an official legal form for worker cooperatives, including a definition of worker cooperatives that is in line with cooperative principles.

one-person, one-vote basis.

- v. **Cooperative distribution.** A majority of allocated earnings are allocated based on the quantity or value of work done by each worker-owner, as opposed to on the basis of capital investment.

Note on above Worker Cooperative definition. *A standardized definition of worker cooperatives does not yet exist in the United States and there is some debate among stakeholders as to what qualifies as a worker cooperative. Any city adopting this ordinance must decide how broad or narrow its definition should be. The definition above is one suggested method of balancing traditional guiding principles for cooperatives with more modern variations that have helped cooperatives compete in today's economy.*

The two key characteristics of worker cooperatives are: (1) workers own the business, and surplus income is allocated or distributed to members on the basis of the quantity or value of work done by (or "patronage" of) each member, and (2) workers govern the business on a "one-member, one-vote" basis. Generally, when crafting a definition of worker cooperative, it is important to do so in a way that prevents dilution of those two key characteristics. Such a definition should generally not encompass a business where (1) a substantial number or majority of employees are not able to become members, (2) certain members or outside investors are given substantial control or profits, (3) the method for distributing earnings mimics conventional businesses, by rewarding investment of capital rather than contribution of time and energy by workers.

Beyond the above considerations, a definition of worker cooperative may also be shaped with an eye toward the seven International Cooperative Principles that have been embraced by the international cooperative movement: (1) voluntary and open membership, (2) democratic member control, (3) member economic participation, (4) autonomy and independence, (5) education, training, and information for members and the public; (6) cooperation among cooperatives; (7) concern for the community.³³

Additional guidance may be found in the lengthy definition crafted by the International Organisation of Industrial, Artisanal and Service Producers'

³³ <http://www.rochdalepioneersmuseum.coop/about-us/the-rochdale-principles>

Cooperatives, which was also approved by the International Co-operative Alliance General Assembly.³⁴ Some programs, such as the Richmond Worker Cooperative Revolving Loan Fund,³⁵ require their applicants to adhere to the requirements of court cases applying Subchapter T of the Internal Revenue Code to worker cooperatives. Those requirements include: (1) subordination of capital, (2) democratic control by members, and (3) patronage distribution.³⁶

B. Application and documentation. A proposed OWC shall apply for OWC status at the time of applying for or renewing a business tax certificate under Chapter 5.04. The applicant shall include with the business tax certificate application:

1. The company's Articles of Incorporation, if any
2. The company's Bylaws or Operating Agreement
3. Any other documents or information the Administrator finds necessary to determine whether the business meets the standards required by Section (A).

An existing business applying for OWC status shall submit the above documentation as well as financial statements from the previous fiscal year.

The City may rely on outside organizations such as the United States Federation of Worker Cooperatives to make certification decisions.

C. Maintenance of certification. To remain certified, a business must meet the criteria in Section (A) above for the duration of the certification period. Within four months of the end of each fiscal year, each certified OWC shall submit an annual report to the City, including financial statements, the prior year's 1120(c) tax return showing patronage distributions, and any amendments to the articles, bylaws, and/or operating agreement that were adopted during the year.

34 http://www.cicopa.coop/IMG/pdf/Declaration_approved_by_ICA_EN-2.pdf

35 <http://www.richmondcooploans.net/>

36 See *Puget Sound Plywood, Inc. v. Commissioner of Internal Revenue*, 44 T.C. 305, 308 (1965), available at http://scholar.google.com/scholar_case?case=10533906383006276804&q=44+T.C.+305&hl=en&as_sdt=2006.

Notwithstanding the above, at any time, the City may require submission of other information it deems reasonably necessary to determine that the business continues to operate as a democratic worker-owned business.

