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OAKLAND

INTRODUCED BY COUNCILMEMBER KALB AND COUNCILMEMBER BIRTHAO
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Ravi S Patel
CITY ATTORNEY'S OFFICE
Ravi S Patel

OAKLAND CITY COUNCIL

ORDINANCE NO. 13573 C.M.S.

AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE 5, CHAPTER 5.04, SECTION 5.04.480 AND SECTION 5.04.481, TO CREATE A TIERED AND CATEGORY BASED TAX STRUCTURE FOR CANNABIS BUSINESSES, MERGE MEDICAL AND NON-MEDICAL CANNABIS BUSINESS CLASSIFICATIONS, AND REDUCE TAX RATES FOR CANNABIS BUSINESSES, INCLUDING A TAX REBATE PROGRAM FOCUSED ON EQUITY

WHEREAS, Chapter 5.04 of the Oakland Municipal Code contains the business tax ordinance, which applies to all persons engaged in business activities in Oakland; and

WHEREAS, Oakland's business tax applicable to non-medical cannabis businesses is the highest rate of any business tax in Oakland; and

WHEREAS, the City of Oakland's business tax rate for non-medical cannabis businesses is 10% of gross receipts, while the business tax rate for medical cannabis businesses is 5% of gross receipts; and

WHEREAS, Oakland's 10% tax rate for non-medical cannabis businesses is higher than almost all of our regional competitors, putting our cannabis industry at a competitive disadvantage risking potential loss of certain cannabis businesses in Oakland; and

WHEREAS, on November 6, 2018, Oakland voters passed Measure V, which authorized the Oakland City Council, in relevant part, to change cannabis business tax rates in any manner that does not increase the applicable tax rate; and

WHEREAS, with California legalizing 'Adult Use' cannabis for sales and consumption, it no longer makes sense to have separate rates for medical and non-medical cannabis;

WHEREAS, Oakland has a cannabis equity program with the goal of helping equity eligible businesses—mostly small businesses—thrive and stay competitive in the marketplace; and

WHEREAS, high tax rates for legal cannabis business activity is likely to continue bolstering the illegal 'underground' market, thereby reducing potential tax revenue for Oakland after it has been supportive and inviting of the cannabis industry in years past; and

WHEREAS, the City of Oakland seeks to enhance our competitiveness, attract additional cannabis businesses, and ultimately optimize our cannabis tax revenues by imposing competitive tax rates that allow our cannabis businesses to thrive and stay in Oakland.

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

SECTION 1. Title 5, Chapter 5.04 of the Oakland Municipal Code containing the business tax requirements applicable to cannabis businesses is 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 regulations not cited or not shown in underscoring or strike-through are not changed.

SECTION 2. Code Amendments.

Title 5, Chapter 5.04, section 5.04.480 and section 5.40.481, is amended as follows:

5.04.480 – Cannabis businesses.

A. Definitions. The following definitions apply to this section:

1. “Cannabis Business” means any business 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.
2. “Cannabis Cultivation” means to plant, grow, harvest, dry, cure, grade, or trim cannabis.
3. “Cannabis Distribution and Transportation” means any business that sells at wholesale and any business that transports cannabis between licensees, including any business that operates under a “Distributor” license issued by the California Bureau of Cannabis Control pursuant to California Business and Profession’s Code section 26070, and as that section may be amended or renumbered.
4. “Cannabis Manufacturing” means any business that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
5. “Cannabis Storage or Packaging” means any business that packages or stores cannabis but only to the extent that the business’s packing or storing activity is not attributable to Cannabis Cultivation, Cannabis Manufacturing, or Retail Cannabis carried on within Oakland.

