



CITY HALL • 1 FRANK H. OAKLAND, CALIFORNIA 94612

Office of the City Manager
Deborah A. Edgerly
City Manager

(510) 238-3301
FAX: (510) 238-2223
TDD: (510) 238-2007

July 20, 2004

Honorable City Council
Oakland CA

Resolution Submitting, On The City Council's Own Motion, To The Electors At The November 2, 2004 General Election, A Proposed Ordinance (1) Creating A Special Parcel Tax And (2) Increasing The Parking Tax, (3) Increasing The Business License Tax For Massage Establishments and Liquor Stores In Order To Fund Violence And Crime Prevention Programs; Consolidating The Election With The Statewide Presidential Election; 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, 2004, Statewide Presidential Election

Dear President De La Fuente and Members of the City Council:

At the June 29, 2004 workshop, Council reviewed draft language for a Violence Prevention measure to be placed on the November ballot for voter consideration. The Council gave further direction regarding the public safety and violence prevention programs to be included in the measure, directed that a parcel tax and a parking tax be imposed as funding mechanisms, and requested additional funding options. This report presents staff analysis as requested by Council. The City Attorney's office has prepared a new draft measure.

Programs funded through the Measure

The proposed ballot measure directs use of funds for the following purposes:

- Sixty-three sworn police for community and neighborhood policing, including neighborhood beat officers for each community policing beat; school safety and truancy services; six additional crime reduction team officers; domestic violence and child abuse intervention; and up to \$500,000 annually for training and equipment for these services. The measure guarantees a minimum of General Purpose Fund appropriations for police officer staffing at 2003-04 levels and a minimum of 739 sworn officers throughout the ten year term of the measure.
- Violence prevention services with an emphasis on youth and children, including youth outreach counselors, after-school programs; domestic violence and child abuse counselors; offender and parolee employment training and wage incentives for

employers. Of the total amount available for police and violence prevention services, 40% is to be allocated to violence prevention programs.

- Elimination of rotating closures of fire stations citywide, and restoring 25 engine companies and 7 truck companies to full operation; expanding paramedic services; and establishing a mentoring program at each fire station. This would be funded with a \$4 million annual allocation, beginning with a half-year allocation in January 2005.
- Evaluation of all police and social service programs, using set asides from program allocations amounting to 1%-3%.
- An annual independent audit of expenditures, using set asides from program allocations.
- An oversight committee of eleven members, three appointed by the Mayor, and one by each Councilmember. No funding is allocated to support the work of the committee.

Staff has suggested language be added (See Section 3, Paragraph 2e) to allow funding of new strategies if the information from program evaluations suggests a change is warranted.

Revenues and Funding Mechanisms

To fund the new violence prevention and safety programs, the measure calls for a new parcel tax, at a base rate of \$88 for single family residential parcels, and a surcharge of 8.5% on the parking tax, raising the total tax to 18.5% (from the current 10%). In addition, at the Council's request, staff has analyzed the possibility of placing business license tax surcharges on massage parlors and liquor stores, which collectively could raise an additional \$98,000.

Parcel tax

The table below shows the proposed rates for the new parcel tax.

<i>Land Use Category</i>	<i>Parcel Tax Rate</i>
Single Family Residential	\$88 per parcel
Multi-Family Residential	\$60.12 per unit
Commercial	\$45.07 (formula based on square footage and frontage defined in the ordinance)

The parcel tax is estimated to raise approximately \$12.17 million the first year for violence prevention, crime reduction and fire services. If the measure is approved by the voters, the parcel tax would be added to the County Assessor's property tax roll in August 2005, appearing on property tax bills in late 2005. The City would begin receiving revenues in December 2005 and May 2006.

Parking tax surcharge

The parking tax was established in 1992 at 10% of gross revenues. (Prior to that the City had charged a per-stall parking fee.) The proposed measure imposes a surcharge of 8.5%, which is expected to generate \$7.75 million annually. Parking tax surcharge revenues would be restricted to programs and services defined by the ballot measure.

If the measure is approved by the voters, the surcharge can be implemented immediately, and the City would begin receiving revenues in the latter half of FY 2004-05. These revenues can be used to begin implementing the new programs, including police officer recruitment and training, fire company operations, and the development of new violence prevention services.

Business License Tax

Currently, *massage parlors* are included in the business license category of Business – Personal Services along with barber shops, beauty salons, janitorial services, etc. These businesses pay \$1.80 per \$1,000 of gross receipts, or \$60, whichever is greater. The Council requested analysis of a 300% increase.

