

FILED
OFFICE OF THE CITY CLERK
OAKLAND

February 21, 2022

22 FEB 22 AM 9:51

VIA HAND-DELIVERY

Ms. Asha Reed
City Clerk, City of Oakland
1 Frank H. Ogawa Plaza
First and Second Floors
Oakland, CA 94612

RE: Resubmission of Progressive & Equitable Oakland Business Gross Receipts Tax

Dear Ms. Reed:

Enclosed please find a "Notice of Intent to Circulate Petition," and the text for a proposed initiative ordinance in the City of Oakland, "Progressive & Equitable Oakland Business Gross Receipts Tax". We request that you immediately forward a copy of the proposed ordinance to the City Attorney for preparation of a Ballot Title and Summary.

Also, enclosed please find a copy of the proponents' signed statements required by California Elections Code section 9608.

Thank you for your assistance in this matter. As soon as the Ballot Title and Summary are prepared, please e-mail a copy to our legal counsel Jim Sutton (jsutton@campaignlawyers.com; 415/732-7700).

This letter authorizes you and other City officials to correspond with Jim Sutton for all matters related to Progressive & Equitable Oakland Business Gross Receipts Tax. Please direct all correspondence and questions regarding this initiative ordinance to Mr. Sutton.

Sincerely,



Jeff Lee

5741 Chelton Drive

Oakland 94611

cc: James R. Sutton, Esq.

Enclosures

22 FEB 22 AM 9:51 Proponent's Signed Statement Pursuant to Elections Code Section 9608

Pursuant to California Elections Code section 9608, I, as the proponent, hereby submit this signed statement with regard to Progressive & Equitable Oakland Business Gross Receipts Tax as follows:

I, Jeff Lee acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Dated this 21 day of February, 2022



Jeff Lee

5741 Chelton Drive

Oakland 94611

Notice of Intent to Circulate Petition

22 FEB 22 AM 9:51

Notice is hereby given by the persons whose names appears hereon of their intention to circulate the petition within the City of Oakland for the purpose of repealing and replacing Chapter 5.04 of the Oakland Municipal Code, to implement and institute a more progressive gross receipts tax on Oakland businesses.

A statement of the reasons of the proposed action as contemplated in the petition is as follows:

Oakland needs a progressive business tax structure that imposes higher rates on businesses that earn more gross receipts and that is fair, equitable and helps small businesses which form the backbone of Oakland's economy. The City Council is considering a new tax rate that will discourage, and most likely prevent, business and job growth in Oakland. Their proposal also provides the City Council with an open checkbook with no limits and no assurances that the money will be spent on the issues of most concern to Oaklanders. Oaklanders Together is proposing a progressive tax structure, where larger businesses pay their fair share and small businesses receive real financial relief. It requires that the increase in tax revenue be spent on homeless shelters and services, small business sustainably, and efforts to clean up the trash that plagues our city.

Oaklanders Together is a group of Oakland's Business Improvement Districts, five Chambers of Commerce and other business and community serving organizations. The Oaklanders Together measure guarantees that funds will be spent on the priorities of Oakland residents – not at the whim of the City Council - while protecting our city's economy and local jobs. Oaklanders - by a two to one margin - want revenues raised to be spent on what they believe is important. We need to grow our tax base in Oakland, attract new tax paying businesses and increase our workforce—not jeopardize our future by imposing tax increases that are inherently too risky for Oakland's long-term fiscal stability.

What small businesses need is customers: patrons visiting their establishments to buy food, clothing, gifts, hotel rooms, groceries etc. Oaklanders know that a robust local economy and vibrant commercial centers are also strong deterrents to crime. The pandemic shutdowns have devastated business and tourism across the city, resulting in vacant buildings and empty sidewalks. Oakland and our small businesses deserve a progressive business tax that will not only support much needed services but will also bring businesses back and deliver on what it promises, particularly at a time of great uncertainty of how and where people will work in the future.

This measure will deliver dollars to provide physical shelter for our homeless neighbors as well as funding the supportive services necessary so they can find permanent housing. It will provide funding for our commercial corridors and our neighborhood shopping districts so our residents can support our local businesses

safely. The measure will also provide grants to our local small businesses that have been hit so hard by the Covid Pandemic. It will provide funds to the City and nonprofit organizations to clean the trash and illegal dumping that occurs on too many of our streets, parks and public spaces.

Please sign this petition so our Oakland voters can approve a progressive and fair tax that will protect and support small businesses, help shelter the homeless and clean our streets.