2.44.050 Bid discounts and preference points in city contracts.

- A. An Oakland Worker Cooperative (“OWC”) category shall be added to Oakland’s existing Local and Small Local Business Enterprise Program (L/SLBE).³⁷ Only city-certified OWCs, pursuant to Section 2.44.040, shall be entitled to the benefits of the program.
- B. The value of preference points and bid discounts associated with OWC participation will be double-counted toward meeting the Local / Small Local Business Enterprise participation level needed to earn bid discounts; and
- C. The Request for Proposal evaluation process shall allow businesses to earn a maximum of an additional 5 preference points for incorporating cooperative principles and practices. Preference points shall be awarded as follows:
 - 1. One preference point for every 20% of the board of directors that is elected exclusively by workers. Such elections must include the majority (more than 50%) of the workers and be conducted on a one-person, one-vote basis.
 - 2. One preference point for businesses in which the majority of workers participates in a profit sharing plan, Employee Stock Ownership Plan (ESOP), or receives patronage dividends.
 - 3. One preference point for businesses that cap returns to non-worker investors at 15% or lower.³⁸
 - 4. One preference point for businesses that have a pay ratio between the highest- and lowest-paid workers of no more than

³⁷ Program details (not codified) *available at* <http://www2.oaklandnet.com/oakca1/groups/contracting/documents/form/oak029719.pdf>; ordinance enacting most recent amendments to the program, *available at* <http://www2.oaklandnet.com/oakca1/groups/contracting/documents/webcontent/oak034685.pdf>.

³⁸ This mirrors the requirement under the California Cooperative Corporation statute.

5:1.

2.44.060 Good faith efforts to obtain OWC bids.

- A. Contract awarding authorities will use good faith efforts to solicit and obtain bids from OWCs directly, and from developers that subcontract with OWCs. Good faith efforts shall include the following:
1. Where feasible, dividing a contract into smaller contracts to maximize the opportunity for OWCs to participate.
 2. Targeting advertisement of pre-bid meetings and contract opportunities to OWCs.
 3. Working with the Office of Economic and Workforce Development, other worker cooperative incubators, and local community organizations to recruit worker cooperatives to apply for OWC certification and submit bids.
 4. Requiring lead contractors to solicit subcontracting bids from OWCs when possible.

2.44.070 Bonding and financial assistance program³⁹

- A. Program Description. The City of Oakland intends to provide guarantees to private bonding companies and financial institutions in order to induce those entities to provide required bonding and financing to OWC contractors and subcontractors bidding on and performing City public works/construction contracts.
- B. Eligible businesses. Businesses must meet the following criteria to qualify for assistance under this section:
1. The business is either a prime or subcontractor applying for an Oakland public works or construction contract.

³⁹ Modeled after San Francisco's bonding and financial assistance program for local businesses, SF Administrative Code, Section 14B.16.

2. The business must be certified as an OWC according to Section 2.44.040

C. Agreements executed by the City Administrator. The Director is hereby authorized to enter into the following agreements in order to implement the bonding and financial assistance program described in this Section:

1. With respect to a surety bond, the agreement to guaranty up to 40 percent of the face amount of the bond or \$750,000, whichever is less;
2. With respect to a construction loan to be made to a contractor or subcontractor, an agreement to guaranty up to 50 percent of the original principal amount of the construction loan or 50 percent of the actual loss suffered by the financial institution as a result of a loan default, whichever is less; provided that in any event the City's obligations with respect to a guaranty shall not exceed \$750,000;
3. Any other documents deemed necessary by the Director to carry out the objectives of this program, provided that such documents shall be subject to review and approval by the City Attorney's Office.

2.44.080 Enforcement.⁴⁰

- A. The City, as appropriate, may impose any of the following sanctions on a certified OWC that loses certification:⁴¹
1. Reject all bids;
 2. Declare a bid non-responsive;
 3. Suspend a contract;
 4. Withhold funds;
 5. Assess penalties;

⁴⁰ Additional or alternative enforcement mechanisms could include: (1) requiring OWCs to enter into a contract for a period of years with the City in order to apply for benefits, whereby demutualization would constitute breach of contract (a comparable mechanism to the state's Williamson Act, or San Francisco's Urban Agriculture Incentive Zones Program); (2) giving the City veto power over an attempt to demutualize or sell the cooperative; (3) requiring the City to oversee and enforce a preferred method for distributing assets in the event of demutualization or sale.

⁴¹ This list of sanctions is derived from the San Francisco local business enterprise program, SF Administrative Code, 14.B.17.D.