At the current rate, the City's eight existing permitted massage parlors pay total business license taxes of \$3,700. The proposed surcharge would not apply to individual massage therapists. Staff calculates that adding a surcharge of \$3.60 per \$1,000 will raise an additional \$7,400 to be applied to the violence prevention and safety programs. If the measure is adopted, the increase could be implemented by January 2005 (on 2004 gross receipts) and the City would begin receiving revenues in the latter half of FY 2004-05.

Currently, *liquor stores* pay a business tax of \$1.20 per \$1,000 of gross receipts, or \$60, whichever is greater. Revenues from this source are currently \$38,000. It should be noted that the gross receipts do not include alcohol sales, as this area of taxation is preempted by the State of California. A surcharge of \$2.40 per \$1,000 would generate an additional \$91,000 per year for violence prevention and safety programs.

In view of the small amount of potential revenues from these sources, staff recommends that the business license surcharges on massage parlors and liquor stores not be adopted. Staff also notes that the FY 2005-06 Master Fee Schedule increased the Deemed Approved fee from \$600 to \$1,500 per year to fund the Alcohol Beverage Action Team (ABAT) program.

Ten Year Projection

Personnel costs for the mandated service levels will rise each year, and, by the end of ten years, may exceed revenues available from the taxes imposed by the measure. Factors such as negotiated salary increases and actual dollars raised by the new taxes may cause a gap between mandated service levels and available revenues over time. The ability to adjust rates, using the same formula approved in other measures, is critical to maintaining service levels without reducing other City services.

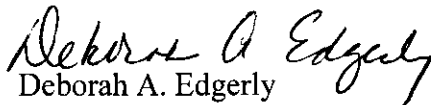
The potential sources and uses of funds are shown in Attachment A. On the revenue side, the projection assumes an annual increase in the parcel tax of 3%, although the actual increase will correspond with the increase in the consumer price index, not to exceed 5% in any single year. The projection also includes increases in parking tax surcharge revenues based on assumed growth of gross receipts in this category.

On the expenditure side, the projection assumes salary increases, based on current labor agreements and 3% annually thereafter (although the actual increase depends on the outcome of labor negotiations). A total of \$ 4 million per year is allocated to Fire to keep 25 engine and 7 truck companies fully operational, beginning January 2005. After the \$4 million Fire allocation, 60% of the remaining funding is allocated to Police and 40% is allocated to violence prevention and intervention programs. The Police portion funds the additional 63 sworn full-time equivalent (FTE) positions, including 57 police officers and 6 sergeants, as well as \$500,000 in annual training and equipment expenses. Both Police and prevention programs must budget a portion of their allocation to cover evaluation and audit expenses for the measure.

Recommendations and Conclusions

We recommend that the Council adopt a resolution placing an ordinance before the voters at the November 2, 2004 general election that would create a special parcel tax and place an 8.5% surcharge on the parking tax to support violence and crime prevention programs and restore Fire Department operations of 25 engine companies and 7 truck companies. Staff does not recommend including a business license tax surcharge on massage parlors and liquor stores in the ordinance.

Respectfully submitted,


Deborah A. Edgerly
City Administrator

40020
 09/15/2004
 PUBLIC FINANCE

Potential Sources and Uses of Funds for the Violence Prevention Measure

(Note that all figures are in million dollars)

Potential Sources of Funds	FY 04-05 (Jan-Jun)	FY 05-06 (Full Year 1)	FY 14-15 (Full Year 10)
Implement new <u>Parcel Tax</u> (\$88, \$60.12, \$45.07)	0	12.17	17.80
Surcharge on Parking Tax of 8.5% (Increases total from 10.0% to 18.5%)	3.88	7.75	14.25
Total Revenues:	3.88	19.92	32.04

Potential Uses of Funds	FY 04-05 (Jan-Jun)	FY 05-06 (Full Year 1)	FY 14-15 (Full Year 10)
<u>Fire</u> - maintain operations at 25 engine companies and 7 truck companies, beginning Jan 2005	2.00	4.00	4.00
<u>Police</u> - maintain additional 63 sworn staffing, beginning July 2005 (plus academy / ramp up costs for Jan-Jun 2005) - 60% after Fire	1.13	9.55	16.83
<u>Prevention / Intervention</u> , as defined in the measure - 40% after Fire	0.75	6.37	11.22
Total Expenditures:	3.88	19.92	32.04

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCIL MEMBER _____
2004 JUL 9 AM 7:06

CITY ATTORNEY

OAKLAND CITY COUNCIL

DRAFT

RESOLUTION NO. _____ C.M.S.