6. "Cannabis Testing" means any business that conducts analytical testing of cannabis, cannabis-derived products, hemp, or hemp-derived products.
7. "Equity Cannabis Business" means a Cannabis Business that satisfies the "Equity Criteria" as that term is defined and applied in Sections 5.81.050 and 5.81.060.
8. "General Cannabis Business" shall mean any Cannabis Business that is not an Equity Business.
9. "Indoor Cultivation" means any Cannabis Business involved in Cannabis Cultivation within a permanent structure and using primarily artificial light.
10. "Medical Cannabis Business" means any Cannabis Business conducted pursuant to Health and Safety Code Sections 11362.5 and 11362.7—11362.83.
11. "Non-Medical Cannabis Business" means any Cannabis Business not conducted pursuant to Health and Safety Code Sections 11362.5 and 11362.7—11362.83.
12. "Outdoor Cultivation" means any Cannabis Business involved in Cannabis Cultivation that is not within a permanent structure or that does not primarily use artificial light. For the purposes of applying this definition, any "mixed-light cultivation"—including greenhouses, hoop-houses, glasshouses, conservatories, hothouses, or other similar structures—as that term is defined by the California Department of Food and Agriculture (2 CCR § 8000), does not use "primarily artificial light."
13. "Retail Cannabis" means any business that dispenses or sells cannabis for use or consumption by end-users, either in-person, by delivery, or in conjunction with another party, and includes any business regulated or permitted by Chapter 5.80 of this Code and as that Chapter may be re-numbered or amended.

B. Business Tax Rate.

Every person engaged in a Cannabis Business shall pay business tax at the rates provided in this Section.

1. Equity Cannabis Businesses (under \$1.5 million).

With respect to any 2020 business tax certificate, and for each following year, and for a business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019, every person engaged in an Equity Cannabis Business with total gross receipts less than or equal to one million five hundred thousand dollars (\$1,500,000.00) shall pay a business tax of one-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

2. General Cannabis Businesses (under \$500k).

With respect to any 2020 business tax certificate, and for each following year, and for a business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019, Every person engaged in a General Cannabis Business with total gross receipts less than or equal to five hundred thousand dollars (\$500,000.00) shall pay a business tax of one-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

3. Equity Retail Cannabis & Equity Indoor Cultivation (over \$1.5 million but less than \$5 million).

Every Equity Cannabis Business engaged in Retail Cannabis or Indoor Cultivation with total gross receipts greater than one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, greater than to one million five hundred thousand dollars (\$1,500,000.00) and derived from a Medical Cannabis Business; plus

iii. Sixty-five dollars (\$65.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, greater than to one million five hundred thousand dollars (\$1,500,000.00) and derived from a Non-Medical Cannabis Business.

b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate:

i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus

ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00).

c. Annual 2022 Business Certificates and After.

With respect to any 2022 business tax certificate and for each following year:

i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus

ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00).

4. General Retail Cannabis & General Indoor Cultivation (over \$500k but less than \$5 million).

Every General Cannabis Business engaged in Retail Cannabis or Indoor Cultivation with total gross receipts greater than five hundred thousand dollars (\$500,000.00) but less than or equal to five million dollars (\$5,000,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal five hundred thousand dollars (\$500,000.00); plus

- ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, greater than to five hundred thousand dollars (\$500,000.00) and derived from a Medical Cannabis Business; plus
- iii. Sixty-five dollars (\$65.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, greater than to five hundred thousand dollars (\$500,000.00) and derived from a Non-Medical Cannabis Business.

b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to five hundred thousand dollars (\$500,000.00); plus
- ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five hundred thousand dollars (\$500,000.00).

c. Annual 2022 Business Certificates and After.

With respect to any 2022 business tax certificate and for each following year:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to seven hundred fifty thousand dollars (\$750,000.00); plus
- ii. Forty dollars (\$40.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over seven hundred fifty thousand dollars (\$750,000.00), but less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- iii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00).

5. Indoor Cultivation (Over \$5 million).

Every person engaged in Indoor Cultivation with total gross receipts greater than five million dollars (\$5,000,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

- i. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Medical Cannabis Business; plus
- ii. Ninety-five dollars (\$95.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Non-Medical Cannabis Business.

b. Annual 2021 Business Certificates and After.

With respect to any 2021 business tax certificate, and for each following year, fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

6. Retail Cannabis (Over \$5 million).

Every person engaged in Retail Cannabis with total gross receipts greater than five million dollars (\$5,000,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

- i. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Medical Cannabis Business; plus
- ii. Ninety-five dollars (\$95.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Non-Medical Cannabis Business.

b. Annual 2021 Business Certificates

With respect to any 2021 business tax certificate:

- i. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Medical Cannabis Business; plus
- ii. Eighty dollars (\$80.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Non-Medical Cannabis Business.

c. Annual 2022 Business Certificates and After.