6. Debar a bidder.

These sanctions shall be in addition to any penalties imposed elsewhere in the Oakland Municipal or Planning Code, where OWC status is a condition of obtaining benefits or incentives.

Oakland Municipal Code Title 2, Chapter 2.04, Purchasing System, is amended to read as follows:

2.04.010 Definitions.

...

“Oakland Worker Cooperative” (OWC) is defined as that term is defined in Oakland Municipal Code Section 2.44.040.

...

2.04.020 Authority of the City Administrator.

...

F. Local and Worker Cooperative Vendor Preferences. The City Administrator is authorized in the evaluation of all sealed, faxed and telephone bids for the purchase of supplies, to extend a two and one half percent preference to local business enterprises and an additional two and one half percent preference to small local business enterprises in award of all purchase orders. The City Administrator is authorized to extend a seven and one half⁴² percent preference to Oakland Worker Cooperatives (OWC) certified by the city pursuant to Section 2.44.040(A). For businesses that do not meet OWC certification criteria, the City Administrator may extend a 1% preference, up to a maximum of 5%, of each of the following criteria:

1. One percent preference for every 20% of the board of directors that is elected exclusively by workers. Such elections must include the majority (more than 50%) of the workers and be conducted on a one-person, one-vote basis.
2. One percent preference for businesses in which the majority of workers participates in a profit sharing plan, Employee Stock

⁴² This number represents an additional two and one half percent preference over small local businesses, reflecting the benefits unique to worker cooperatives.

Ownership Plan (ESOP), or receives patronage dividends.

3. One percent preference for businesses that cap returns to non-worker investors at 15% or lower.⁴³
4. One percent preference for businesses that have a pay ratio between the highest- and lowest-paid workers of no more than 5:1.

The City Administrator shall semiannually prepare and submit to the City Council a report on participation by local, ~~and small local,~~ and OWC business enterprises in City contracts for the prior year.

...

N. Local Business and Oakland Worker Cooperative Contracting Programs.

The City Administrator is authorized in the evaluation of all sealed, faxed and telephoned bids for public works projects, for the purchase of supplies and in evaluation of proposals for professional services contracts, to require contractors to comply with, and to extend the benefits of, Oakland's LBE/SLBE/OWC construction, procurement and professional services contracting programs, as set forth in this code.

2.04.045 Pre-qualification and bid processes for general construction services and the Preferred Small Local Business (“PSLB”) and Preferred Oakland Worker Cooperative (“POWC”) program.

- A. Optional Prequalification for Construction Work over \$250,000.00. The City may, in its discretion and when deemed by the City Administrator to be in the best interests of the City, establish a list of pre-qualified businesses to perform as-needed and specified construction work in excess of \$250,000.00 (“large projects”).
 1. When deemed by the City Administrator to be in the best interests of the City, the City will advertise a request for qualifications for licensed construction services in accord with Subsection 2.04.050 A., below, to perform as-needed or specified construction work exceeding \$250,000.00.

⁴³ This mirrors the requirement under the California Cooperative Corporation statute.

2. When a pre-qualified list is established for large projects, the City may limit solicitations for bids for such work to three or more business on the pre-qualified list.
3. Contracts awarded through a pre-qualified process are subject to the City's insurance, bond, labor and all social equity policies such as, but not limited to, payment of prevailing wages, local and small local business participation, preference for Oakland Worker Cooperatives, and local hire.

B. Mandatory Preferred Small Local Business Program (MPSLB) and Mandatory Preferred Oakland Worker Cooperative Program (MPOWC)—Pre-Qualification for Construction Work Under \$250,000.00. The City will establish a list of pre-qualified businesses to perform as-needed and specified construction work less than \$250,000.00 (“small projects”).

