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19 JUL -3 PM 4:06

AGENDA REPORT

TO: City Council and members of the Public

FROM: Dan Kalb, City Council-member & Rebecca Kaplan, Council President

SUBJECT: Ordinance amending cannabis business tax rates

DATE: July 3, 2019

RECOMMENDATION

ADOPT AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE 5, CHAPTER 5.04, SECTION 5.04.480, TO CREATE A CATEGORY AND TIER BASED TAX STRUCTURE, ELIMINATE THE DISTINCTION BETWEEN MEDICAL AND NON-MEDICAL RATES AND REDUCE THE TAX RATE FOR CANNABIS BUSINESSES

SUMMARY

This legislation harmonizes what was previously medical and non-medical tax rates on cannabis, reduce cannabis rates overall and create a progressive tax structure where higher income cannabis businesses pay a higher rate than smaller cannabis businesses operating in our city. The proposed rate structure also considers the differences between retail and non-retail types of cannabis businesses. The overall tax changes would take effect in 2022, with a transitional rate decrease proposed for 2021. The Transitional rate structure could be proposed to become effective in 2020.

BACKGROUND/LEGISLATIVE HISTORY

In 2009, Oakland voters approved Measure F, making Oakland the first City in the nation to impose a tax on medical cannabis businesses. The tax rate was only 1.8% of gross receipts. In November 2010, Oakland voters approved Measure V to increase the tax rate on medical cannabis businesses to 5% and create a new tax rate of 10% for non-medical cannabis businesses. Oakland's non-medical cannabis business tax rate became effective in January 2018 following the passage of Proposition 64 in November 2016, legalizing adult use.

On November 6, 2018, Oakland voters passed Measure V, which authorized the Oakland City Council, in relevant part, to change Section 5.04.481 ("Non-Medical Cannabis Businesses") in any manner that does not increase the applicable tax rate. On June 4, 2019, the Oakland City Council adopted Ordinance No. 13546 CMS to repeal Section 5.04.481, rename Section 5.04.480 ("Medical Cannabis Businesses") as "Cannabis Businesses," and provide a substantially reduced tax for cannabis businesses with gross receipts of \$500,000 or less.

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The City Council in 2018 put on the ballot Measure V with the expectation that, at a minimum, Cannabis tax rates would be harmonized and brought down to a rate of 5% across the board. The shared belief is and has been that charging more than 5% would damage the long-term sustainability and competitiveness of Oakland-based cannabis businesses, and encourage continuation of the illegal market.

ANALYSIS

The tax rates for cannabis businesses operating in Oakland are amongst the highest in the state. The recommended legislation to harmonize the medical and non-medical tax rates, and reduce the cannabis business tax rate using a progressive structure seeks to help make Oakland regionally competitive.

As made clear by the Administration's Cannabis Business Tax Policy Analysis report dated February 1, 2018 presented to the City Council in the spring, Oakland's 10% tax rate on Adult Use is much higher than most other regional competitors. Since the that report was issued, some jurisdictions also have lowered their own cannabis tax rates. Currently, Berkeley's rate is 5% for non-medical and 2.5% for medical. Emeryville is 3% for retail cannabis, and lower on manufacturing (2%) and distribution (1%). Santa Rosa is 3% retail and lower on manufacturing (1%) and 0% on distribution. South San Francisco's tax cannot exceed 5% and can be as low as 1%. Unincorporated Contra Costa County is at 4%. West Sacramento imposes a 2.5% Development Agreement "fee." Sacramento has a 4% across the board tax. San Francisco recently lowered its cannabis taxes and created a progressive structure, with the retail rates ranging from 0% to 5%, and the non-retail categories rates ranging from 0% to 1.5%. These rates are half or less of the Oakland's 10%, which presents a competitive burden for many of our local cannabis businesses.

The state has eliminated the taxation and regulatory distinctions between Medical and Adult Use in the non-retail supply chain. Oakland is also one of the few jurisdictions in California that still distinguishes between Adult Use and Medical business tax rates. Further, for cultivation businesses, it is extremely difficult to distinguish between what will ultimately be medical vs. non-medical cannabis. By making medical and non-medical business rates the same, the City would avoid the administrative difficulty of needing to separately track which sales end up going to medical patients and which do not.

Cannabis businesses making more than \$500,000 are currently taxed at a rate of 10% on gross receipts, except that income that can be identified as coming from medical cannabis is taxed at a rate of 5% on gross receipts. The proposed tiered rate structure reduces the rates to no more than 5% and includes lower rates for non-retail cannabis businesses and for all cannabis businesses making less than \$5 Million in gross receipts.

See attachment A (proposed Oakland Cannabis Business Tax Structure) and attachment B (proposed Oakland Business Tax Structure – Transitional)

FISCAL IMPACT

This legislation would be expected to reduce tax revenue from cannabis businesses in the short term but can be expected to stabilize cannabis tax revenue over time by maintaining our businesses and attracting new cannabis businesses to Oakland. In theory, our overall tax revenue from the cannabis sector is likely to increase if we are successful in attracting new cannabis businesses to our city.

The Finance Department provided the following information about the projected revenue impacts of this legislation. Their projections do not take into account the potential for lost business tax revenue due to some (mostly non-retail) cannabis businesses choosing to leave Oakland if the tax rates are *not* adjusted downward to be competitive.

Transitional Cannabis Tax Rates Effective in 2021

Table 1 estimates the reduction in expected revenue from cannabis businesses using the transitional rate starting in 2021. The reduced revenue project in this table applies only to FY 2020-2021.

Table 1

Proposed Ordinance When Applied to FY 2020-21 Adopted Revenues				
Tiered and/or Marginal Tax Rates Based on Gross Receipts				
Adopted FY 2020-21 Revenues (projection)				\$15,733,167
Category	Retail	Cultivation & Manufacturing	Distribution & Transportation	Total
Up to \$500K	\$12,349	\$9,711	\$6,413	\$28,473
\$500K+ - \$1M	\$102,418	\$47,949	\$13,125	\$163,492
\$1M+ - \$5M	\$1,351,006	\$964,898	\$883,272	\$3,199,176
Over \$5M	\$3,408,482	\$1,630,430	\$0	\$5,038,912
Total	\$4,874,255	\$2,652,989	\$902,809	\$8,430,053
Surplus/(Deficit) Relative to FY 2020-21 Adopted Revenues				(\$7,303,114)

Transitional rate effective in 2020

Table 2 estimates the reduction in expected revenue from cannabis businesses in FT 19-20 IF we start using the transitional rate in the year 2020. The reduced revenue project in this table applies only to FY 2019-2020.

Table 2

Proposed Ordinance When Applied to FY 2019-20 Adopted Revenues
Tiered and/or Marginal Tax Rates Based on Gross Receipts

Adopted FY 2019-20 Revenues (projection)				\$14,567,983
Category	Retail	Cultivation & Manufacturing	Distribution & Transportation	Total
Up to \$500K	\$11,434	\$8,992	\$5,938	\$26,364
\$500K+ - \$1M	\$94,831	\$44,397	\$12,152	\$151,381
\$1M+ - \$5M	\$1,250,931	\$893,424	\$817,844	\$2,962,200
Over \$5M	\$3,156,002	\$1,509,657.55	\$0	\$4,665,659
Total	\$4,513,199	\$2,456,471	\$835,934	\$7,805,604
Surplus/(Deficit) Relative to FY 2019-20 Adopted Revenues				(\$6,762,379)

Final Cannabis Tax rates effective beginning in 2022

Table 3 estimates the reduction in anticipated revenue from cannabis businesses using the final rate structure effective in 2022. The reduced revenue forecasted in this table applies only to FY 2021-2022.

Table 3

Marginal Tax Rate When Applied to FY 2021-22 Revenues				
Marginal Tax Rates Based on Gross Receipts				
(Rate effective January 2022) <i>Forecasted FY 2021-22 Revenues</i>				\$8,682,954
Category	Retail	Cultivation & Manufacturing	Distribution & Transportation	Total
Up to \$500K	\$21,529	\$19,547	\$11,744	\$52,821
\$500K+ - \$1M	\$283,550	\$187,774	\$114,579	\$585,903
\$1M+ - \$5M	\$1,504,794	\$851,412	\$313,744	\$2,669,950
Over \$5M	\$2,287,096	\$463,274	\$0	\$2,750,370
Total	\$4,096,969	\$1,522,007	\$440,067	\$6,059,043
Surplus/(Deficit) Relative to FY 2021-22 Forecasted Revenues				(\$2,623,911)

PUBLIC OUTREACH / INTEREST

The Council President Pro Tempore’s office has conducting outreach about this legislation with several representatives of the cannabis industry.

COORDINATION

The City Attorney's office, Finance Department, and City Administrator were consulted on the legislation.

SUSTAINABLE OPPORTUNITIES

Economic: The ordinance is intended to protect the economic vitality of Oakland by improving the competitiveness of Oakland's cannabis industry.

Environmental: There are no apparent environmental opportunities associated with this report.

Social Equity: The ordinance is intended to promote social equity by protecting smaller Oakland cannabis businesses, which are less economically secure than larger businesses and have a more difficult time absorbing a high tax.

ACTION REQUESTED BY THE CITY COUNCIL

Council President Pro Tempore Kalb and Council President Kaplan recommend the City Council:

ADOPT AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE 5, CHAPTER 5.04, SECTION 5.04.480, TO CREATE A CATEGORY AND TIER BASED TAX STRUCTURE, ELIMINATE THE DISTINCTION BETWEEN MEDICAL AND NON-MEDICAL RATES AND REDUCE THE TAX RATES FOR CANNABIS BUSINESSES

For questions regarding this report, please contact Oliver Luby, Chief of Staff, Office of Council President Pro Tem Dan Kalb, at 510-238-7013.