Resolution Submitting, On The City Council's Own Motion, To The Electors At The November 2, 2004 General Election, A Proposed Ordinance (1) Creating A Special Parcel Tax And (2) Increasing The Parking Tax, (3) Increasing The Business License Tax For Massage Establishments and Liquor Stores In Order To Fund Violence And Crime Prevention Programs; Consolidating The Election With The Statewide Presidential Election; 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, 2004, Statewide Presidential Election¹

WHEREAS, the citizens of the City of Oakland (the "City") are committed to a community-oriented approach to violence prevention in Oakland; and

WHEREAS, preventing violence and ensuring public safety requires an integrated system of social-services intervention, long-term crime-prevention programs, police services and fire-safety and paramedic support; and

WHEREAS, Oakland funds basic police and fire services at levels below those of similar-sized cities throughout the country; and

WHEREAS, the unemployment rate as of May, 2004 was 8.6% ,and Oakland has a population of over 3,000 people on parole, many of whom have difficulty finding work; and

WHEREAS, in an effort to prevent violence and crime, the City has partnered with the State of California to work with parolees, to make sure they have an opportunity for successful reentry into society, including job opportunities, instead of resorting to crime; and

WHEREAS, in an effort to prevent violence and crime, Oakland currently funds or administers programs for youth recreation and counseling, recreation, job training, domestic violence intervention, and parole counseling;

WHEREAS, currently these programs are limited in scope or have been cut due to funding constraints; and

¹ The City Council may consider alterations in the language of the resolution as indicated in bold by brackets and "OPTION."

WHEREAS, at the general election of November 2, 1996, the voters of the State of California amended the state constitution, adding Article XIII C, which requires that all new or increased special taxes be submitted to the voters prior to becoming effective,

NOW, THEREFORE BE IT RESOLVED:

That the City Council of the City of Oakland does hereby submit to the voters at the November 2, 2004 general election, an ordinance, which reads as follows:

PART 1. GENERAL

Section 1. TITLE AND PURPOSE.

(A) Title. This ordinance may be cited as the "Violence Prevention and Public Safety Act of 2004."

(B) Purpose. The taxes imposed or increased under this ordinance are solely for the purpose of raising revenue necessary to retain and enhance services and programs to prevent violence and crime and enhance fire safety in the City of Oakland.

The parcel tax imposed in Part 2 is not an ad valorem tax on real property, nor a transaction tax or sales tax on the sale of real property. It is an excise tax on the privilege of using and use of municipal services. Such municipal services increase and provide a greater benefit to Owners of Parcels when programs aimed at preventing violence and crime in the City are enhanced. Because the proceeds of the tax will be deposited in a special fund restricted for the services and programs specified herein, the tax is a special tax.

Section 2. FINDINGS

1. Investing in an coordinated system of early intervention, community policing and violence-prevention efforts before injury occurs will reduce economic and emotional costs and be a cost-effective use of taxpayer dollars.

2. Violence and crime occurs at workplaces, on school grounds, and in residential neighborhoods within the Oakland community.

3. Due to budget constraints, the City's police department is staffed at a level significantly lower than cities of similar size in the United States.

4. Due to budget shortfalls, Oakland's fire department is currently operating with limited fire trucks and crews that rotate among several stations, thereby leaving certain fire stations under staffed.

5. Fully staffing and equipping fire stations throughout the City will provide the necessary fire and medical response in case of critical emergencies or natural disasters.

6. This special tax is based on a community assessment of innovative prevention strategies and is intended to be proportional to and based on estimates of typical use and benefit from these municipal services.

7. Crime in Oakland disrupts local commercial activity, reduces business and industrial productivity, deters tourism and outside financial investments, and depreciates the value of real estate.

8. The apportionment of the parcel tax to various types of properties is based, in part, on the intensity of policing, violence prevention and fire protection services needed for different kinds of land uses and on the average number of occupants of a parcel of each type of property. Users of residential property typically generate more calls for service to the police and fire departments, and the intensity of use of police and fire protection services increases as the number of residential units on a parcel increases. On the other hand, because of the typically large size of commercial and industrial parcels, and because the employees who work for businesses located on such parcels and the customers who visit such businesses generally outnumber the residents of even a similarly sized parcel of residential property (partly because non-residentially developed real property often has more than one business operating on it), the tax on commercial/industrial properties is calculated based on single family equivalent units.

9. As the density of residential development increases, the cost of providing policing and violence and crime prevention services also increases. The differing tax rates accurately reflect the differing costs of providing services to the different densities of residential development.

10. Some services, such as fire protection services and an additional neighborhood police officer in each community policing beat, are not based on density of population.

11. The parcel tax rates established in this ordinance are intended to be proportional to and based on estimates of typical use of and benefit to occupants of different residential parcels of policing and violence prevention services. The rates are not tailored to individual use both because such tailoring is not administratively feasible and because the City must make police and fire protection services available to all parcels and owners of parcels equally.