With respect to any 2022 business tax certificate, and for each following year, fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

7. Equity Cannabis Manufacturing, Equity Outdoor Cultivation, & Equity Cannabis Packaging and Storage (Over \$1.5 million).

Every Equity Cannabis Business engaged in Cannabis Manufacturing, Outdoor Cultivation, or Cannabis Packaging with total gross receipts greater than one million five hundred thousand dollars (\$1,500,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) and attributable to any Medical Cannabis Business; plus
- iii. Sixty-five dollars (\$65.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00) and attributable to any Non-Medical Cannabis Business; plus

iv. Ninety-five dollars (\$95.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five million dollars (\$5,000,000.00) and attributable to any Non-Medical Cannabis Business.

b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate:

i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus

ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over to one million five hundred thousand dollars (\$1,500,000.00).

c. Annual 2022 Business Certificates and After.

With respect to any 2022 business tax certificate and for each following year:

i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus

ii. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus

iii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five million dollars (\$5,000,000.00).

8. General Cannabis Manufacturing, General Outdoor Cultivation, & General Cannabis Packaging and Storage (Over \$500k).

Every General Cannabis Business engaged in Cannabis Manufacturing, Outdoor Cultivation, or Cannabis Packaging with total gross receipts greater than five hundred thousand dollars (\$500,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to five hundred thousand dollars (\$500,000.00); plus
- ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over to five hundred thousand dollars (\$500,000.00) and attributable to any Medical Cannabis Business; plus
- iii. Sixty-five dollars (\$65.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five hundred thousand dollars (\$500,000.00) but less than or equal to five million dollars (\$5,000,000.00) and attributable to any Non-Medical Cannabis Business; plus
- iv. Ninety-five dollars (\$95.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five million dollars (\$5,000,000.00) and attributable to any Non-Medical Cannabis Business.

b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to five hundred thousand dollars (\$500,000.00); plus
- ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over to five hundred thousand dollars (\$500,000.00).

c. Annual 2022 Business Certificates and After.

With respect to any 2022 business tax certificate, and for each following year:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to seven hundred fifty thousand dollars (\$750,000.00); plus
- ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over seven hundred fifty thousand dollars (\$750,000.00) but less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- iii. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus
- iv. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five million dollars (\$5,000,000.00).

9. Equity Cannabis Distribution and Transportation (Over \$1.5 million).

Every Equity Cannabis Business engaged in Cannabis Distribution and Transportation with total gross receipts greater than one million five hundred thousand dollars (\$1,500,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand (\$1,500,000.00); plus
- ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) and attributable to any Medical Cannabis Business; plus

iii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00) and attributable to any Non-Medical Cannabis Business; plus

iv. Ninety-five dollars (\$95.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five million dollars (\$5,000,000.00) and attributable to any Non-Medical Cannabis Business.

b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate:

i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus

ii. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over to one million five hundred thousand dollars (\$1,500,000.00).

c. Annual 2022 Business Certificates.

With respect to any 2022 business tax certificate, and for each year thereafter:

i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus

ii. Thirty dollars (\$30.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus

iii. Forty dollars (\$40.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over to five million dollars (\$5,000,000.00).

10. General Cannabis Distribution and Transportation (Over \$500k).

Every General Cannabis Business engaged in Cannabis Distribution and Transportation with total gross receipts greater than five hundred thousand dollars (\$500,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates.

With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to five hundred thousand (\$500,000.00); plus
- ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five hundred thousand dollars (\$500,000.00) and attributable to any Medical Cannabis Business; plus
- iii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five hundred thousand dollars (\$500,000.00) but less than or equal to five million dollars (\$5,000,000.00) and attributable to any Non-Medical Cannabis Business; plus
- iv. Ninety-five dollars (\$95.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five million dollars (\$5,000,000.00) and attributable to any Non-Medical Cannabis Business.

b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to five hundred thousand (\$500,000.00); plus
- ii. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over to five hundred thousand (\$500,000.00).

c. Annual 2022 Business Certificates.

With respect to any 2022 business tax certificate, and for each year thereafter:

- i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to seven hundred fifty thousand dollars (\$750,000.00); plus
- ii. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over seven hundred fifty thousand dollars (\$750,000.00) but less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- iii. Thirty dollars (\$30.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus
- iv. Forty dollars (\$40.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over five million dollars (\$5,000,000.00).