Respectfully submitted,



Dan Kalb
Council President Pro Tempore

Prepared by:
Oliver Luby, Chief of Staff
Office of Council President Pro Tempore Dan Kalb

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Proposed Oakland Cannabis Business Tax Structure*

<u>Total Gross Receipts</u>	<u>Cannabis Retail Businesses (including retail delivery)</u>	<u>Cannabis Manufacturing, Packaging & Storage, and Cannabis Cultivation</u>	<u>Wholesale Distribution and Transportation (non-retail)</u>	
Up to \$500,000 in gross receipts	.12% of gross receipts	.12% of gross receipts	.12% of gross receipts	Effective Jan. 2020 \ already enacted
Over \$500,000 up to \$1,000,000	.12% of gross receipts up to \$500,000 + 3% of gross receipts (over \$500,000)	.12% of gross receipts up to \$500,000 + 2.5% of gross receipts (over \$500,000)	.12% of gross receipts up to \$500,000 + 1.5% of gross receipts (over \$500,000)	Effective Jan. 2022
Over \$1,000,000 and up to \$5,000,000	3% of gross receipts up to \$1,000,000 + 4% of gross receipts over \$1,000,000	2.5% of gross receipts up to \$1,000,000 + 3.5% of gross receipts over \$1,000,000	1.5% of gross receipts up to \$1,000,000 + 2.0% of gross receipts over \$1,000,000	Effective Jan. 2022
Over \$5,000,000	4.5% of gross receipts up to \$5,000,000 + 5% of gross receipts over \$5,000,000	2.5% of gross receipts up to \$1,000,000 + 3.5% of gross receipts over \$1,000,000 and up to \$5,000,000 + 4.5% of gross receipts over \$5M	1.5% of gross receipts up to \$1,000,000 + 2.0% of gross receipts over \$1,000,000 and up to \$5,000,000 + 3% of gross receipts over \$5M	Effective Jan. 2022

*No distinction between medical and non-medical (adult use); Cannabis Testing taxed at same rate as non-cannabis businesses.

Proposed Oakland Cannabis Business Tax Structure - TRANSITIONAL*				
<u>Total Gross Receipts</u>	<u>Cannabis Retail Businesses (including retail delivery)</u>	<u>Cannabis Manufacturing, Packaging & Storage, and Cannabis Cultivation</u>	<u>Wholesale Distribution and Transportation (non-retail)</u>	
Up to \$500,000 in gross receipts	.12% of gross receipts	.12% of gross receipts	.12% of gross receipts	Effective Jan. 2020 \ already enacted
Over \$500,000 up to \$1,000,000	.12% of gross receipts up to \$500,000 + 5% of gross receipts (over \$500,000 up to \$1,000,000)	.12% of gross receipts up to \$500,000 + 4.5% of gross receipts (over \$500,000 up to \$1,000,000)	.12% of gross receipts up to \$500,000 + 4% of gross receipts (over \$500,000 up to \$1,000,000)	Effective Jan. 2021 (or 2020)
Over \$1,000,000 and up to \$5,000,000	5% of total gross receipts (no marginal rates)	4.5% of total gross receipts (no marginal rates)	4% of total gross receipts (no marginal rates)	Effective Jan. 2021 (or 2020)
Over \$5,000,000	5% of total gross receipts (no marginal rates)	5% of total gross receipts (no marginal rates)	4% of total gross receipts (no marginal rates)	Effective Jan. 2021 or (2020)

*Effective Jan. 2021, no distinction between medical and non-medical (adult use) & Cannabis Testing taxed at same rate as non-cannabis businesses.

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APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCIL MEMBER MALB AND PRESIDENT KAPLAN

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DRAFT
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE 5, CHAPTER 5.04, SECTION 5.04.480, TO CREATE A CATEGORY AND TIER BASED TAX STRUCTURE, ELIMINATE THE DISTINCTION BETWEEN MEDICAL AND NON-MEDICAL RATES AND REDUCE THE TAX RATE FOR CANNABIS BUSINESSES

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; and

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, 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 does not own but solely distributes or transports cannabis or cannabis products, including but not limited to, 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, Retail Cannabis, or Wholesale Cannabis Sales carried on within Oakland.

6. “Medical Cannabis Business” means any Cannabis Business conducted pursuant to Health and Safety Code Sections 11362.5 and 11362.7—11362.83.
7. “Non-Medical Cannabis Business” means any Cannabis Business not conducted pursuant to Health and Safety Code Sections 11362.5 and 11362.7—11362.83.
8. “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.
9. “Cannabis Testing” means any business that conducts analytical testing of cannabis, cannabis-derived products, hemp, or hemp-derived products.
10. “Wholesale Cannabis Sales” means any business that sells cannabis or cannabis products to any other Cannabis Business, but only to the extent that the business’s selling activity is not attributable to Cannabis Cultivation, Cannabis Distribution and Transportation, or Cannabis Manufacturing activity carried on within Oakland.

B. Business Tax Rate.

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

1. Under \$500k Businesses.

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 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.

2. Retail Cannabis (Under \$1 million).

Every person engaged in Retail Cannabis with total gross receipts greater than five hundred thousand dollars (\$500,000.00) but less than or equal to one million dollars (\$1,000,000.00) 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, derived from Medical Cannabis Business activity; plus
- ii. 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.

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 five hundred thousand dollars (\$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 five hundred thousand dollars (\$500,000.00).

3. Retail Cannabis (Under \$5 million).

Every person engaged in Retail Cannabis with total gross receipts greater than one million dollars (\$1,000,000.00) 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. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, derived from Medical Cannabis Business activity; plus

ii. 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.

b. Annual 2021 Business Certificates.

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

c. Annual 2022 Business Certificates and After.

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

i. Thirty dollars (\$30.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million dollars (\$1,000,000.00); plus

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

4. 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, derived from Medical Cannabis Business activity; plus

ii. 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.

b. Annual 2021 Business Certificates.

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

c. Annual 2022 Business Certificates and After.

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

- i. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to five million dollars (\$5,000,000.00); plus
- ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five million dollars (\$5,000,000.00).

5. Cannabis Manufacturing (Under \$1 million).

Every person engaged in Cannabis Manufacturing with total gross receipts greater than five hundred thousand dollars (\$500,000.00) but less than or equal to one million dollars (\$1,000,000.00) 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, derived from Medical Cannabis Business activity; plus
- ii. 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.

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. Forty-five dollars (\$45.00) 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 gross receipts that become subject to taxation on or after January 1, 2022, or any 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 five hundred thousand dollars (\$500,000.00); plus
- ii. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five hundred thousand dollars (\$500,000.00).

6. Cannabis Manufacturing (Under \$5 million).

Every person engaged in Cannabis Manufacturing with total gross receipts greater than one million dollars (\$1,000,000.00) 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. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, derived from Medical Cannabis Business activity; plus
- ii. 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.

b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate, forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

- i. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million dollars (\$1,000,000.00); plus

- ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million dollars (\$1,000,000.00).

7. Cannabis Manufacturing (Over \$5 million).

Every person engaged in Cannabis Manufacturing 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, derived from Medical Cannabis Business activity; plus
- ii. 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.

b. Annual 2021 Business Certificates.

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

c. Annual 2022 Business Certificates and After.

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

- i. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million dollars (\$1,000,000.00); plus
- ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million dollars (\$1,000,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus
- iii. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over \$5,000,000.00.

8. Cannabis Storage or Packaging (Under \$1 million).

Every person engaged in Cannabis Storage or Packaging with total gross receipts greater than five hundred thousand dollars (\$500,000.00) but less than or equal to one million dollars (\$1,000,000.00) 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, derived from Medical Cannabis Business activity; plus
- ii. 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.

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. Forty-five dollars (\$45.00) 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 gross receipts that become subject to taxation on or after January 1, 2022, or any 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 five hundred thousand dollars (\$500,000.00); plus
- ii. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five hundred thousand dollars (\$500,000.00).

9. Cannabis Storage or Packaging (Under \$5 million).

Every person engaged in Cannabis Storage or Packaging with total gross receipts greater than one million dollars (\$1,000,000.00) 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. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, derived from Medical Cannabis Business activity; plus
- ii. 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.

b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate, forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

- i. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million dollars (\$1,000,000.00); plus
- ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million dollars (\$1,000,000.00).

10. Cannabis Storage or Packaging (Over \$5 million).

Every person engaged in Cannabis Storage or Packaging 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, derived from Medical Cannabis Business activity; plus
- ii. 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.

b. Annual 2021 Business Certificates.

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

c. Annual 2022 Business Certificates and After.

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

- i. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million dollars (\$1,000,000.00); plus
- ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million dollars (\$1,000,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus
- iii. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over \$5,000,000.00.

11. Cannabis Cultivation (Under \$1 million).

Every person engaged in Cannabis Cultivation with total gross receipts greater than five hundred thousand dollars (\$500,000.00) but less than or equal to one million dollars (\$1,000,000.00) 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, derived from Medical Cannabis Business activity; plus

ii. 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.

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. Forty-five dollars (\$45.00) 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 gross receipts that become subject to taxation on or after January 1, 2022, or any 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 five hundred thousand dollars (\$500,000.00); plus

ii. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five hundred thousand dollars (\$500,000.00).

12. Cannabis Cultivation (Under \$5 million).

Every person engaged in Cannabis Cultivation with total gross receipts greater than one million dollars (\$1,000,000.00) 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. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, derived from Medical Cannabis Business activity; plus

ii. 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.

b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate, forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

i. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million dollars (\$1,000,000.00); plus

ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million dollars (\$1,000,000.00).