12. Each occupant of a parcel derives value from the availability policing and violence and crime prevention and fire protection services. The value of such services is in their availability and benefit to all residents, and it would be unfair to charge their costs only to those persons who actually use the services. Even if such services are not presently used by an occupant, they may be used in the future and, in any event, their availability benefits each occupant. The City's policing, violence prevention and fire protection services enhance the health, safety and welfare of all occupants of property in the City and improve their quality of life both directly and indirectly. Reducing violence and crime is vitally important to the health, safety, and welfare of the occupants.

13. Nothing in this ordinance is intended to preclude owners from recovering the tax from the occupant. Whether the occupant is charged depends on the occupancy agreement and the requirements of the Residential Rent Adjustment Program. Moreover, non-payment will not be a lien on the property but a personal obligation of the occupant or owner.

14. It is not feasible for the City to collect the tax from the non-owner occupants on whom it is imposed because the records available to the City do not include the names of non-owner occupants. Therefore, the only practical way to collect a tax imposed on occupants is to collect it from the owners of the occupied properties.

15. There are existing general taxes in the form of parking and business license, the proceeds of which are deposited in the general fund. Additional revenues received as a result of this ordinance will be used for the purposes set for in Section 3 and thus are special taxes.

16. The business tax set forth in part 6 below on liquor stores is imposed solely for the purpose of raising revenue to pay for the municipal services described in Part 1, Section 3 of this Measure. It is not intended in any way to regulate the sale of alcoholic beverages and is not a license fee or tax. The business tax rate imposed on liquor stores is different from the rate for other retail sales businesses because liquor stores typically operate differently from other retail stores, play a different role in the communities in which they are located, and pose more significant police and fire protection risks.

17. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., 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 3. USE OF PROCEEDS

The tax proceeds raised by this ordinance may only be used as part of the following integrated program of violence prevention and public safety intervention, in accordance with the following specific purposes:

1. Community and Neighborhood Policing: Hire and maintain at least a total of 63 police officers assigned to the following specific community-policing objectives:
 - a. *Neighborhood beat officers*: each community policing beat shall have at least one neighborhood officer assigned solely to serve the residents of that beat to provide consistent contact and familiarity between residents and officers, continuity in problem solving and basic availability of police response in each neighborhood;

- b. *School safety*: supplement police services available to respond to school safety and truancy;
 - c. *Crime reduction team*: at least 6 of the total additional officers to investigate and respond to illegal narcotic transactions and commission of violent crimes in identified violence hot spots;
 - d. *Domestic violence and child abuse intervention*: additional officers to team with social service providers to intervene in situations of domestic violence and child abuse, including child prostitution;
 - e. *Officer training and equipment*: training in community-policing techniques, establishing police-social services referrals and equipping officers provided in this paragraph, the total costs of which shall not exceed \$500,000 in any fiscal year that this ordinance is in effect.
2. **Violence Prevention Services With an Emphasis on Youth and Children:** Expand preventive social services provided by the City of Oakland, or by adding capacity to community-based nonprofit programs with demonstrated past success for the following objectives:
- a. *Youth outreach counselors*: hire and train personnel who will reach out, counsel and mentor at-risk adolescents and young adults by providing services and presenting employment opportunities;
 - b. *After school program for youth and children*: expand existing City programs and City supported programs that provide recreational, academic tutoring and mentoring opportunities for at-risk adolescents and children during after school hours;
 - c. *Domestic violence and child abuse counselors*: make available counselors who will team with police and the criminal justice system to assist victims of domestic violence or child prostitution and to find services that help to avoid repeat abuse situations;
 - d. *Offender/parolee employment training*: provide parolee pre-release employment skills training and provide employers with wage incentives to hire and train young offenders or parolees;
 - e. **[OPTION: Other social services that prevent violence or provide early intervention to youth and children.]**
3. **Fire Services:** Maintain staffing and equipment to operate 25 (twenty-five) fire engine companies and 7 (seven) truck companies, expand paramedic services, and establish a mentorship program at each station with an amount not to exceed \$4,000,000 annually from funds collected under this Ordinance.
4. **Evaluation:** Not less than 1% or more than 3% of funds appropriated to each police service or social service program shall be set aside for the purpose of independent evaluation of the program, including the number of people served and the rate of crime or violence reduction achieved.

5. Mandated Apportionment to Social Service Programs: Of the total proceeds spent on programs enumerated in this Section 3, Paragraphs 1 and 2, not less than **[OPTION :40%]** of such proceeds must be allocated to programs enumerated in this Section 3, Paragraph 2 each year this Ordinance is in effect.