11. Cannabis Testing.

With respect to any 2020 business tax certificate and for each year thereafter, and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019, the rates defined in this Section 5.04.480 shall no longer be applicable to Cannabis Testing and such businesses shall pay business tax at the rate, if any, otherwise applicable to that business notwithstanding this Section 5.04.480.

C. Every person engaged in a Cannabis Business with total gross receipts greater than five hundred thousand dollars (\$500,000.00) shall pay a business tax of:

- ~~1. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, derived from any Medical Cannabis Business activity; plus~~
- ~~2. One hundred dollars (\$100.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, derived from any Non-Medical Cannabis Business activity.~~

Vertically Integrated Businesses.

Any person who engages in a business that produces gross receipts from more than one of the taxable activities described in this Section shall calculate their tax as the sum of:

1. The tax due from the rate described in 5.04.480(B)(3), (4), or (6) as applied to any gross receipts entirely or partially derived from any Retail Cannabis activity attributable to Oakland; plus
2. The tax due from the rate described in 5.04.480(B)(3), (4), or (5) as applied to any gross receipts entirely or partially derived from any Indoor Cultivation activity attributable to Oakland, but not including any gross receipts partially derived from Retail Cannabis activity attributable to Oakland; plus
3. The tax due from the rate described in 5.04.480(B)(7) or (8) as applied to any gross receipts entirely or partially derived from Cannabis Manufacturing activity attributable to Oakland, but not including any gross receipts partially derived from Retail Cannabis activity or Indoor Cultivation activity attributable to Oakland; plus
4. The tax due from the rate described in 5.04.480(B)(7) or (8) as applied to any gross receipts entirely or partially derived from Outdoor Cultivation activity attributable to Oakland, but not including any gross receipts partially derived from Retail Cannabis activity, Indoor Cultivation, or Cannabis Manufacturing activity attributable to Oakland; plus
5. The tax due from the rate described in 5.04.480(B)(7) or (8) as applied to any gross receipts entirely or partially derived from Cannabis Packaging and Storage activity attributable to Oakland, but not including any gross receipts partially derived from Retail Cannabis activity, Indoor Cultivation, Cannabis Manufacturing, or Outdoor Cultivation activity attributable to Oakland; plus
6. The tax due from the rate described in 5.04.480(B)(9) or (10) as applied to any gross receipts entirely or partially derived from Cannabis Distribution and Transportation activity attributable to Oakland, but not including any gross receipts partially derived from Retail Cannabis activity, Indoor Cultivation, Cannabis Manufacturing, Outdoor Cultivation, or Cannabis Packaging and Storage activity attributable to Oakland.

For the purposes of applying this subsection, references to "total gross receipts" in Section 5.04.480(B) refer to all gross receipts generated by the business without respect to the portion of gross receipts generated from any particular taxable activity.

D. Deductions for Raw Materials.

Before applying the rates described above, persons will be allowed to make deductions from any gross receipts entirely or partially derived from any ~~m~~Manufacturing ~~e~~Cannabis activity or ~~e~~Cannabis ~~e~~Cultivation activity carried on within Oakland in the same manner as manufacturing businesses subject to section 5.04.390(A).

E. Maximum Rates.

To the extent that the tax rates described in this Section are less than the maximum rates approved by City of Oakland Measure V, as submitted to voters on November 6, 2018, the reduction in the tax rate is intended as a provisional adjustment that the City Council may reconsider and eliminate, in part or in whole, in the future.

F. Quarterly Reporting.

Notwithstanding Sections 5.04.080, 5.04.110, and 5.04.120 of this Chapter, any Cannabis Business may elect to remit business taxes on a quarterly basis according to rules and procedures adopted by the Director of Finance.