13. Cannabis Cultivation (Over \$5 million).

Every person engaged in Cannabis 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, derived from Medical Cannabis Business activity; plus

ii. 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.

b. Annual 2021 Business Certificates.

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

c. Annual 2022 Business Certificates and After.

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

- i. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million dollars (\$1,000,000.00); plus
- ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million dollars (\$1,000,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus
- iii. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over \$5,000,000.00.

14. Cannabis Distribution and Transportation (Under \$1 million).

Every person engaged in Cannabis Distribution and Transportation with total gross receipts greater than five hundred thousand dollars (\$500,000.00) but less than or equal to one million dollars (\$1,000,000.00) 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, derived from Medical Cannabis Business activity; plus
- ii. 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.

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. Forty dollars (\$40.00) 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 gross receipts that become subject to taxation on or after January 1, 2022, or any 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 five hundred thousand dollars (\$500,000.00); plus

ii. Fifteen dollars (\$15.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five hundred thousand dollars (\$500,000.00).

15. Cannabis Distribution and Transportation (Under \$5 million).

Every person engaged in Cannabis Distribution and Transportation with total gross receipts greater than one million dollars (\$1,000,000.00) 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. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, derived from Medical Cannabis Business activity; plus

ii. 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.

b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate, forty dollars (\$40.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

- i. Fifteen dollars (\$15.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million dollars (\$1,000,000.00); plus
- ii. Twenty dollars (\$20.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million dollars (\$1,000,000.00).

16. Cannabis Distribution and Transportation (Over \$5 million).

Every person engaged in Cannabis Distribution and Transportation 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, derived from Medical Cannabis Business activity; plus
- ii. 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.

b. Annual 2021 Business Certificates.

With respect to any 2021 business tax certificate, forty dollars (\$40.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

- i. Fifteen dollars (\$15.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million dollars (\$1,000,000.00); plus
- ii. Twenty dollars (\$20.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over

one million dollars (\$1,000,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus

- iii. Thirty dollars (\$30.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over \$5,000,000.00.

17. Cannabis Testing.

Every person engaged in Cannabis Testing 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, derived from Medical Cannabis Business activity; plus
- ii. 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.

- b. Annual 2021 Business Certificates and After.

With respect to any 2021 business tax certificate, and in every subsequent year, 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)(2), (3), or (4) as applied to any gross receipts entirely or partially derived from any Retail Cannabis activity carried on within Oakland; plus
2. The tax due from the rate described in 5.04.480(B)(5), (6), or (7) as applied to any gross receipts entirely or partially derived from Cannabis Manufacturing activity carried on within Oakland, but not including any gross receipts partially derived from Retail Cannabis activity carried on within Oakland; plus
3. The tax due from the rate described in 5.04.480(B)(8), (9), or (10) as applied to any gross receipts entirely or partially derived from Cannabis Storage or Packaging activity carried on within Oakland, but not including any gross receipts partially derived from Retail Cannabis activity or Cannabis Manufacturing activity carried on within Oakland; plus
4. The tax due from the rate described in 5.04.480(B)(11), (12), or (13) as applied to any gross receipts entirely or partially derived from Cannabis Cultivation activity carried on within Oakland, but not including any gross receipts partially derived from Retail Cannabis activity, Cannabis Manufacturing activity, or Cannabis Storage or Packaging activity carried on within Oakland; plus
5. The tax due from the rate described in 5.04.480(B)(14), (15), or (16) as applied to any gross receipts entirely or partially derived from Cannabis Distribution and Transportation activity carried on within Oakland, but not including any gross receipts partially derived from Retail Cannabis activity, Cannabis Manufacturing, Cannabis Storage or Packaging activity, or Cannabis Cultivation activity carried on within Oakland; plus

6. The tax due from the rate described in 5.04.480(B)(17)(a) as applied to any gross receipts entirely or partially derived from Cannabis Testing activity carried on within Oakland, but not including any gross receipts partially derived from Retail Cannabis activity, Cannabis Manufacturing, Cannabis Storage or Packaging activity, Cannabis Cultivation activity, or Cannabis Distribution and Transportation activity carried on within 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 Manufacturing Cannabis activity or Cannabis 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.~~

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.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST:

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

Date of Attestation:

NOTICE AND DIGEST

19 JUL -3 PM 4:07

**ORDINANCE AMENDING OAKLAND MUNICIPAL CODE
TITLE 5, CHAPTER 5.04, SECTION 5.04.480, TO CREATE
A CATEGORY AND TIER BASED TAX STRUCTURE,
ELIMINATE THE DISTINCTION BETWEEN MEDICAL AND
NON-MEDICAL RATES AND REDUCE THE TAX RATE
FOR CANNABIS BUSINESSES**

This ordinance will create various categories of cannabis businesses for purposes of the City of Oakland business tax ordinance, create progressive, tiered tax rates for each category based on total gross receipts, and generally reduce tax rates for cannabis businesses earning more than \$500,000.00 in annual gross receipts.

This ordinance will create the following categories of cannabis businesses: cannabis cultivation, cannabis distribution and transportation, cannabis manufacturing, retail cannabis, cannabis testing, cannabis storage or packaging, and wholesale cannabis sales.

Tax rates for cannabis businesses with total annual gross receipts equal to or less than \$500,000.00 will remain unchanged.

Tax rates for cannabis businesses with total annual gross receipts greater than \$500,000.00 will be adjusted as follows:

For business certificates issued to businesses newly formed in 2019 and for operation in 2020, no change from currently law regardless of category.

For business certificates issued for operation in 2021 to businesses with between \$500,000.00 and \$1 million in taxable gross receipts: for retail cannabis businesses, \$1.20 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$500,000.00 *plus* \$50.00 per \$1,000 of gross receipts, or fraction thereof over \$500,000.00, for cannabis manufacturing businesses, \$1.20 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$500,000.00 *plus* \$45.00 per \$1,000 of gross receipts, or fraction thereof over \$500,000.00, for cannabis storage or packaging businesses, \$1.20 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$500,000.00 *plus* \$45.00 per \$1,000 of gross receipts, or fraction thereof over \$500,000.00, for cannabis cultivation businesses, \$1.20 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$500,000.00 *plus* \$45.00 per \$1,000 of gross receipts, or fraction thereof over \$500,000.00, for cannabis distribution and transportation businesses, \$1.20 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$500,000.00 *plus* \$40.00 per \$1,000 of gross receipts, or fraction thereof over \$500,000.00.

For business certificates issued for operation in 2021 to businesses with between \$1 million and \$5 million in taxable gross receipts: for retail cannabis businesses, \$50.00 per \$1,000.00 of gross receipts, or fraction thereof, for cannabis manufacturing

businesses, \$45.00 per \$1,000.00 of gross receipts, or fraction thereof, for cannabis cultivation businesses, \$45.00 per \$1,000.00 of gross receipts, or fraction thereof, for cannabis storage or packaging businesses, \$45.00 per \$1,000.00 of gross receipts, or fraction thereof, for cannabis cultivation businesses, \$45.00 per \$1,000.00 of gross receipts, or fraction thereof, for cannabis distribution and transportation businesses, \$40.00 per \$1,000.00 of gross receipts, or fraction thereof.

For business certificates issued for operation in 2021 to businesses with greater than \$5 million in taxable gross receipts: for retail cannabis businesses, \$50.00 per \$1,000.00 of gross receipts, or fraction thereof, for cannabis manufacturing businesses, \$50.00 per \$1,000.00 of gross receipts, or fraction thereof, for cannabis cultivation businesses, \$50.00 per \$1,000.00 of gross receipts, or fraction thereof, for cannabis storage or packaging businesses, \$50.00 per \$1,000.00 of gross receipts, or fraction thereof, for cannabis cultivation businesses, \$50.00 per \$1,000.00 of gross receipts, or fraction thereof, for cannabis distribution and transportation businesses, \$40.00 per \$1,000.00 of gross receipts, or fraction thereof.

For business certificates issued for operation in 2022, and any year thereafter, to business with between \$500,000.00 and \$1 million in taxable gross receipts: for retail cannabis businesses, \$1.20 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$500,000.00 *plus* \$30.00 per \$1,000 of gross receipts, or fraction thereof over \$500,000.00, for cannabis manufacturing businesses, \$1.20 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$500,000.00 *plus* \$25.00 per \$1,000 of gross receipts, or fraction thereof over \$500,000.00, for cannabis storage or packaging businesses, \$1.20 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$500,000.00 *plus* \$25.00 per \$1,000 of gross receipts, or fraction thereof over \$500,000.00, for cannabis cultivation businesses, \$1.20 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$500,000.00 *plus* \$25.00 per \$1,000 of gross receipts, or fraction thereof over \$500,000.00, for cannabis distribution and transportation businesses, \$1.20 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$500,000.00 *plus* \$15.00 per \$1,000 of gross receipts, or fraction thereof over \$500,000.00.

For business certificates issued for operation in 2022, and any year thereafter, to business with between \$1 million and \$5 million in taxable gross receipts: for retail cannabis businesses, \$30.00 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$1,000,000.00 *plus* \$40.00 per \$1,000 of gross receipts, or fraction thereof over \$1,000,000.00, for cannabis manufacturing businesses, \$25.00 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$1,000,000.00 *plus* \$35.00 per \$1,000 of gross receipts, or fraction thereof over \$1,000,000.00, for cannabis storage or packaging businesses, \$25.00 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$1,000,000.00 *plus* \$35.00 per \$1,000 of gross receipts, or fraction thereof over \$1,000,000.00, for cannabis cultivation businesses, \$25.00 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$1,000,000.00 *plus* \$35.00 per \$1,000 of gross receipts, or fraction thereof over \$1,000,000.00, for cannabis distribution and transportation businesses, \$15.00 per \$1,000 of gross receipts, or fraction thereof,

equal to or less than \$1,000,000.00 *plus* \$20.00 per \$1,000 of gross receipts, or fraction thereof over \$1,000,000.00.

