

APPROVED AS TO FORM AND LEGALITY



Ryan Y. Rhee
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBERS RAMACHANDRAN AND UNGER, AND
MAYOR BARBARA LEE

RESOLUTION:

- (1) CALLING AND GIVING NOTICE FOR THE HOLDING OF A SPECIAL MUNICIPAL ELECTION ON JUNE 2, 2026 FOR THE PURPOSE OF SUBMITTING TO THE VOTERS A MEASURE TO AMEND THE CITY'S BUSINESS TAX ORDINANCE (OAKLAND MUNICIPAL CODE CHAPTER 5.04) TO PROVIDE BUSINESS TAX EXEMPTIONS FOR CERTAIN SMALL BUSINESSES AND NEW BUSINESSES OPENING LOCATIONS IN COMMERCIAL SPACES; AND
- (2) REQUESTING CONSOLIDATION OF THE SPECIAL MUNICIPAL ELECTION WITH THE STATEWIDE DIRECT PRIMARY ELECTION TO BE HELD IN THE CITY OF OAKLAND ON JUNE 2, 2026;
- (3) DIRECTING THE CITY CLERK TO TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO SUBMIT THIS MEASURE TO VOTERS AT THE JUNE 2, 2026 ELECTION; AND
- (4) MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, the California Constitution Article XI section 5(b) grants charter cities the power to provide in their charters for the conduct of city elections; and

WHEREAS, California Elections Code section 9222 authorizes the City Council to call a special election for purpose of voting on a proposition for the repeal, amendment, or enactment of any ordinance; and

WHEREAS, Oakland City Charter section 1101 provides that City elections of officers and for such other purposes as the Council may prescribe held on the first Tuesday after the first Monday in November in each even-numbered year are General Municipal Elections; and

WHEREAS, Oakland City Charter section 1102 provides that all other municipal elections that may be held by the authority of the Charter or of any law shall be known as Special Municipal Elections; and

WHEREAS, Oakland City Charter section 1103 provides that all elections and procedures related thereto shall be in accordance with the applicable provisions of state law, except as otherwise may be provided by ordinance or the City Charter; and

WHEREAS, Oakland Municipal Code section 3.08.010 provides that except as may be otherwise provided in Chapter 3.08 all city elections and all procedures relating thereto shall be, where practicable, in accordance with the applicable provisions of state law relating to elections in general law cities; and

WHEREAS, the City Council desires to call a Special Municipal Election to be consolidated with the Statewide Direct Primary Election on June 2, 2026, for the purpose of submitting a ballot measure to the voters; and

WHEREAS, California Elections Code sections 10400 through 10403 provide that a special municipal election may be consolidated with a statewide election upon a resolution requesting consolidation and order approving consolidation by the board of supervisors; and

WHEREAS, Chapter 5.04 of the Oakland Municipal Code contains the “Business Tax Ordinance,” which imposes an annual business tax on all persons engaged in business activities in the City of Oakland (“City”); and

WHEREAS, in 2022, voters in the City adopted Measure T to establish a progressive gross receipts business tax and update the City’s Business Tax Ordinance; and

WHEREAS, Oakland Municipal Code sections 5.04.205 and 5.04.675 provide that Council may not modify the Business Tax Ordinance to modify tax rates, including minimum tax amounts, except as for specified cannabis businesses, and this proposed Ordinance is being submitted to voters for approval accordingly; and

WHEREAS, a thriving business sector is critical to creating a vibrant, economically resilient City; and

WHEREAS, necessary permits, licenses, insurance costs, fees, and taxes can all be difficult requirements for businesses to navigate on top of rent payments and other expenses; and

WHEREAS, the City must seek innovative solutions to have a vibrant and diverse business community and corresponding economic environment that serves the needs of our communities; and

WHEREAS, temporary amendments to the Business Tax Ordinance can provide relief to existing small businesses in vulnerable business sectors, and also invite new businesses to set up their enterprises in the City; and

WHEREAS, the City can learn lessons from several municipalities across California that have enacted measures to bolster their business community in the post-pandemic years, including the City and County of San Francisco's First Year Free Program and tax credit program for certain businesses opening new physical locations; and

WHEREAS, the proposed Measure will amend Oakland Municipal Code Chapter 5.04 in a limited manner to reduce or exempt specified business taxes, and will not "impose, extend, or increase" any general taxes pursuant to Article XIIIIC of the California Constitution; and

WHEREAS, the proposed Measure will clarify that the City Council may make non-substantive amendments to the Business Tax Ordinance that are consistent with its purpose, but may not amend the Ordinance to modify any business tax rates or minimum tax amounts, except as explicitly provided herein; now, therefore, be it