PART 2. OVERSIGHT, MINIMUM STAFFING AND TERM OF TAX IMPOSITION

Section 1. ANNUAL AUDIT.

An independent audit shall be performed to assure accountability and the proper disbursement of the proceeds of this tax in accordance with the objectives stated herein in accordance with Government Code sections 50075.1 and 50075.3. Tax proceeds may be used to pay for the audit.

Section 2. SPECIAL FUND

All funds collected by the City from the taxes imposed by this ordinance shall be deposited into a special fund in the City treasury and appropriated and expended only for the purposes authorized by this Ordinance.

Only the incremental taxes and surcharges approved by Parts 3, 4, 5, and 6 of this ordinance shall be dedicated to the purposes specified by this ordinance. Any portion of the parking and business license tax rate that were general taxes prior to the enactment of this ordinance shall remain general taxes.

Section 3. OVERSIGHT

To ensure proper administration of the revenue collection and spending, and the implementation of the programs mandated by this ordinance, the Mayor shall appoint three members of a "Violence Prevention and Public Safety Oversight Committee" and each councilmember shall appoint one member. The committee shall review the annual audit, evaluate, inquire and review the administration, coordination and evaluations of the programs and make recommendations to the Mayor and the City Council for any new regulations, resolutions or ordinances for the administration of the programs to comply with the requirements and intent of this Ordinance.

Section 4. MINIMUM POLICE STAFFING PREREQUISITE AT FISCAL YEAR 03-04 LEVEL

No tax authorized by this Ordinance may be collected in any year that the appropriation for staffing of uniformed police officers is at a level lower than the amount necessary to maintain the number of uniformed officers employed by the City of Oakland for the fiscal year 2003-2004.

Section 5. TERM OF TAX IMPOSITION

The taxes imposed by this Ordinance shall become effective on January 1, 2004 and shall continue in effect for 10 years.

Section 6. SAVINGS CLAUSE.

If any provision, sentence, clause, section or part of this ordinance is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such provision, sentence, clause, section or part of this ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared to be the intention of the City, that the City would have adopted this ordinance had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.

If any tax or surcharge imposed by this ordinance is found to be unconstitutional, illegal or invalid, the amounts, services, programs and personnel (as set forth in Part 3) required to be funded from such taxes and surcharges shall be reduced proportionately by any revenues lost due to such unconstitutionality, illegality or invalidity.

Section 7. REGULATIONS.

The City Council is hereby authorized to promulgate such regulations or ordinances as it shall deem necessary in order to implement the provisions of this ordinance.

Section 8. NO AMENDMENT.

The tax rates may not be amended by action of the City Council without the applicable voter approval.

Section 9. CHALLENGE TO TAX.

Any action to challenge the taxes imposed by this ordinance shall be brought pursuant to Government Code section 50077.5 and Code of Civil Procedure section 860 et seq.

PART 3. PARCEL TAX

Section 1. DEFINITIONS.

For purposes of this part only, the following terms shall be defined as set forth below:

(A) "Building" shall mean any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind. The word "Building" includes the word "structure."

(B) "Family" shall mean one or more persons related by blood, marriage, domestic partnership, or adoption, who are living together in a single residential unit and

maintaining a common household. Family shall also mean all unrelated persons who live together in a single Residential Unit and maintain a common household.

(C) "Hotel" shall mean as defined by Oakland Municipal Code section 4.24.020.

(D) "Multiple Residential Unit Parcel" shall mean a parcel zoned for a building, or those portions thereof, that accommodates or is intended to contain two or more residential units.

(E) "Non-Residential" shall mean all parcels that are not classified by this ordinance as Residential Parcels, and shall include, but not be limited to, industrial, commercial and institutional improvements, whether or not currently developed.

(F) "Occupancy" shall be as defined by Oakland Municipal Code section 4.24.020.

(G) "Operator" shall be as defined by Oakland Municipal Code section 4.24.020.

(H) "Owner" shall mean the Person having title to real estate as shown on the most current official assessment role of the Alameda County Assessor.

(I) "Parcel" shall mean a unit of real estate in the City of Oakland as shown on the most current official assessment role of the Alameda County Assessor.

(J) "Person" shall mean an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(K) "Possessory Interest" as it applies to property owned by any agency of the government of the United States, the State of California, or any political subdivision thereof, shall mean possession of, claim to, or right to the possession of, land or improvements and shall include any exclusive right to the use of such land or improvements.

(L) "Residential Unit" shall mean a Building or portion of a Building designed for or occupied exclusively by one Family.

(M) "Single Family Residential Parcel" shall mean a parcel zoned for single-family residences, whether or not developed.