For business certificates issued for operation in 2022, and any year thereafter, to business with greater than \$5 million in taxable gross receipts: for retail cannabis businesses, \$45.00 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$5,000,000.00 *plus* \$50.00 per \$1,000 of gross receipts, or fraction thereof over \$5,000,000.00, for cannabis manufacturing businesses, \$25.00 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$1,000,000.00 *plus* \$35.00 per \$1,000 of gross receipts, or fraction thereof over \$1,000,000.00 but equal to or less than \$5,000,000.00, *plus* \$45.00 per \$1,000 of gross receipts, or fraction thereof, over \$5,000,000.00, for cannabis storage or packaging businesses, \$25.00 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$1,000,000.00 *plus* \$35.00 per \$1,000 of gross receipts, or fraction thereof over \$1,000,000.00 but equal to or less than \$5,000,000.00, *plus* \$45.00 per \$1,000 of gross receipts, or fraction thereof, over \$5,000,000.00, for cannabis cultivation businesses, \$25.00 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$1,000,000.00 *plus* \$35.00 per \$1,000 of gross receipts, or fraction thereof over \$1,000,000.00 but equal to or less than \$5,000,000.00, *plus* \$45.00 per \$1,000 of gross receipts, or fraction thereof, over \$5,000,000.00, for cannabis distribution and transportation businesses, \$15.00 per \$1,000 of gross receipts, or fraction thereof, equal to or less than \$1,000,000.00 *plus* \$20.00 per \$1,000 of gross receipts, or fraction thereof over \$1,000,000.00 but equal to or less than \$5,000,000.00, *plus* \$30.00 per \$1,000 of gross receipts, or fraction thereof, over \$5,000,000.00.

With respect to any 2021 business tax certificate, and in every subsequent year, 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.

MPG

MARIJUANA
POLICY
GROUP

FILED
OFFICE OF THE CITY CLERK
OAKLAND

19 JUL -3 PM 4:00

Oakland Cannabis Cultivation and Manufacturing Market Share

Tax Policy Paper

July 13, 2017

July 13, 2017

Oakland Cannabis Cultivation and Manufacturing Market Share

Prepared for:

Oakland Citizens for Equity and Prosperity (OCEP)

Prepared by:

Adam Orens
Miles Light
Clinton Saloga

Marijuana Policy Group
2420 17th Street – 3rd Floor
Denver, Colorado 80202
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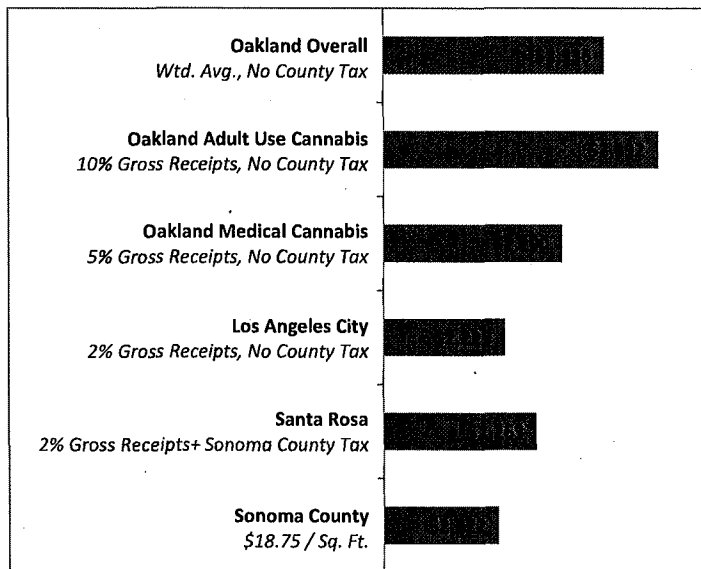
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Executive Summary

In May 2017, the Oakland Citizens for Equity and Prosperity (OCEP) retained the Marijuana Policy Group (MPG) to provide an overview of tax policy considerations for Oakland policymakers, and to estimate the economic impacts of cannabis cultivation and manufacturing for the City under various policy postures. Several **key findings** of the report are summarized below:

- California’s legal cannabis market will be the largest in North America, and **cultivation and manufacturing are the foundation of the industry.**
- The statewide **cultivation and manufacturing tiers of the supply chain could produce \$4.2 billion in total direct and indirect economic activity and 36,000 jobs, retail not included.** These statewide businesses can locate anywhere in the state.
- Cultivation and manufacturing operations—like businesses in any other industry—**will seek out locations that provide favorable conditions for business.**
- **A large share of California cities and counties are competing for market share** by attracting cultivators and manufacturers to generate tax revenue, employment, and economic activity.

Figure ES-1.
Tax Rates and After-Tax Wholesale Prices of Local Indoor-Cultivated Cannabis

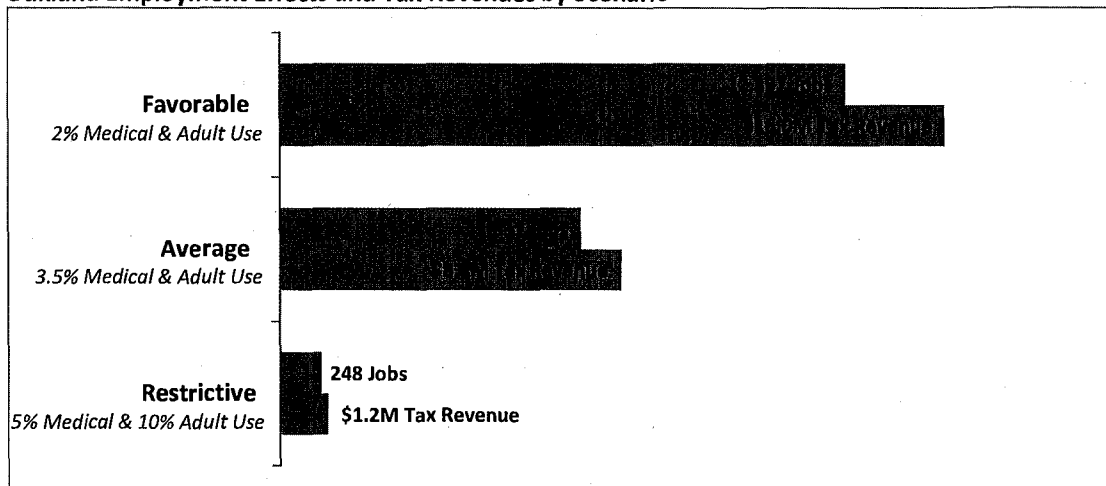


Note: After-tax prices include all State taxes, and underlying County taxes where noted.

- **Oakland currently imposes high wholesale cannabis taxes** compared to the other jurisdictions, based on a uniform price of \$2,040 per wholesale pound of indoor-cultivated flower.

- If Oakland hopes to capture a significant portion of the market, the City will need to adopt policies that are more **attractive to cultivation and manufacturing businesses** than those in competing jurisdictions.
- **City tax and zoning policy will influence the presence, market share, and competitiveness** of cannabis cultivation and manufacturing businesses in Oakland.
- **A larger market share will increase tax revenue benefits**, even if competitive tax rates are needed to attract businesses.
- **Lower taxes on wholesale transactions will provide an important incentive** to businesses that hope to compete on price in a large and competitive market for wholesale cannabis products.
- Retailers and consumption, however, are much more constrained by local demand. Higher taxes are less likely to affect where dispensaries locate or where consumers choose to purchase their cannabis, since **these decisions are much more local in nature**.
- Retailers and processors buy their cannabis inputs in large quantities and are price sensitive. They will **search for the lowest prices across regions when purchasing wholesale**, after accounting for quality and transportation costs.

**Figure ES-2
Oakland Employment Effects and Tax Revenues by Scenario**



- Figure ES-2 provides a summary of the estimated **tax revenue and employment impacts** of Oakland cultivation and manufacturing under three policy and market environment scenarios.
- If Oakland wholesale cannabis is priced too high, **the city could potentially lose cultivation and manufacturing market share** to other jurisdictions.
- Oakland could capture **\$8.2 to \$16.0 million in tax revenue and generate 3,600 to 12,400 jobs** if it can capture a large share of the regional and statewide supply chain.

- Businesses also consider **city zoning rules, licensing cost and availability, building requirements, setback requirements** and other factors when choosing a jurisdiction.

Other factors that affect virtually all industrial location decisions will undoubtedly impact cannabis producers in California, including the local availability and cost of suitable cultivation and manufacturing sites, water and electricity costs, and labor costs.

Introduction

On November 8, 2016, California voters approved Proposition 64, legalizing the cultivation, manufacturing, distribution, and consumption of cannabis for adult use. On June 28, 2017, Governor Brown signed Senate Bill 94 into law, also known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). Under these new State rules, the City of Oakland will face a number of regulatory decisions, including decisions regarding taxation policies for legal cannabis cultivation.

In June 2017, the Oakland Citizens for Equity and Prosperity (OCEP) retained Marijuana Policy Group (MPG) to provide an informative overview of the potential impacts of tax policy decisions for Oakland policymakers, and to estimate the economic impacts of cannabis cultivation and manufacturing under various City policy postures.

