

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

A RESOLUTION SUBMITTING ON THE COUNCIL'S OWN MOTION TO THE VOTERS AT THE NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION, NOT LESS THAN 88 DAYS AND NOT MORE THAN 150 DAYS FROM PASSAGE OF THIS RESOLUTION, A PROPOSED ORDINANCE MODIFYING THE BUSINESS TAX; CHAPTER 5.04 OF THE OAKLAND MUNICIPAL CODE ADDING SECTION 5.04.481 CREATING A NEW "CULTIVATION, PROCESSING AND OTHER CANNABIS RELATED ACTIVITIES" BUSINESS CLASSIFICATION WITH A BUSINESS TAX RATE OF \$ [FOR EXAMPLE, \$80, \$100, \$120] UP TO \$80 PER \$1,000 OF GROSS RECEIPTS AND AMENDING CHAPTER 5.04 OF THE OAKLAND MUNICIPAL CODE, SECTION 5.04.480 DELETING PROVISIONS RELATING TO CANNABIS CULTIVATION AND OTHER RELATED ACTIVITIES; ADDING SECTION 5.04.482 CREATING A NEW "ADULT USE CANNABIS RELATED ACTIVITIES" BUSINESS CLASSIFICATION (TO COVER ANY CANNABIS BUSINESS OTHER THAN MEDICAL), WITH A TAX RATE OF UP TO \$120 PER \$1000 OF GROSS RECEIPTS; ADDING SECTION 5.04.483 TO CREATE A "MEDICAL CANNABIS DISPENSARY AND RELATED ACTIVITIES" BUSINESS CLASSIFICATION (TO COVER RETAIL MEDICAL CANNABIS FACILITIES) WITH A TAX RATE OF UP TO \$40 PER \$1000 OF GROSS RECEIPTS.

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" category at a business tax rate of \$18 per \$1,000 of gross receipts; and

WHEREAS, accordingly, the City Council of the City of Oakland desires to amend Chapter 5.04, adding section 5.04.481 to the Oakland Municipal Code to apply to "cannabis cultivation" at a business tax rate to create new, increased rates for categories of Cannabis businesses as follows a) Medical Cannabis Retail (dispensaries), b) Medical cannabis cultivation, manufacturing, processing, and production, and c) "Adult use" cannabis businesses (any cannabis business, regardless of whether retail, production, wholesale, or other which provides cannabis for purposes other than medical) and, of \$ [for example, \$80, \$100, \$120] per \$1,000 of gross receipts, and deleting provisions from Municipal Code section 5.04.480 relating to cannabis cultivation, processing and other related businesses; and

WHEREAS, the City of Oakland seeks to appropriately regulate cannabis facilities and seeks adequate funding to provide essential public services all revenues received from the tax will be deposited in the general fund of the City to be expended for general fund purposes; now, therefore, be it

RESOLVED: That the City Council of the City of Oakland does hereby submit to the voters at the 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;

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 Cannabis.

A. Every person engaged in a cannabis business not otherwise specifically taxed by other business tax provisions of this chapter, shall pay a business tax of ~~eighteen dollars \$18~~ up to \$80 for each one thousand dollars (\$1,000.00) of gross receipts or fractional part thereof. Every person engaged in a medical cannabis production, cultivation, manufacturing, wholesale, or other business (including any medical cannabis business other than retail), shall pay a business tax of up to \$80 for each \$1000 of gross receipts or fractional part thereof. Every person engaged in an "adult use" cannabis business (which shall include any cannabis business other than medical,

regardless of whether retail, production, manufacturing, or other cannabis business), shall pay a business tax of up to \$120 for each \$1000 of gross receipts or fractional part thereof. Every person engaged in a medical cannabis retail business (e.g. "dispensary") shall pay a business tax of up to \$40 for each \$1000 of gross receipts or fractional part thereof.

For the purpose of this Section, "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. The City Council may impose the tax authorized by this Section at a lower rate, and may establish an exemption or lower rate for Cannabis Businesses whose gross receipts are below a specified amount. No action by the Council under this paragraph to set a rate lower than the maximum allowed in this Section shall prevent it from subsequently increasing the tax rate for any type of Cannabis Business to the maximum specified in this Section. In order to aid in the City's collection of taxes due under this Chapter and ensure that all Cannabis Businesses are taxed consistently to the best of the City's ability, beginning January 1, 2011, any Cannabis business that obtains any product containing Cannabis sativa L or any of its derivatives for monetary consideration shall either:

- 1) Report quarterly to the city all such transactions, the monetary consideration involved, and the identity and contact information to whom such consideration was provided; or
- 2) Collect the tax that would be payable as a result of the transaction from the person or entity to whom monetary consideration was provided, and remit it to the City.

The City Administrator may promulgate regulations to implement and administer this Section.

~~B. For the purpose of this section, "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.~~

~~**Section 3. Code Amendment.** Chapter 5.04 of the Oakland Municipal Code is hereby amended adding Section 5.04.481 to read as follows:~~

~~**5.04.481 — Cultivation, Processing And Other Cannabis Related Activities.**~~

~~A. Every person engaged in a cannabis cultivation, processing and other cannabis related business not otherwise specifically taxed by other business tax provisions of this chapter, shall pay a business tax of [___ dollars] \$ ___ [for~~

example, \$80, \$100, \$120] for each one thousand dollars (\$1,000.00) of gross receipts or fractional part thereof.

B. For the purpose of this section, "cultivation, processing and other cannabis related business" means business activity including, but not limited to, planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, wholesale sales and other related activities, excluding retail sales, of marijuana, any part of the plant Cannabis sativa L. or its derivatives.

Section 4. Section 3 Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be 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 5. 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 6. Section 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, 2010 ~~2011~~.

Section 7. Section 6 Council Amendments. The City Council of the City of Oakland is hereby authorized to amend Sections 5.04.480 and 5.04.481 of the Oakland Municipal Code as adopted by this Ordinance in any manner that does not increase the tax rate, above the maximum rate specified for each category of business or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution; and be it

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

ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO MODIFY THE BUSINESS TAX FOR CANNABIS BUSINESSES

<p>Measure ____. Shall the Oakland Business Tax be amended adding "Cultivation, Processing And Other Cannabis Related Activities" as a category of businesses to be taxed at a rate of UP TO \$80 \$___ [for example, \$80, \$100, \$120] per \$1,000 of gross receipts? <u>creating a new "adult use cannabis related activities" business category to cover any cannabis business other than medical), with a tax rate of up to \$120 per \$1000 of gross receipts; creating a "medical cannabis dispensary and related activities" business category (to cover retail medical cannabis facilities) with a tax rate of up to \$40 per \$1000 of gross receipts.</u></p>	<p align="center">Yes</p>	
	<p align="center">No</p>	

; 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 or against said proposed ordinance, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed ordinance in the manner provided for by law; 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 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 General Election and appropriate all monies necessary for the City Administrator and City Clerk to prepare and conduct the General Election in a manner consistent with state and local laws.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2010

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, California

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2010 JUL 23 AM 9:48

CITY OF OAKLAND



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

Council Member Ignacio De La Fuente
Council Member Desley Brooks

(510) 238-7005
FAX:(510) 238-6129
TTY/TDD:(510) 839-6451

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

DRAFT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY

2010 JUL 23 AM 9:18
INTRODUCED BY COUNCILMEMBER _____

CITY ATTORNEY

DRAFT

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

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