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OFFICE OF THE CITY CLERK
OAKLAND

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2005 JUN 9 9:22 AM
C.M.S.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 4 OF THE OAKLAND MUNICIPAL CODE COMMENCING JANUARY 1, 2006 TO EXEMPT PERSONS WITH ANNUAL GROSS RECEIPTS OF \$2,500 OR LESS FROM THE BUSINESS TAX ORDINANCE, TO ADJUST THE EXEMPTION AMOUNT PERIODICALLY BY THE CHANGE IN THE CONSUMER PRICE INDEX AND TO DELETE THE EXEMPTION FOR POVERTY SET FORTH IN CHAPTER 5.04 OF THE OAKLAND MUNICIPAL CODE

WHEREAS, the City of Oakland (the "City") wants to provide an environment which encourages the growth of small businesses; and

WHEREAS, in order to encourage the growth of small businesses, the City desires to, commencing January 1, 2006, exempt businesses with annual gross receipts of \$2,500 or less from the payment of business taxes; and

WHEREAS, due to concerns as to its legality, the City of Oakland desires to delete the exemption for poverty set forth in Section 5.04.620 of the Municipal Code;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the forgoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

SECTION 2. 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 3. Section 5.04.620 of the Municipal Code is hereby deleted in its entirety:

~~5.04.620 Exemption for poverty.~~

~~Director of Budget and Finance, acting by and through the Business Tax Section shall, if it determines that any person by reason of poverty merits exemption from the business tax requirements of this chapter, grant such person an exemption of one free certificate for the conduct of any one business taxed by any provisions of this chapter; provided, however, that when it appears to the satisfaction of the Director of Budget and Finance that the conditions which warranted an exemption under this section no longer exist, said Director of Budget and Finance may revoke such exemption and the certificate issued.~~

~~A. For purposes of this section "person" is deemed to be a physical person as opposed to a legal person or organization. Legal persons and organizations cannot file for a poverty exemption under the provisions of this chapter.~~

~~B. For purposes of this section "poverty" means that the combined family income from all sources does not exceed poverty income levels as defined by the Federal Register.~~

~~C. For purposes of this section, appeals from the determination of the Director of Budget and Finance must be filed with the City Manager within twenty (20) days from the date of the notice of said determination.~~

SECTION 4. Section 5.04.620 is hereby added to the Municipal Code to read as follows:

5.04.620 Small Business Exemption.

(a) Notwithstanding any other provisions of this Chapter, "small business enterprises" as hereinafter defined, shall be exempt from payment of business tax; provided, however, that small business enterprises shall pay the registration fee pursuant to Section 5.04.100 and shall submit an annual statement pursuant to Section 5.04.090.

(b) The term "small business enterprise" shall mean and include any person (other than persons subject to taxation pursuant to Sections 5.04.420 and 5.04.430 of this Code):

(1) Whose tax basis under this Chapter is set as gross receipts;
and

(2) Whose annual gross receipts do not exceed \$2,500; and

(3) Any person claiming exemption from the requirement of paying the business license tax under this Section shall be required to obtain a business license and timely file for exemption and subsequent renewals before the delinquency date. The failure to timely file or renew prior to the date the taxes would otherwise have been delinquent, shall render the small business exemption inapplicable and shall subject the person to the tax that would otherwise be payable as well as to any interest and penalties applicable thereto. Persons claiming exemption shall be required to pay the business licenses application fee and all other applicable City fees, and to obtain all permits required for the operation of the business.

(4) Any person claiming exemption under this Section shall submit documentation evidencing the total taxable and nontaxable gross receipts of the applicant in support of the initial exemption registration and the annual exemption renewal. Such documentation shall comply with the requirements established by the Finance Director to ensure accuracy and validity of the City's determination on the exemption claim.

(5) Beginning with the 2010 tax year, the maximum annual gross receipts threshold for the small business exemption shall be adjusted to reflect the rate of inflation every three (3) years to the level equal to the cumulative change in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index (CPI) or other method of measuring the rate of inflation which the City Administrator determines is reliable and generally accepted, over the three (3) preceding fiscal years, and rounding the exemption amount to the nearest \$100.00.

SECTION 5. This ordinance shall become effective immediately upon its final adoption by a three-fourths vote of all members of the City Council of the City of Oakland.

Introduction Date: JUN 21 2005

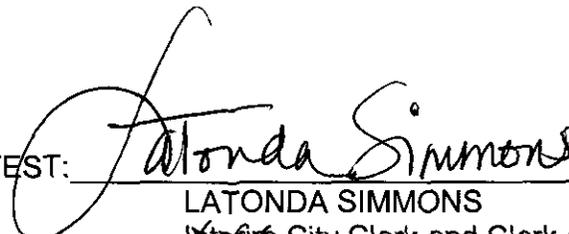
IN COUNCIL, OAKLAND, CALIFORNIA, JUL 19 2005, 2005

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT DE LA FUENTE - 8

NOES- 0
ABSENT- 0
ABSTENTION- 0

ATTEST:



LATONDA SIMMONS
~~Interim~~ City Clerk and Clerk of the
Council of the City of Oakland,
California

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AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LATONDA SIMMONS
Interim City Clerk and Clerk of the
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