This policy paper provides 1) a discussion of tax policy and business site selection; 2) a review of cultivation tax policy in four comparable jurisdictions; 3) an analysis of state and regional demand for cannabis with a focus on Oakland cultivation and manufacturing, and 4) a quantification of potential economic and employment impacts on the local Oakland economy.

Tax Policy and Market Share Implications

Oakland's choice of tax policy, along with several other local factors, will ultimately influence the presence, market share, and competitiveness of its cannabis production businesses.

State Taxation. The State imposes a cultivation tax of \$9.25 per ounce of dry-weight flower, and \$2.75 per ounce of dry-weight trim under new tax rules defined by Proposition 64. At estimated market prices of \$2,040 per pound of high-quality indoor flower and \$100 per pound of trim¹, MPG estimates that wholesale prices will be \$2,188 for flower and \$144 for trim, after state taxes are applied. These state taxes apply to all medical and adult use transactions.²

Local Taxation. Under the MAUCRSA, each municipality has the authority to impose its own tax structure. While some jurisdictions may aim to entice cannabis vendors and producers with accommodating taxation and regulatory policies, others may deter their presence by imposing high taxes, restrictive regulations, or prohibiting adult use and medical business altogether. All

¹ An average indoor-cultivated flower price of \$2,040 per pound is based on the recent University of the Pacific study of the Sacramento cannabis market. The price of trim can range from \$100 to \$500 depending on quality, according to conversations with local market participants. However, cannabis prices fluctuate and are subject to overall market conditions, similar to any other commoditized consumer product.

² Under the MAUCRSA, medical and adult use cannabis businesses will be able to vertically integrate their operations, with some exceptions for testing lab and distribution licenses. Tax considerations for vertically integrated businesses are notable since transfers within a single business are not likely to involve the same wholesale price as used in the open market arms-length transactions. Without proper accounting and valuation mechanisms, vertically integrated businesses can potentially avoid paying taxes by declaring their cultivation-to-processor transfer prices lower than those in the open market. In Colorado, for example, the State calculates an Average Market Rate for wholesale transactions and applies this to all vertically integrated businesses in order to calculate cultivation excise taxes.

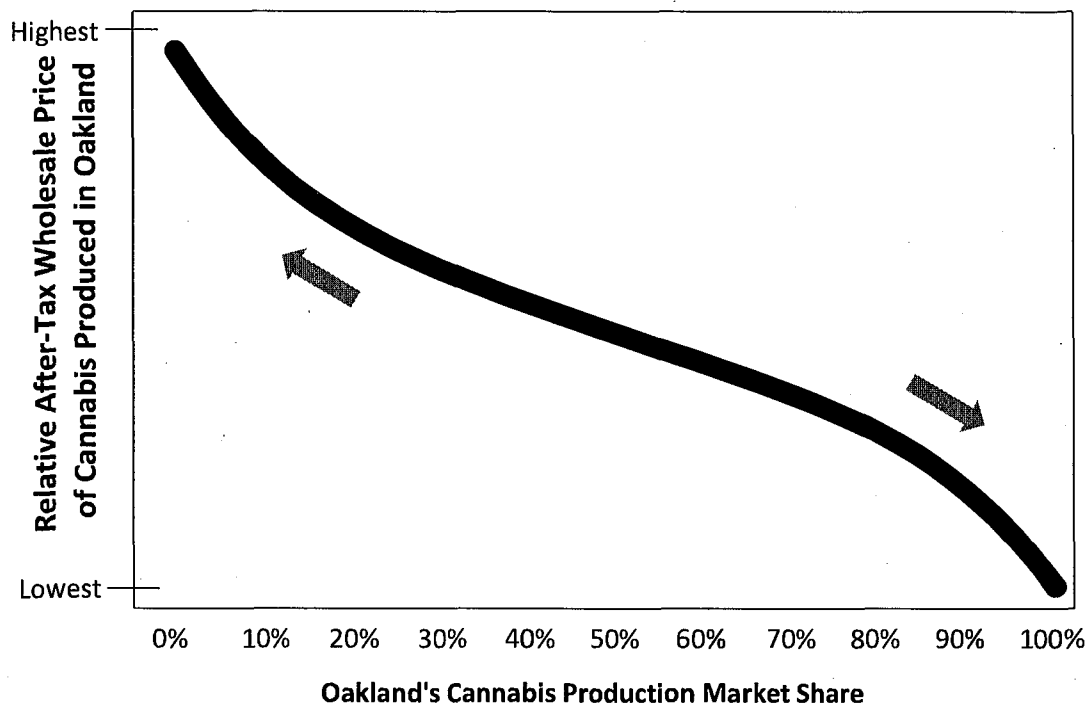
else being equal, cannabis producers will prefer to locate in lower-tax jurisdictions in order to compete in the state and regional markets on final after-tax wholesale prices.

Purchasing wholesale cannabis flower and trim is the primary input and largest cost of processors and retailers. These downstream businesses typically buy in large quantities and are highly price sensitive. Manufacturers and retailers are likely to search for the lowest prices across jurisdictions after accounting for quality and transportation costs. Suppliers with the lowest cost will likely capture a larger market share.

Manufacturers and retailers will prefer to obtain as much of their cannabis supply from Oakland as possible, if their prices are among the lowest in the state or region. Conversely, if Oakland prices are higher than other regions or clusters across the state, these businesses will prefer to purchase their cannabis inputs from other, cheaper sources.

Figure 1 below is a conceptual graph that illustrates this effect. The horizontal axis of the graph represents the portion of the overall market supplied by Oakland producers, while the vertical axis illustrates the relative price that downstream businesses would pay for Oakland cannabis products compared to that of cannabis products from competing jurisdictions.

Figure 1.
Relationship between Oakland’s Relative After-Tax Wholesale Prices and Regional Market Share



Source: MPG.

This curve represents the price elasticity of demand, or price sensitivity, among the businesses that purchase wholesale cannabis products from Oakland. A steep curve suggests that downstream businesses are less responsive to price changes than to other factors, and that a higher tax rate will not significantly impact Oakland market share, likely yielding higher tax revenues. A flatter curve suggests that those businesses are more sensitive to price than to other factors, so that an increase in the tax rate is more likely to reduce the market share for Oakland-produced cannabis, potentially resulting in reduced tax revenue collections if the demand reduction is sufficiently large.

Comparative Local Tax Policy Analysis

MPG examines the tax policy implications on wholesale flower prices in three potentially large production centers (Sonoma County, Santa Rosa, and Los Angeles), providing a comparative analysis with Oakland. This section focuses only on indoor cultivation, due to the urban environment in Oakland. We assume a uniform pre-tax price of \$2,040 per pound of indoor flower, similar to the University of the Pacific study of the Sacramento cannabis industry.³ For cities, we also consider the additional layer of taxation that will be imposed by the county.

Sonoma County. In March 2017, 72.4 percent of voters in Sonoma County approved Measure A, which allows the County to impose cultivation taxes of (1) up to \$38 per square foot (SF) for indoor growers⁴, or (2) up to ten percent of gross receipts for any cultivation business.⁵ The initial cultivation tax rate for “Medium” type cultivation permit holders (the largest and highest-taxed cultivation license available) is defined as \$18.75/SF for indoor grows.⁶ Based on an average annual production of 0.55 pounds of flower per square foot of indoor cultivation, MPG estimates an after-tax price of \$2,222 per pound for cannabis cultivated in the unincorporated areas of the County, which is equivalent to a 1.7 percent tax on gross receipts.

Santa Rosa. Voters in the City of Santa Rosa approved two taxation mechanisms under Measure D in the June 6, 2017 election, with 77 percent voter support. All indoor commercial cannabis cultivation businesses will be taxed at a rate “not to exceed either \$25 per square foot of cannabis cultivation area or eight percent (8%) of annual gross receipts.” For the first two years, the City will impose a low initial tax rate of only two percent (2%) of gross receipts or \$5 per square foot, with the option to raise the rate thereafter.^{7,8} Combining the gross receipts tax with MAUCRSA and Sonoma County taxes,⁹ MPG estimates the initial wholesale price of Santa Rosa flower will be \$2,263.

³ “Economic Impact Study of the Cannabis Sector in the Greater Sacramento Area.” Prepared by the Center for Business and Policy Research, Eberhardt School of Business, and McGeorge School of Law. October 17, 2016.

⁴ Sonoma defines per-square-foot taxes separately for mixed-light and outdoor cultivation businesses, however we only describe indoor cultivation as that is the most likely form to occur in Oakland’s urban environment.

⁵ <http://www.northbaybusinessjournal.com/opinion/6753820-181/sonoma-pot-cannabis-marijuana-tax?artslide=0>

⁶ <http://sonomacounty.ca.gov/WorkArea/DownloadAsset.aspx?id=2147528876>

⁷ <http://srcity.org/DocumentCenter/View/13996>

⁸ <http://www.pressdemocrat.com/news/6734029-181/santa-rosa-council-to-weigh>

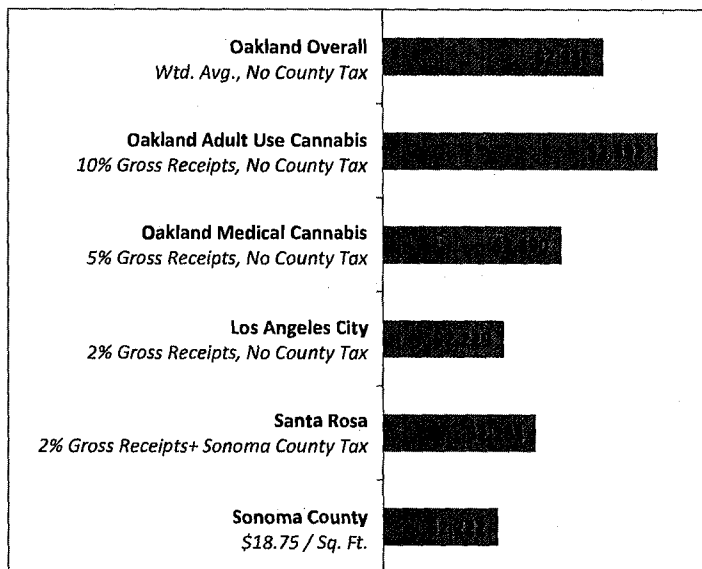
⁹ Cultivation businesses within Santa Rosa will be subject to both City and Sonoma County taxation.