Jeff Lee

5741 Chelton Drive

Oakland 94611

2/21/22
February 21, 2022

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PROGRESSIVE & EQUITABLE OAKLAND BUSINESS GROSS RECEIPTS TAX

SECTION 1. Title.

This measure is known and may be cited as the **Progressive & Equitable Oakland Business Gross Receipts Tax**.

SECTION 2. Purposes.

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 businesses of all sizes support the adoption of a progressive tax structure which imposes higher rates on businesses which earn more gross receipts; and

WHEREAS, small local and underserved businesses in Oakland have suffered the impacts of the COVID pandemic with the greatest job losses and financial impacts; and

WHEREAS, a three-year tax holiday for small businesses will help such businesses recover from the COVID pandemic; and

WHEREAS, the extent and persistence of the worldwide pandemic and transition to remote work across a broad range of industries and job functions remains a source of substantial uncertainty for Oakland; and

WHEREAS, a phased-in progressive tax structure would create a better business environment to grow jobs and attract new businesses while also providing additional funding for City services; and

WHEREAS, Oakland's business ecosystem is reliant on businesses of all sizes to ensure a strong foundation and sustainable future for our local economy; and

WHEREAS, many of Oakland's small businesses are dependent upon the employees of larger businesses; and

WHEREAS, as Oakland's economy emerges from a global pandemic it is imperative that a progressive tax system generate revenue for services important to Oaklanders, not result in a loss of jobs; and

WHEREAS, economists and City staff have cautioned the City Council not to adopt a tax structure which would increase the City's fiscal dependency on a limited

number of businesses which have the means and the resources to divert their existing or new workforce to other places; and

WHEREAS, Oakland voters by a 2-to-1 margin do not support unrestricted tax revenues derived from a business tax accruing directly to the City's General Purpose fund spent at the sole discretion of the City Council; and

WHEREAS, this business tax will dedicate revenues raised from the implementation of a progressive tax structure, in which larger businesses will pay their fair share and whereby small businesses will receive a tax holiday for three years and pay no business license taxes, to specific, needed purposes; and

WHEREAS, the revenues raised by the business tax will be dedicated to the priorities of Oaklanders, identified by public opinion polling conducted in October 2021, including providing shelter and related services for our unhoused neighbors, grant and marketing support for Oakland small and underserved businesses and Business Improvement Districts, protecting our retail corridors, and creating a cleaner city by providing funds directly for picking up trash and stopping illegal dumping.

SECTION 3. Business Tax Code Amendments.

Chapter 5.04 of Title 5 of the Oakland Municipal Code, governing imposition of Oakland's business tax, is repealed in full and restated to read as follows:

5.04.010 Short title.

This Chapter shall be known as "The Progressive & Equitable Oakland Business Gross Receipts Tax Ordinance."

5.04.020 Business Tax.

A. Imposition of Business Tax. Pursuant to the terms of this Chapter, the City imposes, and every person engaging in business activities within the City shall pay, an annual business tax.

B. Business Certificate Requirements. Every person conducting any business activity in the City shall obtain an annual business tax certificate from the City and pay the annual business tax described herein. Except as otherwise specifically provide, the City shall collect business taxes and issue business tax certificates on a calendar year basis. The carrying on of any business without procuring a certificate shall constitute a violation of this code for every day that such business is carried on. A separate certificate must be obtained for each and every business activity at each and every branch

establishment or separate place of business at which business activity takes places, subject to the requirements to obtain a “master certificate” as defined in 5.04.320.

C. Use of Funds. The business tax is a tax imposed upon persons engaging in business within the City for the privilege of engaging in a business or occupation in the City. Except as otherwise provided herein, the business tax is imposed for the specific purposes outlined herein.

D. Intent. This Chapter authorizes application of the business tax in the broadest manner consistent with the provisions of this Municipal Code and the requirements of the California Constitution, the United States Constitution, and any other applicable provision of City, federal or state law.

E. Effect of State and Federal Authorization. To the extent that the City’s authorization to impose or collect any tax imposed under this Chapter is expanded or limited as result of changes in state or federal laws, or judicial interpretations of those laws, no amendment or modification of this Chapter shall be required to conform the taxes to those changes, and the taxes are hereby imposed in conformity with those changes, and the City shall collect them to the full extent of the City’s authorization up to the full amount and rate of the taxes imposed under this Chapter.

5.04.030 Effective Date and Transition.

A. It is the intent of the People of Oakland that the tax rates and policies imposed by the Chapter take effect on January 1, 2023, except as otherwise provided herein.

