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2010 JUL 23 PM 7:12

CITY OF OAKLAND



ONE FRANK OGAWA PLAZA • 2ND FLOOR • OAKLAND, CALIFORNIA 94612

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Council Member Desley Brooks

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A RESOLUTION SUBMITTING, ON THE COUNCIL'S OWN MOTION, TO THE VOTERS AT THE NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION, 1) A PROPOSED ORDINANCE AMENDING THE CITY'S BUSINESS TAX, CHAPTER 5.04 OF THE OAKLAND MUNICIPAL CODE, TO INCREASE THE BUSINESS TAX RATE FOR CANNABIS BUSINESSES AND MEDICAL CANNABIS BUSINESSES FROM \$18.00 PER \$1,000 OF GROSS RECEIPTS TO \$50.00 PER \$1,000 OF GROSS RECEIPTS AND 2) CREATING A NEW "NON-MEDICAL CANNABIS BUSINESS TAX" OF \$100.00 PER \$1,000 OF GROSS RECEIPTS; CONSOLIDATING THE ELECTION WITH THE STATEWIDE GENERAL ELECTION; REQUESTING THE SERVICES OF THE REGISTRAR OF VOTERS; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION

TO: Oakland City Council
FROM: Councilmembers De La Fuente and Brooks
RE: Cannabis Business Taxes
DATE: 7-22-10

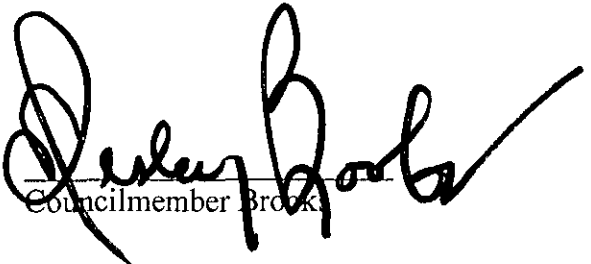
Colleagues:

The attached resolution proposes an amendment to the City's Business Tax Ordinance that Chapter 5.04 of the Oakland Municipal Code, to 1) increase the business tax rate for Cannabis Businesses and "Medical Cannabis Businesses" from \$18.00 per \$1,000 of gross receipts to \$50.00 per \$1,000 of gross receipts, and 2) creating a new "Non-Medical Cannabis Business Tax" of \$100.00 of gross receipts.

Thank you,



Councilmember De La Fuente



Councilmember Brooks

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APPROVED AS TO FORM AND LEGALITY
DRAFT

CITY ATTORNEY

DRAFT

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.
INTRODUCED BY COUNCILMEMBER

A RESOLUTION SUBMITTING, ON THE COUNCIL'S OWN MOTION, TO THE VOTERS AT THE NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION, 1) A PROPOSED ORDINANCE AMENDING THE CITY'S BUSINESS TAX, CHAPTER 5.04 OF THE OAKLAND MUNICIPAL CODE, TO INCREASE THE BUSINESS TAX RATE FOR CANNABIS BUSINESSES AND MEDICAL CANNABIS BUSINESSES FROM \$18.00 PER \$1,000 OF GROSS RECEIPTS TO \$50.00 PER \$1,000 OF GROSS RECEIPTS AND 2) CREATING A NEW "NON-MEDICAL CANNABIS BUSINESS TAX" OF \$100.00 PER \$1,000 OF GROSS RECEIPTS; CONSOLIDATING THE ELECTION WITH THE STATEWIDE GENERAL ELECTION; REQUESTING THE SERVICES OF THE REGISTRAR OF VOTERS; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION

WHEREAS, through the passage of Proposition 215, the voters of California authorized the use of cannabis for medical purposes in 1996; and

WHEREAS, by a 79% vote in favor of the proposition, the voters of Oakland overwhelmingly approved Proposition 215; and

WHEREAS, the City Council of the City of Oakland has adopted medical cannabis permitting regulations to prevent nuisance, provide for effective controls, enable medical cannabis patients to obtain cannabis from safe sources, and provide appropriate licensing and revenues for the City in a manner consistent with state law; and

WHEREAS, every person engaged in business activity in the City of Oakland is required to obtain a business tax certificate and to pay the City's business tax; and

WHEREAS, pursuant to Chapter 5.04 of the Oakland Municipal Code, Section 5.04.480 cannabis businesses are currently taxed under the "cannabis" at a business tax rate of \$18 per \$1,000 of gross receipts; and

WHEREAS, the City Council desires to create a new "Medical Cannabis Business Tax," and a new "Non-Medical Cannabis Business Tax;" and

WHEREAS, the City Council of the City of Oakland desires to amend Chapter 5.04, to establish the "Medical Cannabis Business Tax" rate for medical-cannabis businesses at \$50.00 per \$1,000 of gross receipts; and