(N) "Transient" shall mean any individual who exercises Occupancy of a hotel or is entitled to Occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any individual so occupying space in a Hotel shall be deemed to be a Transient until the period of thirty (30) consecutive days as elapsed.

Section 2. IMPOSITION OF PARCEL TAX.

There is hereby imposed a special tax on all Owners of parcels in the City of Oakland for the privilege of using municipal services and the availability of such services. The tax imposed by this Section shall be assessed on the Owner unless the Owner is by law exempt from taxation, in which case, the tax imposed shall be assessed to the holder of any Possessory Interest in such parcel, unless such holder is also by law exempt from taxation. The tax is imposed as of July 1 of each year on the person who owned the parcel on that date.

The tax hereby imposed shall be at the following rates, subject to annual adjustment as provided in Section 6:

(A) For owners of all Single Family Residential Parcels, the tax shall be at the annual rate of \$88.00 per Parcel.

(B) For owners of all Multiple Residential Unit Parcels, the tax shall be at the annual rate of \$60.12 per occupied Residential Unit. Owners of units that are vacant for six months or more per year, may apply to the Director of Finance to have the rate reduced by 50% to \$30.06 per vacant Residential Unit located on the Parcel.

(C) For owners of all Non-Residential Parcels, the tax shall be at the annual rate of \$45.07 for every Single Family Resident Unit Equivalent. Single Family Residential Equivalents will be based on square footage and frontage and by land use category as follows:

LAND USE CATEGORY	FRONTAGE	AREA (SF)
Commercial Institutional	80	6,400
Industrial	100	10,000
Public Utility	1,000	100,000
Golf Course	500	100,000
Quarry	1,000	250,000

Example: assessment calculation for an owner of a commercial parcel with a frontage of 160 feet and an area of 12,800 square feet:

<u>Frontage</u>	<u>Area</u>
160 feet	12,800 sf
80 ft./SFE = 2 SFE	6,400 SF/SFE = 2 SFE
2 SFE + 2 SFE = 4 SFE	4 SFE x \$45.07 = \$180.28

(D) An Owner of An Undeveloped Parcel is exempt from this parcel tax if the owner can prove that the parcel was undeveloped for at least six months of the year in question.

Section 3. HOTELS

The tax imposed by this Ordinance shall be imposed on each Hotel within the City in accordance with the following:

1. Residential Hotels. If rooms in a Hotel were occupied by individuals who were not Transients for 80% or more of the previous fiscal year, such Hotel shall be deemed a Residential Hotel, and such rooms shall be deemed Residential Units and shall be subject to the Parcel tax imposed on Multiple Residential Units. The remainder of the Building shall be subject to the applicable Square Footage tax computed in accordance with the Single Family Residential Unit Equivalent calculations.

2. Transient Hotels. Notwithstanding the previous sub-section, if 80% or more of the Operator's gross receipts for the previous fiscal year were reported as rent received from Transients on a return filed by the Operator in compliance with section 4.24.010 of the Oakland Municipal Code (commonly known as the Uniform Transient Occupancy Tax of the City of Oakland), such Hotel shall be deemed a Transient Hotel. The entire Building shall be deemed a Non-Residential Parcel, categorized as Commercial, Institutional, and shall be subject to the Square Footage and Single Family Residential Unit Equivalent calculations set forth in Section 4(C), and the parcel tax imposed on Residential Units shall not apply.

Section 4. EXEMPTIONS.

Low income household exemption. Exempt from this tax are owners of single family residential units in which they reside whose combined family income, from all sources for the previous calendar year, is at or below the income level qualifying as "very low income" for a Family of such size under Section 8 of the United States Housing Act of 1937 (42 U.S.C.A. Sections 1437 et. seq.) for such year. Owners must apply for the exemption provided for in this section annually by petition to the Director of the Finance and Management Agency of the City of Oakland ("Director of Finance") in the manner and time set forth in procedures established by the Director of Finance. Such petitions shall be on forms provided by the Director of Finance and shall provided such information as the Director of Finance shall require, including, but not limited to, federal income tax returns and W-2 forms of owner-occupants eligible for this exemption.

Section 5. REDUCTION IN TAX; RATE ADJUSTMENT.

(A) Subject to paragraph (B) of this section, the tax rates imposed by this ordinance are maximum rates and may not be increased by the City Council above such maximum rates. The tax imposed by the ordinance may be suspended, reduced or eliminated by the City Council for a subsequent fiscal year upon a vote of the City Council on or before June 30th in any year in which the City Council determines that after such suspension, reduction or elimination there will be sufficient revenues available to balance the City Council's Adopted Policy Budget and provide the services and programs described in Section 3 above. Such suspension, reduction or elimination shall be effective for the fiscal year following such vote.