B. The rates provided in this Chapter shall be effective with respect to any 2023 business tax certificate and for each following year. Any business tax certificates issued to a newly established business for operation in 2022 shall pay business tax pursuant to the rates that were effective at the time the person seeking the certificate submitted their initial application.

C. Any taxes, penalties, fees, interest, liens, or debts imposed pursuant to any previous versions of this Chapter remain equally collectible and enforceable, notwithstanding any amendments. The City may pursue such taxes, penalties, fees, interest, liens, or debts in any manner allowed by law and the most current version of this Chapter.

D. It is the intent of the People of Oakland that any tax increases imposed by this Chapter are phased in over a three-year period.

E. Any increases which this Chapter makes to the tax liability of a business shall be phased in over a three-year period, with businesses paying 40 percent (40%) of any business tax increase in the first year, 70 percent (70%) of any business tax increase in the second year, and 100 percent (100%) of any business tax increase in the third year.

5.04.040 General Definitions.

Except where the context otherwise requires, the following definitions apply to this Chapter.

“Business” means any activity, enterprise, profession, trade, or undertaking of any nature conducted or engaged in, with the object of gain, benefit or advantage, whether direct or indirect, to the taxpayer or to another or others. “Business” shall include any transaction which is or which, in effect results in a sale, but shall not include the services rendered by an employee to their employer.

“Certificate” means a business tax certificate issued to a person pursuant to this Chapter evidencing the payment of or declared intent to pay the business tax.

“City” means the City of Oakland, a California Charter City.

“Engaging in business” means commencing, conducting, or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators hold themselves out to the public as conducting such business.

“Firearms” means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion, or other form of combustion. The term also includes any rocket, rocket-propelled projectile launcher, or similar device containing any explosive or incendiary material and not designed for emergency or distress signaling purposes.

“Firearms ammunition” means any projectiles with their fuses, propelling charges, or primers fired from weapons, and any of the individual components of such projectiles, including, but not limited to, black powder and reloading primers.

“Gross payroll” means and includes the total gross amount of all salaries, wages, commissions, bonuses, or other money payment of any kind that a person received from, or is entitled to receive from or be given credit for by, their employer for any work done or personal service rendered in any trade, occupation, or profession, including any kind of deductions before “take home” pay is received. “Gross payroll” does not mean or include amounts paid to traveling salespersons or other workers as allowance or reimbursement for traveling or other expenses incurred in the business of the employer, except to the

extent of the excess of such amounts over such expenses actually incurred and accounted for by the employee to the employer.

“Gross receipts,” except as otherwise specifically provided, means the taxpayer’s gross receipts of the preceding fiscal year or part thereof, and is defined as follows: the total amount actually received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, or other emoluments, however designated. Included in “gross receipts” shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever.

Notwithstanding the foregoing, and notwithstanding any contrary provision herein, the following shall be excluded from the definition of gross receipts:

1. Cash discounts allowed and taken on sales;
2. Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;
3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
4. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
5. Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person’s own account, not derived in the ordinary course of a business.
6. Receipts derived from the occasion sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer’s business;
7. Receipts of community chest funds, foundations or corporations organized and operated for religious or charitable purposes, which are not conducted for profit and

no part of the net earnings of which inures to the benefits of any private shareholder or individual;

8. Receipts of nonprofit educational institutions of collegiate grade, defined herein to mean institutions incorporated as colleges or seminaries under the laws of the State of California; receipts of nonprofit secondary schools which are duly accredited by the University of California, and receipts of nonprofit elementary schools in which instruction is given to students in the preprimary grades in the several branches or studies required to be taught in the public schools of the State of California;

9. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they shall be included in the amount of gross receipts for the period when they are recovered; and

10. Receipts from services or sales in transactions between related entities, as defined by 5.04.430.

11. Receipts from business activities if, and only so long as and to the extent that, the City is prohibited from taxing such receipts under City, state or federal law.

“NAICS” means the numerical classification for business activities established in the North American Industry Classification System used by federal governmental agencies to classify business establishments; references in this Chapter to particular numerical NAICS codes are intended to apply the definitions and descriptions adopted in that system as of the effective date of this Chapter.

“Newly established business” is defined as:

1. A person conducting a particular business activity in the City for the first time; or

2. A business which resumes operation in the City after having been out of operation in the City during the entire previous tax year.

In any case, “newly established business” does not include a person for whom a “related entity” as defined by 5.04.430 is already in operation in the City.