1. The City will solicit qualifications solely from Oakland certified small, local, and OWC business enterprises in order to establish a MPSLB/MPOWC pre-qualified list of small local businesses and Oakland Worker Cooperatives to perform small project construction contracts.
2. When a pre-qualified list is established the City will limit solicitations for bids for such work to three or more business on the MPSLB/MPOWC pre-qualified list.
3. Reserved.
4. MPSLB/MPOWC contracts are exempt from the requirements of Oakland's Local and Small Local Business Enterprise (L/SLBE) program for construction contracts.
5. With the exception of the L/SLBE program, MPSLB/MPOWC contracts are subject to insurance, bond, labor and social equity policies such as, but not limited to, payment of prevailing wages and local hire.
6. Circumstance for Open Market Solicitation. The City Administrator may solicit bids on the open market, without advertising, when all responsive bids exceed the engineer's

estimate.

- C. Award of Construction Contracts. Contracts awarded through a pre-qualification process shall be awarded to the lowest responsible, responsive bidder, except that the City shall apply a 10% discount for bids submitted by city-certified OWCs and a similar discount to bids submitted by bidders subcontracting with city-certified OWCs, except that the discount shall be reduced in proportion to the share of the total contract price to be paid to the OWC sub-contractor.⁴⁴
- D. Construction contracts awarded through a pre-qualification process exceeding \$100,000.00 are subject to Council approval in accord with Section 2.04.030, above.

2.04.051 Competitive process and qualification-based awards for professional services contracts.

- ...
 - C. Pre-Qualification for Pre-Construction and Other Professional Services Work Under \$250,000.00—Mandatory and Optional Preferred Small Local Business and Preferred Oakland Worker Cooperative Programs (MPSLB/MPOWC and OPSLB/OPOWC).
 - 1. Mandatory Preferred Small Local Business /Mandatory Preferred Oakland Worker Cooperative (MPSLB/MPOWC) Program for Pre-Construction Services. The City shall establish a list of pre-qualified businesses to perform as-needed and specified pre-construction work, such as architectural and engineering work, less than \$250,000.00 ("small projects"). The City shall solicit qualifications solely from Oakland certified small, local business enterprises and Oakland Worker Cooperatives to establish the pre-qualified business list for MPSLB professional pre-construction services.
 - 2. Optional Preferred Small Local Business /Optional Preferred Oakland Worker Cooperative (OPSLB/OPOWC) Program for Other Professional Services (Pre-Construction Services Excluded). The City may, in its discretion and when deemed by the City Administrator to be in the

⁴⁴ Oakland gives bid discounts of up to 5% to contractors who subcontract with small, local businesses. SF gives a 10% discount for bids from small local businesses, so maybe we could even propose that this discount should be higher. (See <http://sfgsa.org/modules/showdocument.aspx?documentid=10695> , p.11)

best interests of the City, establish a list of pre-qualified Oakland certified small local businesses and OWCs to perform as-needed or specified professional services (pre-construction excluded) under \$250,000.00 ("small projects"). When authorized by the City Administrator, the City shall solicit qualifications solely from Oakland certified small, local business enterprises and OWCs to establish a pre-qualified business list for OPSLB/OPOWC professional (non-pre-construction) services.

3. When a pre-qualified list is established for small projects, the City will limit solicitations for proposals for such work to three or more business on the MPSLB/MPOWC or OPSLB/OPOWC pre-qualified lists.
4. The City shall apply a 10% discount for bids submitted by city-certified OWCs.
5. MPSLB/MPOWC and OPSLB/OPOWC contracts are exempt from the requirements of Oakland's Local and Small Local Business Enterprise (L/SLBE) program for professional services.
6. With the exception of the L/SLBE program, MPSLB/MPOWC and OPSLB/OPOWC contracts are subject to insurance and social equity policies such as, but not limited to, living wages and equal benefits.
7. Circumstance for Open Market Solicitation. The City Administrator may solicit proposals on the open market, without advertising, if less than three proposals are submitted by MPSLB/MPOWC or OPSLB/OPOWC pre-qualified businesses.
8. MPSLB/MPOWC or OPSLB/OPOWC contracts exceeding \$100,000.00 are subject to Council approval in accord with Section 2.04.030, above.
9. Removal From Pre-Qualified List. Businesses that lose necessary qualifications to perform the work, including, but not limited to, licenses or insurance, or that become disqualified or debarred, shall be removed from the MPSLB/MPOWC or OPSLB/OPOWC pre-qualified list.