Los Angeles. Voters in the City of Los Angeles approved Measure M in March 2017, authorizing a cannabis cultivation tax of two percent (2%) on gross receipts effective January 2018.¹⁰ Los Angeles County has not yet proposed or approved any form of cultivation tax. MPG estimates that in the absence of LA County taxation, growers in the City of Los Angeles will have an average wholesale price of \$2,229.

Oakland. The current cannabis taxes for Oakland cultivation were established by Measure V and approved by voters in November 2010. The measure imposes a five percent (5%) tax on the gross receipts of medical cannabis businesses, and a “Non-Medical Cannabis Business Tax” of ten percent (10%). At the time of this writing, there are no initiatives or measures to change these rates. Alameda County has not yet defined a cannabis cultivation tax. Based on State and City taxes only, MPG estimates that the 2018 after-tax price of one pound of medical flower cultivated in Oakland will be \$2,290, adult use flower will be \$2,392, and the overall weighted average price will be \$2,336.¹¹

After-Tax Prices. Figure 2 illustrates the different tax rates and mechanisms for each jurisdiction above, as well as the estimated after-tax wholesale price per pound of indoor cannabis.

Figure 2.
Tax Rates and After-Tax Wholesale Price per Pound of Locally-Cultivated Cannabis



Note: After-tax prices include all State taxes, and underlying County taxes where noted.
The Oakland Overall price uses a weighted average of 55.2 percent medical and 44.8 percent adult use cannabis cultivation.
Source: MPG.

¹⁰ [https://ballotpedia.org/Los_Angeles_California_Marijuana_Regulation_and_Taxation_Referred_Ordinance_Measure_M_\(March_2017\)](https://ballotpedia.org/Los_Angeles_California_Marijuana_Regulation_and_Taxation_Referred_Ordinance_Measure_M_(March_2017))

¹¹ We assume a distribution of 55.2 percent medical and 44.8 percent adult use for all cultivated cannabis in order to estimate the after-tax wholesale price of cannabis cultivated in Oakland, based on data from the first year of legalization in Colorado.

Based on current State and local tax schemes and an average wholesale price of \$2,040 per pound of indoor flower, the table above illustrates that Oakland's tax scheme will result in the highest after-tax prices compared to the three other jurisdictions described in this report, *without considering a potential Alameda County tax*. Compared to Sonoma County, one pound of indoor flower grown in Oakland is estimated to be \$114 more expensive (5.1 percent), \$73 more expensive than Santa Rosa (3.2 percent), and \$107 more expensive than Los Angeles (4.8 percent).

Depending on the price sensitivity of downstream businesses, Oakland could lose market share to cultivators in other jurisdictions that produce similar quality cannabis and have similar transportation costs, as illustrated previously in Figure 1. As an example, consider the demand for regionally-cultivated cannabis flower by price-sensitive retailers in Sacramento. The distance and transportation costs to Oakland and unincorporated Sonoma County are likely to be similar. If the quality of cultivated cannabis flower is also similar between both jurisdictions, then Sacramento businesses would purchase a larger share of their supply from Sonoma County growers, given the higher after-tax wholesale flower price in Oakland (\$2,222 versus \$2,336 per pound).

As cannabis producers decide where to locate and the market responds to pricing and other factors, a decrease in Oakland's market share will also cause a proportionate reduction in the potential for associated tax revenues and economic activity.

Total State and Regional Demand for Cannabis

To provide a basis for the potential share of state and regional cannabis supplied by Oakland producers, MPG estimates the total demand for cannabis in California, the Northern and Southern California Regions, and the Oakland metro area.

Methodology: MPG combines proprietary demand models with regional demographic data and use prevalence survey data in order to calculate total demand in terms of flower equivalent (FE) cannabis product.¹² Only the combination of these three components can yield an accurate and defensible point estimate of cannabis demand.

Results: MPG calculates the number of past-year and past-month cannabis users aged 21 and over for 2018 using cannabis use prevalence data from the most recent 2014-15 National Survey on Drug Use and Health (NSDUH) and 2018 population projections from the CA Department of Finance. Since the California medical cannabis registry for patients is voluntary,

¹² In light of recent studies and analyses of market data and trends, it is no longer appropriate to simply calculate demand in terms of "flower weight" or "buds". Instead, best practices suggest that demand should be calculated in terms of Flower Equivalent (FE) in order to account for the growing range and popularity of cannabis products such as edibles and concentrates. These products require differing levels of cannabis input in their production, and the different modes of consumption have differing pharmacological and psychoactive implications. As alternative consumption methods gain in popularity (in Colorado, more than 30 percent of spending on cannabis is for non-flower products), the FE approach to demand calculation takes into consideration the total amount of cannabis flower needed for demand that spans all product categories.

we combine estimates from the Marijuana Policy Project with MPG calculations to estimate the number of individuals with physician recommendations for medical cannabis. Figure 3 presents these estimates.

**Figure 3.
Adult California Resident
Cannabis User Estimates**

Source:
CA Dept. of Finance; NSDUH; MPP; MPG.

2018 Estimates	
Past-Month Medical Cannabis Patients	868,718
Past-Month Adult Cannabis Users, 21+	1,993,002
Past-Year Adult Cannabis Users, 21+	1,618,934
Total Past-Year Cannabis Users, 21+	4,480,654

MPG combines the user estimates above with detailed NSDUH data on California consumers' frequency of use and recent survey data on average daily consumption quantities to estimate the total demand for cannabis flower equivalent by adult Californians. We repeat this process to estimate the demand of out-of-state adult visitors, using 2016 domestic and international annual visitation data from Visit California¹³.

According to the estimates in Figure 1, medical cannabis patients account for approximately 30 percent of all past month users in California. However, survey data suggests that their typical consumption is twice that of the average adult user. Based on post-legalization patterns observed in Colorado, the relative ease of becoming a medical patient in California, and the large well-established state medical cannabis market, we estimate that small majority of the overall resident cannabis demand will be supplied by medical cannabis businesses during the first year of adult use sales. We estimate 55.2 percent of all demand for legal and regulated cannabis supplied by the medical market and 44.8 percent supplied by the new adult use market. This pattern was observed during the first year of Colorado legalization, but it has slowly shifted towards the adult use market in subsequent years.

While businesses licensed under MAUCRSA will provide the only legal sources of adult use and medical cannabis, the underground market is likely to persist in the early years, as observed in states that have legalized like Colorado and Washington. Given the uncertainties surrounding relative prices, quality, and availability of regulated cannabis businesses compared to the underground market, as well as the historical presence of a large and deep-rooted network of underground market growers, MPG estimates that 59.1 percent of all cannabis demand will be supplied by regulated businesses, while 40.9 percent will remain in the underground market. This split between the regulated and underground markets is based on data observed during the first year of legalization in Colorado. Since visitors are much less likely to have access to underground market supply channels, we assume that 95 percent of visitor demand will be supplied by regulated businesses.

¹³ <http://industry.visitcalifornia.com/Find-Research/California-Statistics-Trends/>

Figure 4 shows the estimated 2018 consumer demand for regulated cannabis flower equivalent by each California market segment, with a statewide annual total of 1.04 million pounds.

Figure 4.
Annual Consumer Demand for Cannabis Flower Equivalent

User Group	Share of Demand	Total Demand (000's of Lbs)	Regulated Market Share	Regulated Demand (000's of Lbs)*
CA Residents	-	1,638.0	-	968.1
CA Medical Cannabis Patients	55.2%	904.2	59.1%	534.4
CA Adult Users	44.8%	733.8	59.1%	433.7
Out-of-State Visitors (Recreational Only)	-	80.7	95.0%	76.6
Total 2018 Demand for CA Cannabis FE		1,718.7		1,044.7

Source: MPG.

Oakland Cannabis Market Share

We utilize the regional share of the total California population in order to estimate the share of statewide demand for regulated cannabis in the Oakland area, Northern California (NorCal), and Southern California (SoCal).

In order to be more competitive in the large supplier market, California producers will choose to establish their businesses in locations that offer the most compelling environment for their operations. Several local and regional factors will ultimately influence the size and shape of the cannabis production market in Oakland once MAUCRSA takes effect in 2018, including local taxes, real estate availability and prices, local business demand and wholesale opportunities, energy and water costs, and many others, as discussed in detail in later sections of this report.

We examine three policy and market scenarios for market share capture by Oakland producers, similar to the framework used in the 2016 University of the Pacific Sacramento study¹⁴. In the *Restrictive scenario*, Oakland would maintain the current 5 percent medical and 10 percent adult use gross receipts taxes (some of the highest taxes in the state), impose very restrictive operational regulations, and present limited local business opportunities that would encourage producers to locate in other jurisdictions and reduce the City's market share of total regional production. The Restrictive scenario describes the potential outcome if Oakland does not adjust the current tax rates to compete with other jurisdictions, resulting in businesses leaving for a more favorable locale. Figure 5 shows the potential tax rates for each scenario, as used in our analysis.