~~G. The business tax rates defined by this Section apply to any gross receipts that become subject to taxation as of January 1, 2020 and beyond.~~

5.04.481 – Cannabis Equity Tax Rebate Program

A. Definitions.

The definitions stated in section 5.04.480(A) also apply to this Section. In addition, the following definitions apply to this Section:

1. “Equity Employee” means:
 - a. An employee who lives in any combination of Oakland police beats 2X, 2Y, 6X, 7X, 19X, 21X, 21Y, 23X, 26Y, 27X, 27Y, 29X, 30X, 30Y, 31Y, 32X, 33X, 34X, 5X, 8X and 35X and has lived in any combination of such police beats for the immediately preceding two (2) years; or
 - b. An employee who lives anywhere in Oakland and was arrested after November 5, 1996 and convicted of a cannabis crime in California.
2. “Essential Roles” means employment roles that are within the usual course of the hiring entity’s business.
3. “Full Time Employee” means employment in which an employee is employee for at least thirty-six 36 hours per week.

4. “Managerial Roles” means employment roles that involve supervision of other employees or regular exercise of business judgment.

B. Equity, Small Business, and Workforce Empowerment Rebate Program.

1. Rebate Program.

Any Cannabis Business that timely and fully pays business taxes owed pursuant to Section 5.04.480 for operation in any given calendar year shall be entitled to a rebate for each Rebate Condition, described below, that the business can demonstrate it satisfied with respect to that calendar year.

The rebate program described in this section will be effective for any business tax certificate issued for operation in calendar year 2020, with respect to rebate conditions met during calendar year 2020, and for all business tax certificates issued thereafter.

2. Rebate Conditions.

The following “Rebate Conditions” apply to this Section:

- a. Local Equity Hiring Rebate Conditions.

- i. During at least one-hundred and eighty-two (182) days of the relevant calendar year, Equity Employees represented at least 30% of the business’s total workforce.
- ii. During at least one-hundred and eighty-two (182) days of the relevant calendar year, Equity Employees in Essential Roles represented at least 25% of the business’s total workforce.
- iii. During at least one-hundred and eighty-two (182) days of the relevant calendar year, Equity Employees represented at least 20% of the business’s employees in Managerial Roles.

- b. Equity Supply Chain Rebate Conditions.

- i. With respect to the relevant calendar year, at least 30% of the value of cannabis products delivered to the business were delivered by a Cannabis Distribution and Transportation business that was an Equity Cannabis Business.
- ii. With respect to the relevant calendar year, at least 25% of the value of cannabis products delivered to the business were originally cultivated or manufactured by a Cannabis Cultivation or Cannabis Manufacturing business that was an Equity Cannabis Business.

c. Workforce Quality of Life Rebate Conditions.

- i. Throughout the relevant calendar year, none of the employees of the business earned a wage less than \$20 per hour, if the employer provides “health benefits” as that term is used in the City’s Living Wage Ordinance (Chapter 2.28), or \$25 per hour, if the employer does not provide health benefits.
- ii. Throughout the relevant calendar year, at least 80% of the business’s employees were Full Time Employees.

d. Incubation.

- i. The business previously served as an Equity Incubator for an Equity Applicant and continues to provide free real estate or rent to the Equity Applicant, on terms that comply with Sections 5.80.050(D)(3)(b)-(d) or 5.81.060(D)(3)(b)-(d), either throughout the relevant calendar year or for that portion of the relevant calendar year that is beyond the initial three (3) year period described in Sections 5.80.050(D)(3) and 5.81.060(D)(3).
- ii. The business provides free real estate or rent to an Equity Applicant, on terms that comply with Sections 5.80.050(D)(3)(b)-(d) or 5.81.060(D)(3)(b)-(d), throughout the relevant calendar year, and does not intend to seek any “permitting priority” pursuant to those sections.

3. Rebate Amount.

a. Local Hiring, Supply Chain, and Wage Rebate Conditions.

For each Rebate Condition satisfied pursuant to 5.04.481(B)(2)(a), (b), and (c)(i):

- i. With respect to each rebate condition satisfied for calendar year 2020 or 2021, the business shall be entitled to reduce each of the marginal rates applicable to its gross receipts for the relevant calendar year, except for any marginal rate set at one-dollar and twenty cents (\$1.20) per one thousand dollars (\$1,000.00) of gross receipts, by five dollars (\$5.00) for every one thousand dollars (\$1,000.00) of gross receipts up to twelve million five hundred thousand dollars (\$12,500,000.00) of gross receipts for which the business timely and fully paid business taxes for the relevant calendar year and receive a rebate equal to the difference between the business's total taxes paid at the original rates and the amount due at the reduced rates.
- ii. With respect to each rebate condition satisfied for calendar year 2022 and beyond, the business shall be entitled to a rebate equal to five dollars (\$5.00) for every one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, up to twelve million five hundred thousand dollars (\$12,500,000.00) of gross receipts for which the business timely and fully paid business taxes for the relevant calendar year.

b. Full Time Employees Rebate Condition.