SECTION 3. Worker Cooperative Support Program

Oakland Municipal Code Title 2, Chapter 2.45 is created to read as follows:

Chapter 2.45 WORKER COOPERATIVE SUPPORT PROGRAM

2.45.010 Establishment.

The Office of Economic and Workforce Development shall create and administer a Worker Cooperative Support Program.

2.45.020 Purpose.

The purpose of this Chapter is to provide technical and financial support to entrepreneurs and employees seeking to start new worker cooperatives or convert existing businesses into worker cooperatives. Because cooperatives employ less common governance and financial structures, and because the City currently lacks expertise in cooperative formation and governance, this program will provide the City with crucial tools to help these beneficial enterprises thrive. It will also strengthen existing organizations that are incubating and training worker cooperatives in Oakland, and help to equip other organizations to provide such services. Finally, the program will establish a source of low-interest loans for worker cooperatives, since cooperatives typically rely on loans rather than outside equity investment. Worker cooperatives often struggle to secure loans from traditional sources due to their innovative structure and their commitment to member control and ownership of the business; this revolving loan fund will therefore fill a gap in the existing financial market.

2.45.030 Duties.

In administering the Program, the Office shall:

- A. Appoint a city liaison who will work with community organizations and worker cooperatives to (1) evaluate barriers or challenges faced by worker cooperatives in accessing City contracts and/or engaging with Oakland's procurement system, and (2) identify incentives for existing businesses to convert to worker ownership.

- B. Coordinate efforts to support and promote worker cooperatives with other City agencies, including the Department of Planning, Building, and Neighborhood Preservation; and the Department of Housing and Community Development.
- C. Develop partnerships and meet regularly with community-based organizations, existing worker cooperatives, incubators, anchor institutions, trade unions, and others. These meetings will guide the strategy of worker cooperative development, connect cooperatives with markets and technical assistance, and connect incubators with companies primed for conversion to a worker cooperative.
- D. Identify obstacles deterring entrepreneurs from starting worker cooperatives, or employees and business owners from converting their businesses to worker cooperatives.
- E. Provide public education and promote awareness of the worker cooperative as a business model, economic development strategy, and local wealth creation tool. Promote worker cooperative federations, associations, and development organizations on the City's Economic & Workplace Development website.
- F. Add Worker Cooperatives to the list of Oakland's "Key Industries".⁴⁵ Retain on staff a minimum of one full-time Business Development Officer who is a Worker Cooperative "industry specialist" to provide technical assistance and information to entrepreneurs seeking to start worker cooperatives and to current business owners and employees seeking to convert to a cooperative. Alternatively, broaden the specialization of an existing Business Developer to include worker cooperative expertise. Create educational materials in English and Spanish.
- G. Promote worker cooperative job opportunities at the Business Assistance Center, all One-Stop Career Centers, and city-sponsored workforce development programs. Provide education on forming and

⁴⁵ Oakland currently has Business Development Officers who specialize in one or more of the following "Key Industries": Arts and Digital Media, Food Production and Distribution, Green Business, Healthcare & Life Sciences, Industrial, International Trade and Logistics, Office Retail. See *Business Development*, City of Oakland Economic & Workforce Development, <http://www2.oaklandnet.com/Government/o/CityAdministration/d/EconomicDevelopment/o/BusinessDevelopment/index.htm>.

operating a worker cooperative and use local cooperative technical assistance providers as a referral service. Contract with trade unions to provide training and technical support to members of newly formed or established cooperative businesses in developing structures to protect workers' interests in their role as workers, as well as to train them in their dual role as owners. Develop aggressive outreach campaigns in partnership with grant recipients to educate business owners and employees about conversion to worker cooperatives. Provide technical assistance and information to employees and business owners seeking to convert existing businesses into worker cooperatives. Make available succession planning resources that include employee ownership and worker cooperative conversions.

