

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

ORDINANCE NO. \_\_\_\_\_ C.M.S.

2009 JUN 11 PM 4:12

**AN ORDINANCE ESTABLISHING A TIME-LIMITED TAX AMNESTY PROGRAM FORGIVING PAYMENT OF PENALTIES AND INTEREST ON PENALTIES APPLICABLE TO UNDER-REPORTED AND UN-REPORTED BUSINESS TAXES, PARKING TAXES, TRANSIENT OCCUPANCY TAXES, AND UTILITY USERS TAXES**

**WHEREAS**, Chapter 5.04 of the Oakland Municipal Code requires every person engaging in business within the City of Oakland to apply for and obtain a business tax certificate, and to submit an annual declaration reporting the gross receipts generated by the business and other information necessary to determine tax liability, imposes penalties, interest and other charges for non-compliance; and

**WHEREAS**, Business Taxes on under-reported and un-reported gross receipts generated by business activity represent debt owed to the City and uncollected revenues; and

**WHEREAS**, Chapter 4.16 of the Oakland Municipal Code imposes a tax on the rental of every parking space in a parking station in the City of Oakland, and every parking station operator is required to register with the city, collect parking taxes from occupants at parking stations, and file tax returns and pay monthly parking taxes to the City, and imposes penalties, interest and other charges for non-compliance; and

**WHEREAS**, Chapter 4.24 of the Oakland Municipal Code requires each operator of a hotel to register such operation with the City of Oakland, and to collect transient occupancy taxes from transient occupants, submit periodic tax returns and remit collected taxes to the City, and imposes penalties, interest and other charges for non-compliance; and

**WHEREAS**, Transient Occupancy Taxes on under-reported and un-reported transient occupancy rental receipts represent debt owed to the City and uncollected revenues; and

**WHEREAS**, Chapter 4.28 of the Oakland Municipal Code imposes a tax on telephone, electricity, gas, cable and alternate fuel users and requires every person receiving payment of charges from a service user to collect and remit with a return such taxes on a periodic basis, and imposes penalties, interest and other charges for non-compliance; and

**WHEREAS**, Utility Users Taxes on under-reported and un-reported utility services represent debt owed to the City and uncollected revenues; and

**WHEREAS**, the City Council finds and determines that implementation of a Tax Amnesty Program for Business Tax, Parking Tax, Transient Occupancy Tax, and Utility Users Tax, including a short-term waiver of penalties and interest on penalties, will allow and encourage the payment of delinquent taxes by non-compliant taxpayers while helping the City to raise tax revenues without increasing taxes or imposing new taxes; now, therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES 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.** It is the intent of the City Council to institute a Tax Amnesty Program for a period of three months starting August 1, 2009 and ending on October 31, 2009, waiving all penalties and interest on penalties owed by eligible taxpayers under the Business Tax (O.M.C. 5.04), Parking Tax (O.M.C. 4.14), Transient Occupancy Tax (O.M.C. 4.24) and Utility Users Tax (O.M.C. 4.28) provided that the amounts owed are based on true and complete reporting as defined herein, and that the amounts owed are paid on or after August 1, 2009 and on or before October 31, 2009; and

**SECTION 3.** The City Administrator, the Director of Finance, the Revenue Manager and other appropriate officers of the City are hereby authorized and directed, jointly and severally, to do any and all things which they deem necessary or advisable in order to effectuate the purposes of this Ordinance, including, but not limited to, advertising, publishing and otherwise providing notice of the Tax Amnesty Program and establishing procedures for the application for and granting of tax amnesty.

**SECTION 4.** For any eligible taxpayer who meets the requirements of the Tax Amnesty Program: The tax penalties and interest on penalties imposed under Oakland Municipal Code Sections 5.04 Business License Tax, Oakland Municipal Code 4.16 Parking Tax, Oakland Municipal Code 4.24 Transient Occupancy Tax and Oakland Municipal Code 4.28 shall not apply to any taxes for the tax periods for which tax amnesty is requested and paid, which are owed as a result of the non-reporting or under-reporting of tax liabilities or the nonpayment of any taxes. No criminal action shall be brought against the taxpayer for any tax period for which the taxpayer has complied with the requirements of the Tax Amnesty Program based upon the non-reporting or under-reporting of tax liabilities or the nonpayment of any taxes.

**SECTION 5.** The Tax Amnesty Program shall apply only to eligible taxpayers. An eligible taxpayer is any person, business, occupant, operator, service user, or service provider with obligations under the City's Business Tax (O.M.C. 5.04), Parking Tax (O.M.C. 4.14), Transient Occupancy Tax (O.M.C. 4.24) and/or Utility Users Tax (O.M.C. 4.28) who, on or after August 1, 2009, and on or before October 31, 2009, files an application for tax penalty amnesty and complies with the following conditions:

- a. Files completed tax statements or returns along with required documentation for all periods and taxes for which the taxpayer has not previously filed a tax statement or return and files completed amended tax statements or returns for all periods and taxes for which the taxpayer under-reported the taxes due; and
- b. Pays in full all taxes, interest, fees and costs due.

**SECTION 5.** The tax penalty and interest on tax penalty shall apply and no refund or credit shall be granted if, prior to the time the taxpayer makes a request for tax penalty amnesty pursuant to the provisions of the Tax Amnesty Program, the penalty has been paid by the taxpayer. Any tax penalty and interest on tax penalty shall not be subject to waiver under the Tax Amnesty Program for any debt or obligation owed by the taxpayer that has been secured by a lien or judgment.

**SECTION 6.** If, subsequent to October 31, 2009, the Director of Finance issues a billing, deficiency determination or assessment based upon a statement or return filed pursuant to the Tax Amnesty Program, penalties and interest on penalties shall be imposed only with respect to the difference between the amount paid and correct amount of tax. This Section shall not invalidate any waiver granted under Section 4.

**SECTION 7.** This ordinance shall become effective immediately upon its final adoption by the City Council of the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2009

PASSED BY THE FOLLOWING VOTE:

AYES - Brooks, President Brunner, De La Fuente, Kaplan, Kernighan, Nadel, Quan,  
and Reid

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the  
Council of the City of Oakland

Date of Attestation: \_\_\_\_\_