For each Rebate Condition satisfied pursuant to 5.04.481(B)(2)(c)(ii):

- i. With respect to each rebate condition satisfied for calendar year 2020 or 2021, the business shall be entitled to reduce each of the marginal rates applicable to its gross receipts for the relevant calendar year, except for any marginal rate set at one-dollar and twenty cents (\$1.20) per one thousand dollars (\$1,000.00) of gross receipts, by two dollars and fifty cents (\$2.50) for every one thousand dollars (\$1,000.00) of gross receipts up to twelve million five hundred thousand dollars (\$12,500,000.00) of gross receipts for which the business timely and fully paid business taxes for the relevant calendar year and receive a rebate equal to the difference between the business's total taxes paid at the original rates and the amount due at the reduced rates.

ii. With respect to each rebate condition satisfied for calendar year 2022 and beyond, the business shall be entitled to a rebate equal to two dollars and fifty cents (\$2.50) for every one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, up to twelve million five hundred thousand dollars (\$12,500,000.00) of gross receipts for which the business timely and fully paid business taxes for the relevant calendar year.

c. Incubation Rebate Conditions.

For each Rebate Condition satisfied pursuant to 5.04.481(B)(2)(d):

i. With respect to each rebate condition satisfied for calendar year 2020 or 2021, any business with total gross receipts less than or equal to two million dollars (\$2,000,000.00) shall be entitled to reduce each of the marginal rates applicable to its gross receipts for the relevant calendar year, except for any marginal rate set at one-dollar and twenty cents (\$1.20) per one thousand dollars (\$1,000.00) of gross receipts, by fifteen dollars (\$15.00) for every one thousand dollars (\$1,000.00) of gross receipts for which the business timely and fully paid business taxes for the relevant calendar year and receive a rebate equal to the difference between the business's total taxes paid at the original rates and the amount due at the reduced rates.

ii. With respect to each rebate condition satisfied for calendar year 2020 or 2021, any business with total gross receipts greater than two million dollars (\$2,000,000.00) shall be entitled to reduce each of the marginal rates applicable to its gross receipts for the relevant calendar year, except for any marginal rate set at one-dollar and twenty cents (\$1.20) per one thousand dollars (\$1,000.00) of gross receipts, by ten dollars (\$10.00) for every one thousand dollars (\$1,000.00) of gross receipts up to seven million five hundred thousand dollars (\$7,500,000.00) of gross receipts and by five dollars (\$5.00) for every one thousand dollars (\$1,000.00) of gross receipts up to twelve million five hundred thousand dollars (\$12,500,000.00) for which the business timely and fully paid business taxes for the relevant calendar year and receive a rebate equal to the difference between the business's total taxes paid at the original rates and the amount due at the reduced rates.

- iii. With respect to each rebate condition satisfied for calendar year 2022 and beyond for a business with gross receipts less than or equal to two million dollars (\$2,000,000.00) in the relevant calendar year shall be entitled to a rebate equal to fifteen dollars (\$15.00) for every one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, for which the business timely and fully paid business taxes for the relevant calendar year.
- iv. With respect to each rebate condition satisfied for calendar year 2022 and beyond for a business with gross receipts greater than two million dollars (\$2,000,000.00) in the relevant calendar year shall be entitled to a rebate equal to ten dollars (\$10.00) for every one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, up to seven million five hundred thousand dollars (\$7,500,000.00) of gross receipts and by five dollars (\$5.00) for every one thousand dollars (\$1,000.00) of gross receipts up to twelve million five hundred thousand dollars (\$12,500,000.00) for which the business timely and fully paid business taxes for the relevant calendar year.

d. Exceptions

The following exceptions apply to this subsection:

- i. In any given year, a business may not claim more than one rebate pursuant to 5.04.481(B)(2)(d).
- ii. A business may not claim, over any number of years, more than five (5) rebates pursuant to 5.04.481(B)(2)(d) on the basis of free real estate or rent provided to any single Equity Applicant.
- iii. In any given year, a business may not claim any rebates pursuant to 5.04.481(B)(2)(c) unless it also qualifies for at least one rebate pursuant 5.04.481(B)(2)(a).