“Person” means any natural person, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, limited liability company, municipal corporation,

political subdivision of the state of California, domestic or foreign corporation, association, syndicate, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, and the United States or any instrumentality thereof, and any natural person, who as an individual or with a spouse, owns fifty-one percent (51%) or more of the capital stock of a corporation obligated to file a declaration and pay tax pursuant to this Chapter; and in addition, is a person with the power to control the fiscal decision-making process by which the corporation allocates funds to creditors in preference to its tax obligations under the provisions of this Chapter. A person as defined herein, who is also an officer or director of a corporation obligated to file declarations and pay tax pursuant to this Chapter, shall be presumed to be a person with the power to control the fiscal decision-making process. Whenever the term “person” is used in any clause prescribing and imposing a penalty, the term as applied to any association shall mean the owners or part owners of such association, and as applied to any corporation, shall mean the officers of such association.

“Residential and non-residential rental businesses” means engaging in any of the following business activities, as defined below: “residential rental” and “non-residential rental.”

“Sale” and “sell” means any transfer of title to property for a price by any manner or means, and to the serving, supplying, or furnishing, for a price, of any property fabricated or made at the special order of consumers who do or do not directly or indirectly furnish the specifications for such special order. “Sale” also includes any transaction where the possession of property is transferred, but the seller retains the title as security for the payment of the price.

“Shall” and “may.” “Shall” is mandatory, “may” is permissive.

“Tax” or “business tax” means the charge for issuance of a certificate pursuant to this Chapter.

5.04.050 Business Activity Definitions.

“Administrative headquarters” means a location where the principal business transacted consists of providing administrative or management related services such as, but not limited to, recordkeeping, data processing, research, advertising, public relations, personnel administration, legal, and corporate headquarters services, to other locations where the operations of the same business are conducted which lead more directly to the production of gross receipts.

“Ambulance service” means either providing transportation of patients by ground or air, along with medical care, in vehicles that are equipped with lifesaving equipment

operated by medically trained personnel or otherwise meeting the NAICS classification for “ambulance services” (NAICS 62191).

“Automobile sales” means the selling of new or used motor vehicles at wholesale or retail.

“Business and personal services” means any business providing services such as, but not limited to, website hosting, internet and data exchange, repairs or improvements to or on real and personal property, renting or leasing personal property to businesses or persons, packaging, transshipping, storing, or stevedoring or providing services to persons such as, but not limited to, laundries, cleaning and dyeing, shoe repair, barber and beauty shops, photographic studios, parking lots and garages, and title guarantee companies.

“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.

“Construction contractor” means a person who conducts or carries on a business that is licensed as a contractor by the state of California and who undertakes to, or offers to undertake to, or purports to have the capacity to undertake to, or submits bids to, or does themselves or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure project, development, or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, is defined as a contractor.

“Firearms and ammunition sales” means the selling, leasing, or transferring of firearms or firearms ammunition, except for wholesale sales. This definition shall not include establishments exclusively involved in the sales of firearms or firearms ammunition to law enforcement officials or any business licensed as a pawnbroker pursuant to the Oakland Municipal Code that (1) receives firearms or firearms ammunition as bond or other security for loans, advances, or other forms of compensation, or (2) sells or resells firearms or firearms ammunition wholesale to properly licensed and registered dealers exclusively.

“Grocer” means a retailing of perishable and non-perishable food type items, such as, but not limited to, meats, fish, poultry, vegetables, fruits, nuts, breads, dairy products, non-alcoholic beverages, etc., from a fixed location.

“Hotel” and “motel” means providing short-term lodging in facilities known as hotels, motor hotels, resort hotels, and motels that may offer food and beverage services, recreational services, conference rooms, convention services, laundry services, parking,

and other services, or otherwise meeting the NAICS classification for “Hotels (except Casino Hotels) and Motels” (NAICS 72111). “Hotel” and “motel” also includes offering all or portion of a residential building or structure for short-term dwelling, sleeping, or lodging, for example, by offering a bedroom, home, or other living space on a third-party platform for short-term residential use.

“Manufacturing” means manufacturing or processing any goods, wares, merchandise, articles, or commodities at a location within or outside of the City of Oakland and selling such items at retail and/or wholesale in the City of Oakland.

“Media firms” means providing published or electronic media, including newspapers, publishing, radio, and broadcast television companies.

“Miscellaneous” means any business activity not otherwise defined in this section.

“Non-residential rental” means renting or letting all or a portion of a building, structure, billboard, or other property for commercial, industrial, or advertising purposes, or a portion of such building, structure, billboard or property within the City for a purpose other than dwelling, sleeping, or lodging to a tenant. “Non-residential rental” includes offering, renting, or letting co-working spaces in any building or space, either as individual offices or shared working space, to businesses, independent contractors, or persons regardless of whether the person offering the co-working space owns the building or space or offers other related services, space, or products.