RESOLVED: That the City Council does hereby call for a special election on June 2, 2026 ("Special Municipal Election") and submits to the voters at the election a measure to amend Oakland Municipal Code Chapter 5.04, the City's Business Tax Ordinance, that shall read as set forth in **Attachment 1 ("Business Tax Ordinance Amendments" or "Measure")**, which is attached hereto; and be it

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

MEASURE _____

BALLOT QUESTION	YES	
Shall the measure amending Oakland's Business Tax Ordinance to provide one-year business tax exemptions for (1) certain small businesses with annual gross receipts of \$1,000,000 or less, including retail sales, grocers, business and personal services, recreation and entertainment, and manufacturing, and (2) businesses that establish a new commercial location in the City; and authorizing the City Council to extend the exemptions on an annual basis for up to three additional years, be adopted?	YES	
[THE CITY ATTORNEY DETERMINES THE FINAL QUESTION]	NO	

; and be it

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Clerk, at least 88 days prior to the Statewide Direct Primary Election on June 2, 2026, to file with the Alameda County Board of Supervisors and the Registrar of Voters certified copies of this resolution; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Board of Supervisors of Alameda County include on the ballots and sample ballots the language to be voted on by the voters of the City of Oakland, and to print the full text of the Measure in the sample ballot pamphlet prepared for voters in connection with the election; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election; and be it

FURTHER RESOLVED: The City Council does hereby request that the Board of Supervisors of Alameda County order the consolidation of the City of Oakland Special Municipal Election with the Statewide Direct Primary Election to be held on June 2, 2026; and be it

FURTHER RESOLVED: That the consolidated election shall be held and conducted in the manner required in Section 10418 of the California Elections Code; and be it

FURTHER RESOLVED: That the City Attorney, in accord with the City Attorney's powers and duties, is hereby authorized to insert the final ballot question into this Resolution after adoption by the Council so that the ballot question constitutes a true and impartial synopsis of the final proposed Measure; and to make any changes to the text of the Measure to conform to law or requirements of the County Registrar; and be it

FURTHER RESOLVED: That the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Oakland, Chapter 3 of the Oakland Municipal Code, the California Government Code, and the California Elections Code; and be it

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

FURTHER RESOLVED: That the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the Special Municipal Election and expend all monies necessary for the City Administrator and City Clerk to prepare and conduct the Special Municipal Election; and be it

FURTHER RESOLVED: That in accordance with the California Environmental Quality Act (“CEQA”), CEQA Guidelines section 15378(b)(4), adoption of this Resolution to place the Ordinance to reduce certain business taxes on the ballot for voter approval is related to a potential fiscal decision that does not involve any commitment to a specific project that may result in a physical change to the environment; as such, it is not a project subject to the requirements of CEQA. Notwithstanding the above, if the action authorized by this Resolution was determined to be a project under CEQA, it is exempt from CEQA pursuant to CEQA Guidelines Sections 15060(c) and 15061(b)(3), since there is no possibility that the activity authorized herein may have a significant effect on the environment that has not already been studied.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

ASHA REED

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

3443712v5/MJM

ATTACHMENT 1
BUSINESS TAX ORDINANCE AMENDMENTS

Amendments to Oakland Municipal Code Chapter 5.04

**THE CITY COUNCIL AND PEOPLE OF CITY OF OAKLAND DO ORDAIN AS
FOLLOWS:**

SECTION 1. Findings

The forgoing recitals of the City Council Resolution are true and correct and incorporated herein. This measure amends the Oakland Municipal Code Chapter 5.04, the City of Oakland (“City”) Business Tax Ordinance, to provide relief to certain small businesses and new businesses to help create a thriving business sector and economically resilient City.

SECTION 2. Amendments to Chapter 5.04 of the Oakland Municipal Code

Chapter 5.04 of the Oakland Municipal Code is hereby amended as follows with deleted text shown as strikethrough and new text shown as underscored.

A. Section 5.04.675 of the Oakland Municipal Code is amended as follows:

5.04.675 - Amendment by City Council.

With the sole exception of Subsection 5.04.120 P., as specified by the provisions of Subsection 5.04.120 F.7., tThe City Council may make any amendments to this Chapter that are consistent with its purpose, but may not amend this Chapter to modify any business tax rates or minimum tax amounts, except as explicitly provided herein.

B. Sections 5.04.690 and 5.04.695 are added to the Oakland Municipal Code as follows:

5.04.690 – Tax Exemption for Certain Small Businesses.