4. Cumulative Rebates and Rebate Limit.

Rebates may be claimed cumulatively. But, in no case will a business be entitled to cumulative rebates that, with respect to rebates claimed for calendar years 2020 and 2021, would reduce any particular marginal rate below zero dollars, or would reduce its overall tax rate for the relevant calendar year to less than:

- a. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts or fractional part thereof with respect to any rebates claimed for activity in calendar year 2020 or calendar year 2021;

b. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts or fractional part thereof with respect to any rebates claimed for activity in calendar year 2022 and any following years.

5. Process for Applying for and Granting Rebates.

The City shall accept requests for rebates from any business at the time the business pays business tax for the calendar year following the calendar year pursuant to which the business seeks a rebate, and for thirty (30) days thereafter, or within thirty (30) days of cessation of business activities pursuant to Section 5.04.095. The business shall submit any documentary evidence requested by the City Administrator, or their designee.

Any business entitled to rebates may elect to be paid in check, or other equivalent, or to be paid in the form of a credit for any future business taxes owed. If the business elects for the rebates to be paid in check or other equivalent, the City shall make such payment to any business entitled to a rebate within sixty (60) days of the business submitting all documentation requested by the City Administrator, or their designee.

A business will not be eligible for any rebate if it has not timely and fully paid all business taxes owed for the relevant calendar year. A business may be required to return any granted rebates if the City discovers that the business misreported its gross receipts for any relevant calendar year.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance 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 Chapter. The City Council hereby declares that it would have passed this Ordinance 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.

SECTION 4. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise, this ordinance shall become effective upon the seventh day after final adoption.

SECTION 5. The City Administrator, or his or her designee, shall report back to the Council at approximately the end of each year on the state of the cannabis industry in Oakland and the performance of the equity program against its stated goals.

2868873v1

IN COUNCIL, OAKLAND, CALIFORNIA,

DEC 1 0 2019

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, ~~BRISQIN MOELMANN~~ KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN - 7

NOES -

ABSENT -

ABSTENTION - *MOELMANN*

ATTEST:



LATONDA SIMMONS
CITY CLERK AND CLERK OF THE COUNCIL
OF THE CITY OF OAKLAND, CALIFORNIA

Date of Attestation:

Introduction Date

NOV 19 2019

NOTICE AND DIGEST

AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE 5, CHAPTER 5.04, SECTION 5.04.480 AND SECTION 5.04.481, TO CREATE A TIERED AND CATEGORY BASED TAX STRUCTURE FOR CANNABIS BUSINESSES, MERGE MEDICAL AND NON-MEDICAL CANNABIS BUSINESS CLASSIFICATIONS, AND REDUCE TAX RATES FOR CANNABIS BUSINESSES, INCLUDING A TAX REBATE PROGRAM FOCUSED ON EQUITY

This ordinance substantially amends the business tax structure and rates applicable to all cannabis businesses operating in the City of Oakland. The ordinance defines various categories of cannabis businesses including: Outdoor Cultivation, Indoor Cultivation, Cannabis Distribution and Transportation, Cannabis Manufacturing, Cannabis Storage and Packaging, and Retail Cannabis. The ordinance defines tax rates ranging from .12% to 9.5% of annual gross receipts. The ordinance creates a series of transitional tax rate structures, effective through 2021, and a series of permanent tax rate structures, effective from 2022 and beyond. With respect to Cannabis Testing businesses, the ordinance removes such businesses from the City's cannabis business licensing regime, and requires such businesses to apply for business tax certificates in other applicable categories. The ordinance defines a process for applying tax rates to businesses operating in multiple defined categories. The ordinance also creates an Equity, Small Business, and Workforce Empowerment Rebate Program allowing businesses that can meet certain conditions the opportunity to earn tax rebates. Cannabis businesses operating in Oakland should review the text of the ordinance to determine the tax rates applicable to their particular operation.