“Professional/semi-professional services” means any professional services not specifically taxed by other business tax provisions of this Chapter. The term includes, but is not limited to: business management services; website development services; finance services; insurance services, real estate services; medical and other health services; educational services, legal services; engineering and architectural services; accounting, auditing, and bookkeeping services; commission merchants; conducting, managing, or carrying on the business of furnishing reports on persons to insurance companies for underwriting purposes; or furnishing reports on persons to mercantile concerns as a basis for extending credit savings and loan and other financial institutions; conducting, managing or carrying on the business of lending money or advancing credit or arranging for the loan of money or the advancing of credit as principal or agent, where the obligation to repay the money lent or debt incurred or to compensate for the advance of credit is secured by a lien on real property, or some interest in real property, unless such business is exempt therefrom by law; software as a service; platform as a service; and infrastructure as a service.

“Public utility” means conducting or operating a public utility. This section includes, but is not limited to, establishments providing to the general public or to private

business sectors the following services: gas, electric, sanitary and garbage, cable television, and P.U.C.-related telephone services.

The term “commission merchant” means a person who, for compensation in the form of a commission, engages in selling activities, including the solicitation or negotiation of a sale, or the forwarding of sales orders, which lead to the sale of goods, wares, or merchandise owned by some person other than the commission merchant. The business of a commission merchant shall be deemed to include also the buying and selling of goods, wares, or merchandise by a person to the extent that the person:

(1) Does not engage in the business of manufacturing, refining, fabricating, milling, treating, or other processing of the goods, wares, or merchandise bought and sold, and does not cause said goods, wares, or merchandise to be manufactured, refined, fabricated, milled, treated, or otherwise processed; and

(2) Does not obtain or retain title to said goods, wares, or merchandise except in one or more of the following situations: while such may be in transit or for short periods of time before transportation commences or after it ceases; and

(3) Does not store or warehouse such goods, wares, or merchandise except during one or more of the following situations: while such goods, wares, or merchandise are actually in transit or for short periods of time before transportation commences or after it ceases.

“Real estate developers” means developing and selling real property in which the person has an equity interest or title, and not specifically taxed by other provisions of this Chapter.

“Recreation and entertainment” means providing entertainment, recreation, or amusement. The business of providing entertainment, recreation, or amusement shall include, but is not limited to, the following: theatrical or musical entertainment, all shows or exhibits, exhibiting motion pictures, athletic clubs, sports and athletic exhibitions or contests, pools or billiard rooms, bowling alleys, golf courses, circuses, or penny arcades.

“Rehabilitation of real estate” means rehabilitating and selling real estate in which the person has an equity interest or title, and not specifically taxed by other provisions of this Chapter.

“Residential rental” means conducting or operating an apartment house, lodging house, and every person engaged in the business of conducting or letting rooms, and/or any building structure, for dwelling, sleeping, or lodging, including, and limited to, a single-family house, duplex, townhouse, condominium, or co-operative.

“Retail sales” means the sale of goods, wares, or merchandise for any purpose other than resale in the regular course of business, including restaurants.

“Taxi and limousine service” means providing passenger transportation by automobile or van or providing any specialty or luxury passenger transportation services via limousine or luxury sedan on a reserved or unreserved basis or otherwise meeting the NAICS classification for “taxi and limousine service” (NAICS 4853).

“Transportation and trucking” refers to the use of transportation equipment such as airplanes, trains, boats, cars, trucks, vehicles, or pipelines as productive assets to move people and goods and includes businesses engaged in NAICS codes 481 through 487, air transportation, rail transportation, water transportation, truck transportation, transit and ground passenger transportation, pipeline transportation, and scenic and sightseeing transportation.

“Wholesale sales” the sale of goods, wares, or merchandise for the purpose of resale in the regular course of business.

5.04.060 Business Activity Classifications.

For the purpose of imposing the business tax, business activities are classified as follows:

| | |
|----------------|-----------------------------------------|
| Class A | retail sales |
| Class B | grocers |
| Class C | automobile sales |
| Class D | wholesale sales |
| Class E | business and personal services |
| Class F | professional/semi-professional services |
| Class G | recreation and entertainment |
| Class H | construction contractor |
| Class I | manufacturing |
| Class J | reserved |
| Class K | administrative headquarters |
| Class L | taxi and limousine service |
| Class M | residential rental |
| Class N | non-residential rental |

| | |
|----------------|--------------------------------|
| Class O | reserved |
| Class P | hotel and motel |
| Class Q | firearms and ammunitions sales |
| Class R | real estate developer |
| Class S | rehabilitation of real estate |
| Class T | media firms |
| Class U | public utility |
| Class V | reserved |
| Class W | miscellaneous |
| Class X | ambulance service |
| Class Y | transportation and trucking |
| Class Z | cannabis business |

5.04.070 Tax Rates.

A. Except as otherwise provided in this Chapter, persons engaged in business activities within the City shall pay the business tax at the rate provided for herein. All rates stated as an amount per \$1,000 shall be paid for each full \$1,000 of taxable gross receipts and every fractional part thereof.