(B) Beginning in Fiscal Year 2004-2005, and each year thereafter, the City Council may increase the tax imposed hereby only upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor Statistics, has increased. The percentage increase of the tax imposed hereby shall not exceed such increase, using Fiscal Year 2003-2004 as the index year and in no event shall any annual adjustment exceed 5% (five percent).

Section 6. DUTIES OF THE DIRECTOR OF FINANCE; NOTICE OF DECISIONS.

It shall be the duty of the Director of the Finance and Management Agency ("Director of Finance") to collect and receive all taxes imposed by this ordinance, and to keep an accurate record thereof.

The Director of Finance is charged with the enforcement of this ordinance, except as otherwise provided herein, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this ordinance, including provisions for the re-examination and correction of returns and payments. The Director of Finance may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

Upon disallowing any claims submitted pursuant to this ordinance, the Director of Finance shall mail written notice thereof to the claimant at his/her address as shown on the Alameda County Assessor's property tax rolls.

Section 7. EXAMINATION OF BOOKS, RECORDS, WITNESSES; PENALTIES.

The Director of Finance or his/her designee is hereby authorized to examine assessment rolls, property tax records, records of the Alameda County Recorder and any other records of the County of Alameda deemed necessary in order to determine ownership of Parcels and computation of the tax imposed by this ordinance.

The Director of Finance or his/her designee is hereby authorized to examine the books, papers and records of any person subject to the tax imposed by this ordinance for the purpose of verifying the accuracy of any petition, claim or return filed and to ascertain the tax due. The Director of Finance, or his/her designee is hereby authorized to examine any person, under oath, for the purpose of verifying the accuracy of any petition, claim or return filed or to ascertain the tax due under this ordinance and for this purpose may compel the production of books, papers and records before him/her, whether as parties or witnesses, whenever s/he believes such persons have knowledge of such matters. The refusal of such examination by any person subject to the tax shall be deemed a violation of this ordinance.

Section 8. COLLECTION OF TAX; INTEREST AND PENALTIES.

The tax levied and imposed by this ordinance shall be due and payable on July 1 of each year, but it may be paid in two installments due no later than December 10 and April 10. The tax shall be delinquent if not received on or before the delinquency date set forth in the notice mailed to the Owner's address as shown on the most current assessment roll of the Alameda County Tax Collector and shall be collected in such a manner as the City Council may decide.

A one-time penalty at a rate set by the City Council, which in no event shall exceed 25% of the tax due per year, is hereby imposed by this ordinance on all taxpayers who fail to timely pay the tax provided by this ordinance; in addition, interest shall be assessed at the rate of 1% per month on the unpaid tax and the penalty thereon.

Every penalty imposed and such interest as accrues under the provisions of this ordinance shall become a part of the tax herein required to be paid.

The City may authorize to have the taxes imposed by this ordinance collected by the County of Alameda in conjunction with and at the same time and in the same manner as the County's collection of property taxes for the City. If the City elects to so collect the tax, penalties and interest shall be those applicable to the nonpayment of property taxes.

In no event shall anything herein be construed to impose a tax lien on the Parcel to secure payment of the tax.

Section 9. COLLECTION OF UNPAID TAXES.

The amount of any tax, penalty, and interest imposed under the provisions of this ordinance shall be deemed a debt to the City. Any person owing money under the provisions of this ordinance shall be liable to an action brought in the name of the City for the recovery for such amount.

Section 10. REFUND OF TAX, PENALTY, OR INTEREST PAID MORE THAN ONCE; OR ERRONEOUSLY OR ILLEGALLY COLLECTED.

Whenever the amount of any tax, penalty, or interest imposed by this ordinance has been paid more than once, or has been erroneously or illegally collected or received by the City it may be refunded provided a verified claim in writing therefore, stating the specific ground upon which such claim is founded, is filed with the Director of Finance within one (1) year from the date of payment. The claim shall be filed by the person who paid the tax or such person's guardian, conservator of the executor of her or his estate. No claim may be filed on behalf of other taxpayers or a class of taxpayers. The claim shall be reviewed by the Director of Finance and shall be made on forms provided by the Director of Finance. If the claim is approved by the Director of Finance, the excess amount collected or paid may be refunded or may be credited against any amounts then due and payable from the Person from who it was collected or by whom paid, and the balance may be refunded to such Person, his/her administrators or executors. Filing a claim shall be a condition precedent to legal action against the City for a refund of the tax.

Section 11. MISDEMEANOR VIOLATION.

Any Owner who fails to perform any duty or obligation imposed by this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than \$1,000 or by imprisonment for a period of not more than one year, or by both such fine and imprisonment.