- H. Incorporate technical support for cooperative conversions into the Workforce Investment Board's strategic plan and incorporate conversions into succession planning services to employers. Conduct Business Succession Planning events for Oakland business owners in which sale to the workers is a key topic, and target this outreach to businesses with low-wage workers, including but not limited to these sectors: manufacturing, commercial printing, logistics and shipping, and health services.⁴⁶ Prioritize outreach to businesses that are over 15 years old, as identified pursuant to Section 2.46.030. Conduct site visits to discuss succession planning, including cooperative conversion, with key target businesses. Partner with local organizations with expertise in conversions and with local trade unions that can develop workers' abilities to manage their work and take responsibility for their company's success.
- I. Appoint a Worker Cooperative Ecosystem Council to inform city strategy and to administer the Worker Cooperative Development Fund and the Worker Cooperative Revolving Loan Fund. The Council shall be tasked with community outreach, solicitation of grant and loan applications, and review of grant and loan applications. The Council shall include at least one worker-member of an OWC and one representative of a community-based worker cooperative technical assistance provider.

2.45.040 Worker Cooperative Development Fund.

⁴⁶ These are sectors that Project Equity identified as being good targets for Oakland outreach. See *Bay Area Blueprint*, Project Equity, <http://www.project-equity.org/bay-area-blueprint>.

- A. The Office of Economic and Workforce Development shall establish a Worker Cooperative Development Fund and is hereby authorized to spend the monies appropriated to or received by the Fund. The Office shall delegate administration of the Fund to the Worker Cooperative Ecosystem Council as described in 2.45.030(H).
- B. The monies in the Fund shall be spent on the following programs:
1. Worker Cooperative Incubation and Conversion Program. Awards will be given to support community organizations currently providing technical, legal, and/or financial support to entrepreneurs starting new worker cooperatives and/or to businesses seeking to convert to worker cooperatives. Recipients may be nonprofit incubators or technical assistance providers, or existing worker cooperatives with capacity to incubate new businesses.
 - i. The Office shall consider a number of criteria in its evaluation of grant requests, including, but not limited to, the following:
 1. The breadth of business skills training the program will offer;
 2. Whether the program includes long-term mentoring or other training of new cooperatives over time;
 3. Whether the program will include training on implementing structures to protect workers' interests in their role as workers;
 4. A track record of, or core commitment to reach underserved communities and make participation feasible for low-income workers;
 5. The degree to which the program promotes development of cooperatives to scale and/or replication;
 6. Agreement to standard reporting to enable the Fund to measure its impact.

2. Nonprofit Training Program. Awards will be given to support training of nonprofits to begin new cooperative incubation programs in Oakland targeted to low-income communities.⁴⁷
3. Cooperative Conversion Technical Assistance Matching Fund. Awards will be given to Oakland businesses seeking technical support to facilitate conversion to a worker cooperative. The City will match capital raised by the business for such support.

2.45.050 Worker Cooperative Revolving Loan Fund.⁴⁸

A. The Office of Economic and Workforce Development shall establish and administer a Worker Cooperative Revolving Loan Fund to make low-interest loans to city-certified OWCs and to employees seeking to convert their businesses into OWCs. Applicants may request grant funds to finance startup, growth, or conversion costs, including reasonable expenses for technical assistance and business development support. The Office shall delegate administration of the Fund to the Worker Cooperative Ecosystem Council as described in 2.45.030(H).

B. Eligibility shall require (1) current OWC certification, (2) demonstrated inability to get all financing needed from a private financial institution or other private source, (3) provision of other information and documentation that the Worker Cooperative Ecosystem Council deems necessary to assessing the risks, merits, and viability of the business.

Preference shall be given to applicants (1) who have a business plan that is growth-oriented, geared toward creating at least 50-100 jobs in-house or through replication, (2) who are low-income or located in / hiring from low-income communities, and (3) currently receiving, or planning to receive support from local technical assistance providers or business development organizations.

C. Payments of principal or interest on a low-interest loan pursuant to this Chapter shall be deposited into the Worker Cooperative Revolving Loan

⁴⁷ For example, in 2014 New York City awarded grant money to the nonprofit social services provider Center for Family Life to begin incubating new cooperatives. To date, CFL has successfully launched five worker cooperatives, creating nearly 150 jobs. <http://community-wealth.org/content/center-family-life>.