B. Businesses which have gross annual receipts of \$1 million or less and whose tax rates are increased by this ordinance shall not be subject to or pay the gross receipts tax set forth herein until 2026, but shall pay an annual minimum business tax of \$60 until then. Businesses which have gross annual receipts of \$1 million or less whose tax rates are not increased by this ordinance shall pay the business tax at the rate provided for herein.

C. Businesses with gross annual receipts of more than \$1 million shall pay tax on all gross annual receipts, including the first \$1 million.

D. Any person upon whom the City is prohibited under City, state or federal law from imposing gross receipts tax shall be exempt from this tax.

5.04.080 Class A. Persons engaged in Class A business activities (retail sales) shall pay a business tax as follows:

| | |
|---------------------------------------------|------------------------------------------------------------------------------|
| Up to \$1,000,000 | \$1.00 per \$1,000 of annual gross receipts |
| Over \$1,000,000 but not over \$2,500,000 | \$1,000, plus \$1.25 per \$1,000 of annual gross receipts over \$1,000,000 |
| Over \$2,500,000 but not over \$20,000,000 | \$2,875, plus \$1.49 per \$1,000 of annual gross receipts over \$2,500,000 |
| Over \$20,000,000 but not over \$50,000,000 | \$28,950, plus \$1.74 per \$1,000 of annual gross receipts over \$20,000,000 |
| Over \$50,000,000 | \$81,150, plus \$2.00 per \$1,000 of annual gross receipts over \$50,000,000 |

5.04.090 Class B. Persons engaged in Class B business activities (grocers) shall pay a business tax as follows:

| | |
|---------------------------------------------|------------------------------------------------------------------------------|
| Up to \$1,000,000 | \$0.55 per \$1,000 of annual gross receipts |
| Over \$1,000,000 but not over \$2,500,000 | \$550, plus \$0.60 per \$1,000 of annual gross receipts over \$1,000,000 |
| Over \$2,500,000 but not over \$20,000,000 | \$1,450, plus \$0.65 per \$1,000 of annual gross receipts over \$2,500,000 |
| Over \$20,000,000 but not over \$50,000,000 | \$12,825, plus \$0.90 per \$1,000 of annual gross receipts over \$20,000,000 |
| Over \$50,000,000 | \$39,825, plus \$1.20 per \$1,000 of annual gross receipts over \$50,000,000 |

5.04.100 Class C. Persons engaged in Class C business activities (automobile sales) shall pay a business tax as follows:

| | |
|-------------------------------------------|----------------------------------------------------------------------------|
| Up to \$1,000,000 | \$1.00 per \$1,000 of annual gross receipts |
| Over \$1,000,000 but not over \$2,500,000 | \$1,000, plus \$1.25 per \$1,000 of annual gross receipts over \$1,000,000 |

| | |
|---------------------------------------------|------------------------------------------------------------------------------|
| Over \$2,500,000 but not over \$20,000,000 | \$2,875, plus \$1.49 per \$1,000 of annual gross receipts over \$2,500,000 |
| Over \$20,000,000 but not over \$50,000,000 | \$28,950, plus \$1.74 per \$1,000 of annual gross receipts over \$20,000,000 |
| Over \$50,000,000 | \$81,150, plus \$2.00 per \$1,000 of annual gross receipts over \$50,000,000 |

5.04.110 Class D. Persons engaged in Class D business activities (wholesale sales) shall pay a business tax as follows:

| | |
|---------------------------------------------|------------------------------------------------------------------------------|
| Up to \$1,000,000 | \$1.20 per \$1,000 of annual gross receipts |
| Over \$1,000,000 but not over \$2,500,000 | \$1,200, plus \$1.32 per \$1,000 of annual gross receipts over \$1,000,000 |
| Over \$2,500,000 but not over \$20,000,000 | \$3,180, plus \$1.50 per \$1,000 of annual gross receipts over \$2,500,000 |
| Over \$20,000,000 but not over \$50,000,000 | \$29,430, plus \$1.80 per \$1,000 of annual gross receipts over \$20,000,000 |
| Over \$50,000,000 | \$83,430, plus \$2.00 per \$1,000 of annual gross receipts over \$50,000,000 |