A. Any person engaged in Class A, Class B, Class E, Class G, and/or Class I business activities, as defined by Section 5.04.130, with annual gross receipts of not over \$1,000,000 shall be exempt from the annual business tax payment in Section 5.04.020 for the tax year certificate commencing on January 1, 2027 and terminating December 31, 2027.

To be eligible and receive the exemption, any person claiming an exemption must otherwise timely file for and obtain an annual business tax certificate, pursuant to the requirements of Section 5.04.300, and pay applicable business fees, including business registration fees, as set forth in the City’s Master Fee Schedule. No person may be eligible if the person in any of the prior two business tax years failed to timely and accurately report gross receipts and make the required annual business tax payments or if the person otherwise has a delinquent tax account. Any person claiming an exemption shall submit any documentary evidence requested by the City Administrator, or their designee.

B. A person may subsequently be required to pay the business taxes deemed exempt under this Section if the City discovers that the person misreported information or otherwise failed to timely comply with the eligibility requirements of this Section. A penalty for nonpayment shall apply, in accordance with Section 5.04.400, plus interest on the amount of the nonpayment inclusive of penalties from the date on which the nonpayment first became delinquent until paid, in accordance with Section 5.04.405.

C. This Section does not modify any definitions or other requirements of the City's Business Tax Ordinance, Chapter 5.04.

D. The City Council is authorized to extend the tax exemption in this Section on a yearly basis upon adoption of an ordinance receiving the affirmative vote of at least six members of the Council, for a total period not to exceed three additional years, provided that the Council makes a finding that the tax extension shall not directly result in the loss of employment or salaries by persons employed in the City's competitive civil service.

5.04.695 – Tax Exemption for Establishing a New Business Location in a Commercial Space.

A. Any person that establishes a new business location in a commercial space in the city of Oakland between January 1, 2027 and December 31, 2027, shall be exempt from the annual business tax payment in Section 5.04.020 for the tax year certificate commencing on January 1, 2028 and terminating December 31, 2028. The exemption shall be in an amount not to exceed \$1,000,000 in owed liability per tax year.

To be eligible and receive the exemption, any person claiming an exemption must otherwise timely file for and obtain an annual business tax certificate, pursuant to the requirements of Section 5.04.300, and pay applicable business fees, including business registration fees, as set forth in the City's Master Fee Schedule. No person may be eligible if the person in any of the prior two business tax years failed to timely and accurately report gross receipts and make the required annual business tax payments or if the person otherwise has a delinquent tax account. Any person claiming an exemption shall submit any documentary evidence requested by the City Administrator, or their designee.

B. For purposes of this section:

1. "Establishes a new business location" means that (a) the person establishes, by acquiring real property or pursuant to an agreement with a term for at least six months, a location that is available for the person's use and can accommodate one or more employees, and (b) the person did not have a physical location in the City for the prior two tax years. The acquisition of an existing business shall not constitute the establishing of a new business location.

2. "Commercial space" means a space owned or leased by a person in an established, non-portable building where work is carried on of a clerical, administrative, professional, retail, service, and/or production nature. A

commercial space shall not include a home or other residential location, a location for short-term residential rental use, or a temporary location.

3. In determining whether a person had a physical location in the City prior to establishing a new business location, any physical location in the City of the person or predecessor in interest shall be deemed a physical location in the City of that person.

4. A person that owned or leased real property all of which such person leased or subleased to a third party and did not lease back shall not be considered to have had a physical location or established a new business location as a result of owning or leasing that real property for the time period in which the real property was leased or subleased to the third party.

C. A person may subsequently be required to pay the business taxes deemed exempt under this Section if the City discovers that the person misreported information or otherwise failed to timely comply with the eligibility requirements of this Section. A penalty for nonpayment shall apply, in accordance with Section 5.04.400, plus interest on the amount of the nonpayment inclusive of penalties from the date on which the nonpayment first became delinquent until paid, in accordance with Section 5.04.405.

D. This Section does not modify any definitions or other requirements of the City's Business Tax Ordinance, Chapter 5.04.

E. The City Council is authorized to extend the tax exemption in this Section on a yearly basis upon adoption of an ordinance receiving the affirmative vote of at least six members of the Council, for a total period not to exceed three additional years, provided that the Council makes a finding that the tax extension shall not directly result in the loss of employment or salaries by persons employed in the City's competitive civil service.

SECTION 3. Effective Date

This Measure shall be effective only if approved by a majority of voters voting thereon and shall go into effect ten (10) days after the vote is declared by the City Council.

SECTION 4. Severability

If any section, subsection, sentence, clause or phrase of this Measure is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Measure. The voters hereby declare that they would have passed this Measure and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.