¹⁴ "Economic Impact Study of the Cannabis Sector in the Greater Sacramento Area." Prepared by the Center for Business and Policy Research, Eberhardt School of Business, and McGeorge School of Law. October 17, 2016.

**Figure 5.
Oakland Cannabis Policy Scenarios**

Scenario	Restrictive	Average	Favorable
Tax Rates	5% Medical; 10% Adult Use	3.5% Medical & Adult Use	2% Medical & Adult Use
Business Opportunities	Limited	Local	Broad
Regulations	Strict	Robust	Relaxed

Source: MPG.

Figure 6 describes the adult demand for regulated cannabis in each geographic area, the Oakland market share capture rate, and the resulting demand for raw and processed cannabis flower equivalent (FE) produced in Oakland, under each of the three scenarios.

**Figure 6.
Regional Demand for Wholesale Pounds of Flower Equivalent Cannabis Products Cultivated and Processed in Oakland, by Scenario**

	Oakland Area	NorCal	SoCal	Total
Share of 2018 Adult CA Population	1.1%	38.1%	60.9%	100.0%
Total Demand (thousand pounds of FE)	11.0	397.7	636.0	1,044.7
Regional Market Share Supplied by Oakland Cultivation				
Restrictive	30%	1%	0%	-
Average	65%	25%	0%	-
Favorable	85%	65%	15%	-
Total Demand Supplied by Oakland Supply Chain (thousand pounds of raw & processed FE)				
Restrictive	3.3	4.0	0.0	7.3
Average	7.1	99.4	0.0	106.6
Favorable	9.3	258.5	95.4	363.2

Source: MPG.

MPG estimates that Oakland cultivators and processors will supply just 7,300 pounds of cannabis flower equivalent products to the wholesale market in the Restrictive scenario, 106,600 pounds in the Average scenario, and 363,200 pounds in the Favorable scenario.

Oakland Cultivation and Manufacturing Market Size and Tax Revenues

This section examines the potential market size and tax revenue for cannabis cultivation and manufacturing. Retail sales are not a part of this study, because consumers are generally less sensitive to tax policy than producers. For example, an individual from Oakland is less likely to drive to Los Angeles to save ten percent on their small personal purchase than a processor, who may buy tens of thousands of dollars of product per month.

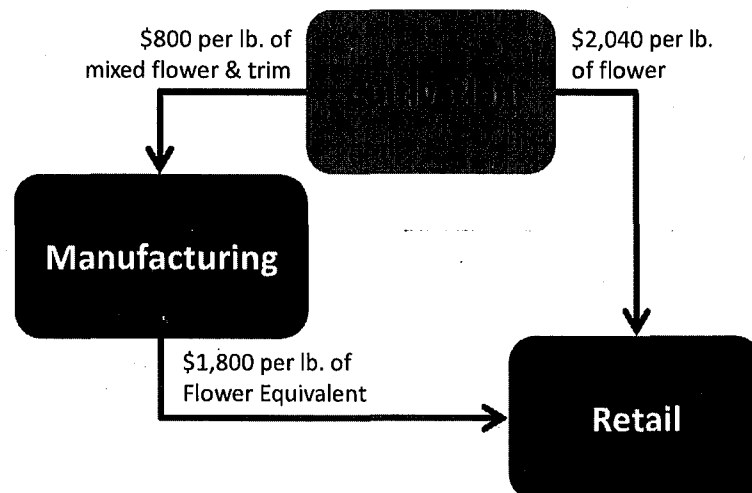
In order to estimate the wholesale market size for raw cultivated cannabis and infused products manufactured in Oakland under each scenario, MPG uses a wholesale price of \$2,040 per pound of high-quality indoor flower sold from cultivators directly to retailers.

Processors are typically willing to purchase relatively inferior raw cannabis material since their focus is on THC content for extraction. They often purchase large amounts of trim and lower-quality flower for manufacturing, which generally have much lower wholesale prices than the high-quality flower sold to retailers for smoking or vaporization. MPG applies a discounted price for cultivated materials sold to processors and estimates the share of raw material sold from cultivators to processors and retailers based on observed wholesale and product transfer data from the Colorado supply chain.

Based on Colorado production and sales data, MPG also estimates the wholesale price markup on manufactured goods, relative to the cost of the inputs. Figure 7 illustrates the prices and product flow of cannabis through the supply chain. Raw cannabis is first produced by cultivators, with a portion sold directly to retailers at \$2,040 per pound of flower. The remainder is sold to processors for manufacturing at \$800 per pound of combined flower and trim. Processors then extract and manufacture infused products, which are sold to retailers at a 200 to 300 percent markup over the input prices.¹⁵

Figure 7.
Cultivated Cannabis Supply
Chain Flow Diagram

Source:
MPG.



All wholesale transactions from cultivators and processors in the model are taxed based on the market share split between the medical and adult use markets described above. Figure 8 shows the total estimated market value and the tax revenues for Oakland cultivation and manufacturing under each scenario.

¹⁵ Based on interviews with local market participants, manufacturers purchase a mix of lower-quality flower and trim for their cannabis material inputs, and mark up the manufactured product by 200 to 300 percent over the cost of the inputs.

Figure 8.
Oakland Cultivated Cannabis Market Value and Tax Revenues, by Scenario

Scenario	Total Wholesale Demand (000's Lbs of FE)	Wholesale Market Value	Wholesale Tax Revenues*
Cultivation Wholesale			
Restrictive	7.3	\$12,130,308	\$878,234
Average	106.6	\$177,750,378	\$6,221,263
Favorable	363.2	\$605,886,497	\$12,117,730
Manufacturing Wholesale			
Restrictive	2.2	\$3,927,078	\$284,320
Average	32.0	\$57,545,086	\$2,014,078
Favorable	109.0	\$196,150,305	\$3,923,006
TOTAL			
Restrictive		\$16,057,386	\$1,162,555
Average		\$235,295,464	\$8,235,341
Favorable		\$802,036,802	\$16,040,736

Note: Assumes 55.2 percent of all cultivation is medical and taxed at five percent of gross receipts, and 44.8 percent is adult use cultivation at ten percent of gross receipts.
The Restrictive scenario utilizes Oakland's current 5 percent gross receipts tax on medical businesses and 10 percent tax on adult use businesses; the Average scenario assumes a 3.5 percent tax for all cannabis businesses; the Favorable scenario utilizes a two percent gross receipts tax on all cannabis businesses.

Source: MPG.

At current Oakland tax rates, very little cultivation or manufacturing is expected to take place in the City, generating a total estimated potential tax revenue of just \$1.2 million (not including tax revenue from retail sales). In the Average scenario where Oakland producers serve most of the local demand and a small portion of regional demand, the City would collect an estimated \$8.2 million. The presence of Favorable policy and market conditions in the City could generate wholesale cannabis tax revenues of \$16.0 million.

Oakland Economic Output and Employment Impacts

In this section, MPG computes the economic impacts of the cultivation and manufacturing sectors under each of the production market share scenarios. MPG is the only entity, worldwide, that can accurately calculate economic effects from cannabis production as we are the only firm with access to official transaction-level data for an entire state industry.¹⁶ In order to accurately assess the economic impact, the model needs *all* production and sales data for an entire state. For these reasons, MPG's "Marijuana Impact Model" is the only accurate and reliable model of the economic impacts associated with the legal cannabis industry.

¹⁶ MPG is the first and only entity with official, transaction-based data for an entire state. Economic studies by other entities (universities, consultancies, private firms) can only use "hypothetical" types of data inputs to characterize the size of each cannabis segment. This is because other entities do not know the system-wide shares for each product type sold, for manufacturing, and for cultivation shares between flower and trim.

The Marijuana Impact Model was used to compute the employment and output effects related to each of the three scenarios,¹⁷ using the total wholesale values of cultivation and manufacturing inputs to the model. Figure 9 shows the results for these sectors.

Figure 9.
Oakland Economic Impacts of Cannabis Cultivation and Manufacturing, by Scenario

	Restrictive	Average	Favorable
Economic Impacts (\$ millions)			
Total Change in Oakland's Economic Output	\$29.4	\$431.3	\$1,470.3
Cultivation Economic Impact	\$21.7	\$318.2	\$1,084.5
Manufacturing Economic Impact	\$7.7	\$113.2	\$385.7
Number of Jobs Created			
Total Oakland Jobs Created (FTE):	248	3,637	12,397
Cultivation	192	2,819	9,608
Manufacturing	56	818	2,789

Source: MPG calculations using our "Marijuana Impact Model".

Under the Restrictive scenario, Oakland producers will generate a combined \$29.4 million in new additional economic output, with a total of 248 jobs created by cultivation and manufacturing businesses. The Average scenario features a much more robust Oakland production presence, generating an estimated total economic impact of \$431.3 million and 3,637 jobs. In the Favorable scenario, the overall economic impact is estimated at \$1.5 billion, with 12,397 total jobs.

Other Local Factors for Market Share

Local tax policy and relative after-tax wholesale prices are important factors in the state and regional market share captured by Oakland producers. However, there are other important local policy and business environment considerations that will influence whether cultivation and manufacturing businesses decide to locate in Oakland. This chain reaction will ultimately determine the market share captured by these Oakland producers and the potential tax revenues and economic impacts associated with the wholesale of Oakland cannabis products.

Cannabis Application & Licensing Fees

Some of the greatest barriers to entry for cannabis businesses are the required local licenses and permits needed to legally establish and operate their enterprise. Cannabis businesses must often acquire cannabis-specific licenses in addition to any other necessary local zoning or building

¹⁷ MPG estimates the total impact of cultivation and manufacturing on Oakland economic activity using our proprietary Marijuana Impact Model. The economic output methodology accounts for the direct effect of dollars spent on wholesale cannabis purchases, the indirect effect of business spending on intermediate inputs and professional services, and the induced effect of employee expenditures. The employment model includes direct and indirect job creation that results in employee expenditures in the local market.

permits. There can be significant monetary and time costs associated with these licenses, such as application and annual fees, as well as burdensome paperwork.