5.04.120 Class E. Persons engaged in Class E business activities (business and personal services) shall pay a business tax as follows:

| | |
|---------------------------------------------|------------------------------------------------------------------------------|
| Up to \$1,000,000 | \$1.80 per \$1,000 of annual gross receipts |
| Over \$1,000,000 but not over \$2,500,000 | \$1,800, plus \$1.98 per \$1,000 of annual gross receipts over \$1,000,000 |
| Over \$2,500,000 but not over \$20,000,000 | \$4,770, plus \$2.25 per \$1,000 of annual gross receipts over \$2,500,000 |
| Over \$20,000,000 but not over \$50,000,000 | \$44,145, plus \$2.70 per \$1,000 of annual gross receipts over \$20,000,000 |

| | |
|-------------------|------------------------------------------------------------------------------|
| Over \$50,000,000 | \$125,145 plus \$3.15 per \$1,000 of annual gross receipts over \$50,000,000 |
|-------------------|------------------------------------------------------------------------------|

5.04.130 Class F. Persons engaged in Class F business activities (professional/semi-professional services) shall pay a business tax as follows:

| | |
|---------------------------------------------|-------------------------------------------------------------------------------|
| Up to \$1,000,000 | \$3.60 per \$1,000 of annual gross receipts |
| Over \$1,000,000 but not over \$2,500,000 | \$3,600, plus \$3.96 per \$1,000 of annual gross receipts over \$1,000,000 |
| Over \$2,500,000 but not over \$20,000,000 | \$9,540, plus \$4.32 per \$1,000 of annual gross receipts over \$2,500,000 |
| Over \$20,000,000 but not over \$50,000,000 | \$85,140, plus \$4.68 per \$1,000 of annual gross receipts over \$20,000,000 |
| Over \$50,000,000 | \$225,540, plus \$5.00 per \$1,000 of annual gross receipts over \$50,000,000 |

5.04.140 Class G. Persons engaged in Class G business activities (recreation and entertainment) shall pay a business tax as follows:

| | |
|---------------------------------------------|-------------------------------------------------------------------------------|
| Up to \$1,000,000 | \$4.50 per \$1,000 of annual gross receipts |
| Over \$1,000,000 but not over \$2,500,000 | \$4,500, plus \$4.64 per \$1,000 of annual gross receipts over \$1,000,000 |
| Over \$2,500,000 but not over \$20,000,000 | \$11,460, plus \$4.73 per \$1,000 of annual gross receipts over \$2,500,000 |
| Over \$20,000,000 but not over \$50,000,000 | \$94,235, plus \$4.82 per \$1,000 of annual gross receipts over \$20,000,000 |
| Over \$50,000,000 | \$238,835, plus \$5.00 per \$1,000 of annual gross receipts over \$50,000,000 |

5.04.150 Class H. Persons engaged in Class H business activities (construction contractor) shall pay a business tax as follows:

| | |
|---------------------------------------------|-------------------------------------------------------------------------------|
| Up to \$1,000,000 | \$1.80 per \$1,000 of annual gross receipts |
| Over \$1,000,000 but not over \$2,500,000 | \$1,800, plus \$1.98 per \$1,000 of annual gross receipts over \$1,000,000 |
| Over \$2,500,000 but not over \$20,000,000 | \$4,770, plus \$2.25 per \$1,000 of annual gross receipts over \$2,500,000 |
| Over \$20,000,000 but not over \$50,000,000 | \$44,145, plus \$2.70 per \$1,000 of annual gross receipts over \$20,000,000 |
| Over \$50,000,000 | \$125,145, plus \$3.06 per \$1,000 of annual gross receipts over \$50,000,000 |

Persons engaged in construction contractor business activities shall not be subject to the business tax described above, and shall instead pay a business tax of \$60.00 per year for the first \$33,335.00 or less of gross receipts, plus \$1.80 for each additional \$1,000.00 of gross receipts in excess of \$33,335.00 for work engaged in at sites within the City, if they are in compliance with the following apprenticeship, health care and local hire standards:

1. Apprenticeship: The construction contractor either (i) participates in a Joint Apprenticeship Program approved by the State of California Division of Apprenticeship Standards or (ii) participates in an apprenticeship program approved by the State of California Division of Apprenticeship Standards that has a graduation rate of 50% or higher and has graduated an average of at least thirty (30) apprentices annually for the five (5) years immediately preceding the work. The construction contractor will also maintain at least the ratio of apprentices required by California Labor Code section 1777.5. Any change in program participation must be immediately provided to the City.