⁴⁸ For other examples of such funds, see Richmond Worker Cooperative Revolving Loan Fund (<http://www.richmondcooploans.net>); The Working World revolving loans for worker cooperatives (<http://www.theworkingworld.org>).

Fund. Investment earnings credited to the fund shall become assets of the Fund. Any balance remaining at the end of the fiscal year shall be carried forward in the Fund for the next fiscal year.

- D. An annual report will be completed in January and presented to the City Council as public record of the performance and management of the fund. The report will include (1) specifics about every outstanding loan during that period, (2) number of member-owner jobs created during the term, (3) efforts made to obtain state and federal funding to expand the fund, (4) recommendations for how the fund can more effectively create worker-owned jobs, and (5) any other information requested by the City Council.
- E. The Worker Cooperative Business Development Officer may enter into contracts with nonprofit corporations for the administration of the Worker Cooperative Revolving Loan Fund, provided no loan shall be made from the Fund without the authorization of the Officer.

2.45.060 Loan Guarantees for Worker Cooperative Startup and Conversion Financing

[details to be determined]

Oakland Municipal Code Title 2, Chapter 2.46 is created to read as follows:

Chapter 2.46 BUSINESS SUCCESSION PLANNING OPPORTUNITY AND OUTREACH TRACKING

2.46.010 Purpose.

The purpose of these provisions is to identify longstanding Oakland businesses that may be at risk of closure or sale and relocation due to lack of succession planning. This creates an opportunity for targeted outreach and succession planning assistance that includes cooperative conversion as a strategy to keep businesses rooted in the community and transfer ownership to their workers. This section will provide data to measure the extent of business closures in Oakland, to identify businesses potentially ripe for conversion, and to measure the effectiveness of Oakland's succession planning outreach efforts.

2.46.020 Definitions.

“Long-operating business” shall mean any business that has operated in Oakland for 10 or more years, as established by New Business Applications and Business Tax Certificate records on file with the City.

“Medium-sized business” shall mean any business currently employing between ___ and ___ employees.

“Small-sized business” shall mean any business currently employing no more than ___ employees.

2.46.030 Business age and closure reporting.

- A. No later than three months after the end of each fiscal year, beginning with the 2016 fiscal year, the Office of Economic and Workforce Development shall prepare and submit to the City Council, and make available to the general public, a report containing the number of small- and medium-sized business closures during that year, disaggregated by industry, city council district, and age of owner.
- B. No later than March 1, 2015, the Office shall produce a report that identifies the ages of long-operating businesses in Oakland, according to city business license records, and disaggregated by industry, city council district, and age of owner.

2.46.040 Succession planning outreach tracking.

- A. No later than three months after the end of each fiscal year, beginning with the 2016 fiscal year, the Office of Economic and Workforce Development shall prepare and submit to the City Council, and make available to the general public, a report containing the number of businesses operating for more than 15 years that received succession planning services from the City during that year. Such data shall be disaggregated by industry, city council district, and age of owner.

SECTION 4. Revision to Business Permit Application

Oakland Municipal Code Title 5, Chapter 5.02, Business Permits Generally, is amended to read as follows:

5.02.020 Application.

Application for any permit referred to in Section 5.02.010 shall be filed with the City Clerk in triplicate, the original of which shall be duly acknowledged before some person lawfully authorized to administer oaths, and upon forms to be furnished by said City Clerk, and shall set forth the following information:

- A. A full identification of the applicant and all persons to be directly or indirectly interested in the permit if granted;
- B. The residence and business address of the applicant, including all members of any firm or partnership, or all officers and directors of any corporation applying;
- C. The location of the proposed business, establishment, place, thing, etc., for which the permit is requested, and the name of the owner and the present use of such premises;
- D. The exact nature of the proposed business, establishment, place, thing, etc., for which the permit is requested, and the name under which it is to be operated;
- E. Whether the proposed business is applying for city-certified Oakland Worker Cooperative status;
- F. The past experience of the applicant in the matter to which the requested permit appertains; and the name, address, and past experience in such business or matter of the person to be in charge of the premises or business;
- G. Whether or not any permit has been revoked, and if so, the circumstances of such revocation;
- H. Such further information as the City Manager, or such official of the city to whom the application may be referred, may require.