WHEREAS, the City Council of the City of Oakland desires to amend Chapter 5.04, to establish the "Non-Medical Cannabis Business Tax" rate for non medical-cannabis businesses at \$100.00 per \$1,000 of gross receipts; and

WHEREAS, all revenues received from the tax will be deposited in the City's general fund to be expended for any lawful public purpose; now, therefore, be it

RESOLVED: That the City Council of the City of Oakland does hereby submit to the voters at the November 2, 2010 statewide general election, not more than 88 days and not more than 150 days from the date of passage of this resolution, the text of the proposed ordinance, which shall read as follows;

Be it ordained by the People of the City of Oakland:

Section 1. The Municipal Code is hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by strike-through type; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed).

Section 2. Code Amendment. Oakland Municipal Code Section 5.04.480 is hereby amended to read as follows:

5.04.480 Medical Cannabis Businesses.

For the Purposes of this Section:

- ~~A. "Cannabis Business" means business activity including, but not limited to, planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, wholesale, and/or retail sales of marijuana, any part of the plant Cannabis sativa L. or its derivatives.~~
- A. "Medical Cannabis Business" means any activity regulated or permitted by Chapter 5.80 and/or Chapter 5.81 of the Oakland Municipal Code that involves planting, cultivating, harvesting, transporting, dispensing, delivering, selling at retail or wholesale, manufacturing, compounding, converting, processing, preparing, storing, packaging, or testing any part of the plant

Cannabis sativa L. or any of its derivatives, pursuant to Health and Safety Code sections 11362.5 and 11362.7-11362.83

- B. Every person engaged in a "Medical Cannabis Business" not otherwise specifically taxed by other business tax provisions of this Chapter, shall pay a business tax of \$50.00 for each \$1,000.00 of gross receipts or fractional part thereof.

5.04.481 Non-Medical Cannabis Businesses.

For the Purpose of this Section:

- A. "Non-Medical Cannabis Business" means any of the activities described in section 5.04.480 (A) that are not conducted pursuant to Health and Safety Code sections 11362.5 and 11362.7-11362.83, but are otherwise authorized by state law.
- B. Every person engaged in a "Non-Medical Cannabis Business" not otherwise specifically taxed by other business tax provisions of this Chapter, shall pay a business tax of \$100.00 for each \$1,000.00 of gross receipts or fractional part thereof.

Section 3. Severability. If a court of competent jurisdiction determines that any provision of this Ordinance, or its application to any person or circumstance is unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

Section 4. California Environmental Quality Act Requirements. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., including without limitation" Public Resources Code section 21065, CEQA Guidelines 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

Section 5. Majority Approval; Effective Date. This Ordinance shall be effective only if approved by a majority of the voters voting thereon and after the vote is declared by the City Council. The effective date of this Ordinance shall be January 1, 2011.

Section 6. Council Amendments. The City Council of the City of Oakland is hereby authorized to amend Sections 5.04.480 of the Oakland Municipal Code as adopted by this Ordinance in any manner that does not increase the tax rate, otherwise

constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution; and be it

PROPOSED ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO INCREASE THE BUSINESS TAX RATE FOR CANNABIS BUSINESSES AND "MEDICAL CANNABIS BUSINESSES" FROM \$18 PER \$1,000 OF GROSS RECEIPTS TO \$50.00 PER \$1,000 OF GROSS RECEIPTS AND CREATING A NEW "NON-MEDICAL CANNABIS BUSINESS TAX" OF \$100.00 PER \$1,000 OF GROSS RECEIPTS

<p>Measure ____. Shall the Oakland Municipal Code be amended to increase the business tax rate for Cannabis Businesses and "Medical Cannabis Businesses" from \$18 per \$1,000 of gross receipts to \$50 per \$1,000 of gross receipts, and creating a new "Non-Medical Cannabis Business Tax" of \$100 per \$1,000 of gross receipts, with all proceeds placed in the City's General Fund to be used for any governmental purpose?</p>	<p>Yes</p>	
	<p>No</p>	

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to November 2, 2010, to file with the Alameda County Clerk certified copies of this resolution; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for and against said proposed Ordinance and rebuttals, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED: That the City Clerk and City Administrator hereby are authorized and directed to take any and all actions necessary under law to prepare for and conduct the election and the Council hereby appropriates all monies necessary for the City Administrator and City Clerk to prepare and conduct the election in a manner consistent with state and local laws.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

BROOKS, PRESIDENT BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL,
QUAN, AND REID

AYES-

NOES-

ABSENT-

ABSTENTION-

Attest: _____

LaTonda Simmons
City Clerk and Clerk of the
Council of the City of Oakland,

California