The penalties provided in this section are in addition to the several remedies provided in this ordinance, or as may otherwise be provided by law.

Section 12. BOARD OF REVIEW.

Any person dissatisfied with any decision of the Director of Finance adversely affecting the rights or interests of such person made by the Director of Finance under the authority of this ordinance, may appeal therefrom in writing to the Business Tax Board of Review (the "Board") within sixty (60) days from the date of mailing such decision by the Director. All filings with the Board relating to appeals or otherwise shall be made to the Chairperson of the Business Tax Board of Review in care of the Revenue Department, 250 Frank Ogawa Plaza, 1st Floor, Oakland, CA 94612. The Board may affirm, modify or reverse such decision or dismiss the appeal therefrom, as may be just, and shall prescribe such rules and regulations relating to appeals as it may deem necessary. The Board's decision on appeal will become final upon mailing notice thereof to the Person appealing the Board's decision at such Person's last known address shown on the Tax Records.

Any tax, penalty or interest found to be owed is due and payable at the time the Board's decision becomes final.

The Board shall approve, modify or disapprove all forms, rules and regulations prescribed by the Director of Finance in administration and enforcement of this tax. Such forms, rules and regulations shall be subject to and become effective only on such approval.

All decisions rendered by the Board shall be final, and no further administrative appeal of these decisions is provided or intended.

PART 4. PARKING TAX SURCHARGE

The Municipal Code is hereby amended to add 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 4.16.031 of the Municipal Code is hereby added to read as follows:

4.16.031 Imposition of Surcharge

Subject to the provisions for the collection of taxes and definitions in this chapter, there shall be an additional tax of eight and one-half (8 1/2) percent imposed on the rental of every parking space in a parking station in the City.

By adopting this ordinance the People of the City of Oakland do not intend to limit or in anyway curtail any powers the City Council may exercise as to the subject matter of this ordinance, including, but not limited to, raising the rate of taxation or surcharge, lowering the rate of taxation or surcharge, eliminating the tax or surcharge, or creating or defining new categories of taxpayers under this ordinance.

PART 5. BUSINESS LICENSE TAX – MASSAGE ESTABLISHMENTS

The Municipal Code is hereby amended to add 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 5.04.295 of the Municipal Code is hereby added to read as follows:

5.04.295 Massage Establishments

Every person whose business is a massage establishment, as defined by Sections 5.36.020 and 5.36.030, shall pay in addition to the tax set forth in Section 5.04.030 a business tax three dollars and sixty cents (\$3.60) for each additional one thousand dollars (\$1,000.00) of gross receipts or fractional part thereof in excess of sixteen thousand six hundred dollars (\$16,600.00) for services performed within the city.

PART 6. BUSINESS LICENSE TAX – LIQUOR STORES

The Municipal Code is hereby amended to add 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 5.04.345 of the Municipal Code is hereby added to read as follows:

5.04.345 Liquor Stores

A. Every person whose business is a liquor store shall pay in addition to the tax set forth in Section 5.04.290, a business tax of two dollars and forty cents (\$2.40) for each one thousand dollars (\$1,000.00) of gross receipts or fractional part thereof in excess of fifty thousand dollars (\$50,000.00) for the sale of nonliquor items.

B. A "liquor store" is a store with an off sale liquor license, as defined in State law, engaged primarily in the sale of liquor items.

and be it

RESOLVED: The City Council may designate one or more of its members to advise the City Attorney regarding the abbreviated statement of measure (ballot question);

FURTHER RESOLVED: That the City Council of the City of Oakland does hereby request that the Board of Supervisors of Alameda County order the consolidation of the Oakland Municipal election with the statewide presidential election of November 2, 2004, consistent with provisions of State Law; and be it

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, 2004, to file with the Alameda County Clerk 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 recitals and measure language contained in this resolution to be voted on by the voters of the qualified electors of the City of Oakland; 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, the Government Code and the Elections Code of the State of California; 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: That the City Clerk is hereby directed to obtain printing, supplies and services as required; and be it

FURTHER RESOLVED: That the City Clerk is hereby authorized to provide such other services and supplies in connection with said election as may be required by the Statutes of the State of California and the Charter of the City of Oakland; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 11 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed ordinance, 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 are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the 2004 special election and appropriate all monies necessary for the City Administrator and City Clerk to prepare and conduct November 2, 2004, general election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA, JULY , 2004

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

Attest: _____

CEDA FLOYD
CITY CLERK AND CLERK OF THE COUNCIL
OF THE CITY OF OAKLAND, CALIFORNIA

16
ORA/COUNCIL
JUL 20 2004