SECTION 5. Business Tax Incentives

Oakland Municipal Code Title 5, Chapter 5.04.621 is created to read as follows:

5.04.621 Oakland Worker Cooperative exemption.

- A. Notwithstanding any other provisions of this chapter, OWCs certified pursuant to Section 2.44.040, shall, for the business's first fiscal year, be exempt from payment of city business tax and from payment of the business registration fee. For the business's second fiscal year, OWCs certified pursuant to Section 2.44.040 shall be taxed at half the rate of comparable non-cooperative businesses.
- B. Exemption from business tax and registration fee payment is contingent on submission of an annual statement pursuant to Section 5.04.090, accompanied by evidence of current OWC certification.

SECTION 6. Worker Cooperative Land Use Incentives

Oakland Planning Code Title 17, Chapter 17.159 is created to read as follows:

Chapter 17.159 WORKER COOPERATIVE LAND USE INCENTIVES

17.159.010 Purpose and applicability.

The purpose of these provisions is to encourage the formation of worker cooperatives and the associated local wealth creation by reducing the permitting and review burdens faced by such enterprises. The incentives described in Section 17.159.030 are only available to Oakland Worker Cooperatives certified pursuant to Municipal Code Section 2.44.040.

17.159.020 Application

An application for worker cooperative incentives shall be filed with the Oakland Planning and Zoning Division as part of the land use review process. The application shall include:

- A. Evidence of current, city-certified Oakland Worker Cooperative status pursuant to Municipal Code Section 2.44.040;
- B. A written statement specifying the incentives requested; and

- C. Any other documents or information the Director of City Planning finds necessary for the review of the proposal

17.159.030 Incentives

Whenever action is taken on an application for planning or zoning permits for an Oakland Worker Cooperative, the City shall grant the following incentives:

- A. **Priority permit processing.** The City shall prioritize and expedite the review and permitting of such projects.
- B. **Streamlined conditional use permit processing.** A cooperative business that would otherwise require a major conditional permit under the uses in Section 17.134.020(A)(2) shall satisfy the requirement with a minor conditional use permit. However, such conditional use permit shall grant permission only for a city-certified Oakland Worker Cooperative to operate the business.
- C. **Permit fee waivers.** The City shall waive _____% of the fees related to the following permits, as set by the City’s annual fee ordinance:⁴⁹
 - 1. Major, minor, and interim conditional use permits
 - 2. Variances
 - 3. Regular and small project design review
- D. **Parking requirement exemption.** The City shall exempt cooperative businesses from the off-street parking requirements in Section 17.116.080, so long as such businesses remain certified as Oakland Worker Cooperatives.

17.159.040 Enforcement

For any business receiving an incentive described in 17.159.030, loss of OWC certification shall be considered a violation of a zoning regulation subject to penalties and revocation of the incentives granted under this section, pursuant to Section 17.152 enforcement provisions. All previously waived fees shall become due to the City.

⁴⁹ The city may want to consider reducing the fees instead of waiving them entirely, with a greater reduction awarded to cooperatives located in economically distressed areas of the city.

SECTION 7. SEVERABILITY

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

SECTION 8.

To the extent this Ordinance is inconsistent with any other provisions of the Oakland Municipal Code or the Oakland Planning Code, this Ordinance shall apply.

Addendum

Bay Area Worker Cooperative Ecosystem Members

* = contributed significantly to the development of this model ordinance

- Arizmendi Association of Coops (Bay Area)
- *Democracy At Work Institute (Oakland)
- *Green Collar Communities Clinic, East Bay Community Law Center (Berkeley)
- Network of Bay Area Worker Cooperatives (NoBAWC) (Bay Area)
- *People Organizing to Demand Environmental & Economic Rights (PODER) (San Francisco)
- *Project Equity (Oakland)
- Prospera (formerly WAGES) (Oakland)
- *Sustainable Economies Law Center (Oakland)
- US Federation of Worker Cooperatives (national organization, based in Oakland)