Licensing and application fees for cannabis licenses are designed to recoup the administrative costs of reviewing and issuing licenses. These fees could decrease as a City's capacity to efficiently process licenses evolves, or they could potentially increase if the City imposes more demanding licensing requirements. In Oakland, it may be possible to leverage the City's experience with medical cannabis to more efficiently process new MAUCRSA licenses. This could allow lower fees than jurisdictions that do not have experience with cannabis businesses.

Local licensing entails substantial (and often non-refundable) monetary costs, so jurisdictions with lower fees are likely to attract more business applications since businesses have less at risk with lower non-refundable application fees. Lower annual licensing fees are attractive because, as an overhead cost, lower fees can improve the bottom line profitability of a cannabis business.

The State and many local municipalities are currently in the process of developing new licensing processes and fees under MAUCRSA. MPG provides an overview of existing cannabis cultivation fees in each of the jurisdictions discussed above in order to describe the relative attractiveness of each location in terms of application and licensing costs.

It is important to note that other types of fees are applicable to all businesses, such as zoning and building permit fees. This study does not examine detailed standard building or zoning fees in each jurisdiction, but it should be noted that more restrictive general permitting requirements may be less attractive to prospective businesses.

Oakland. The Oakland Municipal Code establishes fees payable to the City Administrator's Office for all medical cannabis businesses. All applicants must pay an application fee of \$2,474 for each Medical Cannabis Permit Application, regardless of business type (i.e. cultivation, manufacturing, retail).¹⁸ Annual licensing fees for Oakland medical cannabis cultivators are based on the volume of the business' gross sales, as shown in Figure 10 below.¹⁹

Figure 10.
Annual Oakland Cannabis Licensing Fees

Source:
City of Oakland.

Annual Gross Sales	Annual Licensing Fee
> \$150,000	\$11,173
\$50,000 - \$150,000	\$5,586
< \$50,000	\$2,790

The City has appointed a Cannabis Regulatory Commission²⁰ to further develop Oakland cannabis policy under MAUCRSA, however the application process and fees for adult use

¹⁸ <http://www2.oaklandnet.com/government/o/CityAdministration/OAK064043>

¹⁹ <http://cannabusinesslaw.com/2017/01/commercial-cannabis-latest-update-oakland-permitting-and-regulations/>

²⁰ <http://www2.oaklandnet.com/government/o/CityAdministration/d/CannabisRegulatoryCommissionformerlyknownasMeasureZCommittee/index.htm>

cultivation businesses have not yet been determined. As the City explores licensing fee options, they should carefully review the processes and fees of other jurisdictions to design and implement fees that are attractive to cultivation businesses.

Sonoma County. Sonoma County does not currently define cannabis-specific fees in the unincorporated area. However, the Sonoma County Cannabis Regulatory Commission currently meets once a month, and is in the process of developing regulations for medical and adult use cannabis activities. The Commission plans to begin issuing cultivation permits by July 1, 2017.²¹ As these regulations are developed and finalized, application and licensing fees are likely to be adopted.

Ordinance 6189, passed in December 2016, defines the allowed zones in the County's unincorporated area for medical cannabis cultivation businesses. The largest permissible indoor cultivation businesses (10,001 – 22,000 sq. ft.) are restricted to industrial zones,²² and are required to secure a Minor Use Permit (MUP), the fee for which depends on the site's zoning classification. A Summary Report the County Board of Commissioners estimates that Minor Use Permits for cannabis businesses will cost between \$2,000 and \$6,000.²³

Santa Rosa. Measure D was approved by Santa Rosa voters in June 2017 and imposes an annual business registration fee of \$100 for all cannabis businesses. The measure allows the City Council to adjust this fee by resolution. Additional licensing and application fees have not yet been adopted or proposed for MAUCRSA licenses.

Santa Rosa City Code 20-46 defines land use permit requirements for medical cannabis cultivation businesses. Indoor cultivations with more than 10,000 sq. ft. are restricted to industrial zones and require a Major Conditional Use Permit (CUP), which entails a public hearing and action by the Planning Commission.²⁴

Los Angeles City. Voters approved Measure M in March 2017, authorizing the City Council to establish new regulations and enforcement measures for commercial cannabis activity. The Measure does not explicitly address licensing fees, however the City Council is likely to develop fees under the Measure. To date, the City has not yet established new regulations for commercial cannabis businesses under MAUCRSA, aside from the taxes described in the previous section.

Denver Example. Since many of the California jurisdictions above have not yet adopted licensing fees, MPG use the City of Denver as an example of licensing and application fees. The City of Denver sets its annual license fees to recover the cost of regulation and enforcement. New medical cultivation licenses require a \$2,000 non-refundable application fee, plus an annual

²¹ <http://sonomacounty.ca.gov/CAO/Cannabis/Adopted-Medical-Cannabis-Program-Ordinances-and-Policies/>

²² <http://sonomacounty.ca.gov/WorkArea/DownloadAsset.aspx?id=2147528869>

²³ <http://sonomacounty.ca.gov/WorkArea/DownloadAsset.aspx?id=2147528348>

²⁴ <http://srcity.org/DocumentCenter/Home/View/3106>

\$3,000 licensing fee. New adult use licenses require a \$2,500 application fee and a \$5,000 annual licensing fee.^{25,26} These local fees are in addition to State licensing fees.

Locational Factors

There are a host of other factors that impact virtually all industrial location decisions and that undoubtedly will impact cannabis cultivators in California. Corporate siting choices generally involve cost minimization related to the following factors or, in the case of labor and water quality, demonstration of an acceptable standard for cannabis production and manufacturing. The cannabis industry will be no different than other industries as companies attempt to optimize physical, market and economic factors to provide the most benefit for employees, shareholders and customers. The following factors warrant discussion:

- **Suitable cultivation sites.** There will likely be some degree of increased demand in all cities that have suitable, appropriately zoned indoor and outdoor cultivation sites. Cities and counties will have some control over inventories through their zoning powers or through moratoria. Cultivators will require sites that are large enough, in the appropriate industrial zone, with appropriate utilities, and in the closest proximity to market.
- **Leasing or purchase cost.** Regional commercial lease and/or purchase rates are another important factor for cultivators when considering where to locate. Prices are currently volatile because state and local regulations are not yet in final form. Until regulations are finalized and the current supply of cultivation sites is known, volatility will continue. Another complexity further restricting supply is that some owners will not be able to access traditional capital markets for financing if their tenants cultivate cannabis. Industrial space suitable for indoor cannabis cultivation is often 2-3 times more expensive than average due to the additional scarcity.²⁷ Depending on preferences for outdoor and greenhouse cultivations, urban areas may be at a disadvantage as prices are comparatively higher than their more rural neighbors.
- **Input prices.** Indoor cultivation is most likely to occur in Oakland, and electricity and water rates are significant production costs. Large scale indoor cultivators will look to minimize production costs by choosing locales with favorable utility rates. Outdoor and greenhouse cultivation sites located around the state will allow for significantly lower production costs, although with a lesser quality product and arguably a different market segment.
- **Labor.** Access to a quality, licensed workforce is a critical factor in deciding where to locate a cultivation facility. The state of California will likely require additional vetting procedures for employee licensing. Oakland has a comparative advantage over competing cities due to its location in a densely populated urban area and its progressive equity licensing

²⁵ <https://www.denvergov.org/content/denvergov/en/denver-business-licensing-center/marijuana-licenses/medical-marijuana.html>

²⁶ <https://www.denvergov.org/content/denvergov/en/denver-business-licensing-center/marijuana-licenses/retail-marijuana.html>

²⁷ <http://www.businessden.com/wp-content/uploads/2015/10/CBRE-marijuana-report.pdf>

programs. However, Oakland like the rest of the immediate San Francisco Bay Area also has a markedly high labor cost and cost of living compared to the rest of California and consequently starts with a commensurate competitive disadvantage. A steady labor pool is imperative to cultivator and manufacturer development efforts.

- **Water quality.** Water quality is specific to each region and is a significant consideration in cannabis cultivation. Good water quality can eliminate the need for costly additional filtration systems. Capable water treatment is also required, although cannabis cultivation does not create demands on wastewater treatment beyond comparable industries.

Locational factors are often as important as economic factors when deciding where to site cannabis cultivation facilities. Local governments cannot control all the variables discussed above, but should consider whether they have a competitive advantage or disadvantage in the above factors when deciding how to set zoning and tax policy.

Summary

Some California municipalities and counties are competing for a larger share of the world's largest cannabis market by adopting and implementing policies to attract cultivators and processors. A larger local cannabis business presence will generate higher tax revenues, employment, and economic activity. Cultivators and processors are the foundation for all retail and distribution activity in the industry. Jobs in these sectors are usually higher paying, compared to other industry jobs.

If Oakland hopes to capture a significant portion of the local and regional market – and the associated benefits – the City will need to adopt policies that are more attractive to cultivation and manufacturing businesses than those in competing jurisdictions. In response to these policy choices, cultivation and manufacturing businesses will – like businesses in any other industry – seek out a jurisdiction that provides the most favorable conditions for business.

Lower tax rates provide a significant incentive to businesses that hope to compete on price in a large and competitive market for wholesale cannabis products. It will ultimately be up to the City to decide if it will welcome a new agriculture and manufacturing industry through its policies and regulations. These choices will have significant impacts on cultivation and manufacturing industry size, employment, and tax revenue.