2. Health Care: The construction contractor provides medical coverage for all of its construction craft employees during periods of employment and has maintained such medical coverage in good standing for one hundred and eighty (180) consecutive days immediately prior to the work (demonstrated by a copy of the Declaration of Insurance Coverage showing the dates of continuous coverage or proof that the contractor has a contractual obligation to provide such medical coverage) or has offered such medical coverage to its employees within one hundred and eighty (180) consecutive days immediately prior to the work. A construction contractor without regular construction employees may satisfy this standard by having a contractual obligation to hire construction contractors that provide such coverage. Any change in coverage must be immediately provided to the City.

3. Local Hire: For any job classification with more than four (4) employees, the construction contractor has made a good faith effort to hire City residents, with a goal of at least twenty percent (20%), demonstrated by proof of address that is not a post office box.

5.04.160 Class I. Persons engaged in Class I business activities (manufacturing) shall pay a business tax as follows:

| | |
|---------------------------------------------|------------------------------------------------------------------------------|
| Up to \$1,000,000 | \$1.20 per \$1,000 of annual gross receipts |
| Over \$1,000,000 but not over \$2,500,000 | \$1,200, plus \$1.32 per \$1,000 of annual gross receipts over \$1,000,000 |
| Over \$2,500,000 but not over \$20,000,000 | \$3,180, plus \$1.50 per \$1,000 of annual gross receipts over \$2,500,000 |
| Over \$20,000,000 but not over \$50,000,000 | \$29,430, plus \$1.80 per \$1,000 of annual gross receipts over \$20,000,000 |
| Over \$50,000,000 | \$83,430, plus \$2.00 per \$1,000 of annual gross receipts over \$50,000,000 |

5.04.170 Class K. Persons engaged in Class K business activities (administrative headquarters) shall pay a business tax as follows:

| | |
|---------------------------------------------|-------------------------------------------------------------------------------|
| Up to \$1,000,000 | \$1.20 per \$1,000 of annual gross receipts |
| Over \$1,000,000 but not over \$2,500,000 | \$1,200, plus \$1.44 per \$1,000 of annual gross receipts over \$1,000,000 |
| Over \$2,500,000 but not over \$20,000,000 | \$3,360, plus \$1.68 per \$1,000 of annual gross receipts over \$2,500,000 |
| Over \$20,000,000 but not over \$50,000,000 | \$32,760, plus \$2.40 per \$1,000 of annual gross receipts over \$20,000,000 |
| Over \$50,000,000 | \$104,760, plus \$3.60 per \$1,000 of annual gross receipts over \$50,000,000 |

5.04.175 Class L. Taxi and limousine service.

Persons engaged in Class L business activities (taxi and limousine service) shall pay a business tax of \$75 for each limousine and \$180 for each taxicab permit.

5.04.180 Class M. Residential Rental.

A. Persons engaged in Class M business activities (residential rental) shall pay a business tax of \$13.95 for each \$1,000 of annual gross receipts.

B. A person otherwise subject to the business tax described in subsection A of this section shall not be exempt by reason of the fact that one or more persons may reside within a building or structure where the primary purpose of the particular tenancy or the primary use or right to use by the tenant is for some purpose other than dwelling, sleeping, or lodging.

C. For new buildings that are finally approved through all regulatory processes and permitted for construction after the effective date of this Chapter, a person otherwise subject to the business tax described in subsection A of this section shall be given a five dollar (\$5.00) per \$1,000 of annual gross receipts reduction in the business tax if: (1) all construction contractors at all tiers constructing the new building are in compliance with the following apprenticeship, health care and local hire standards, as outlined below; or (2) construction of the new building is covered entirely by a project labor agreement or similar agreement with the Building and Construction Trades Council of Alameda County.

For purposes of the exemption outlined in subsection (C)(1) above, the following standards apply:

1. Apprenticeship: The construction contractor either (i) participates in a Joint Apprenticeship Program approved by the State of California Division of Apprenticeship Standards or (ii) participates in an apprenticeship program approved by the State of California Division of Apprenticeship Standards that has a graduation rate of 50% or higher and has graduated an average of at least thirty (30) apprentices annually for the five (5) years immediately preceding the work. The construction contractor will also maintain at least the ratio of apprentices required by California Labor Code section 1777.5. Any change in program participation must be immediately provided to the City.

2. Health Care: The construction contractor provides medical coverage for all of its construction craft employees during periods of employment and has maintained such medical coverage in good standing for one hundred and eighty (180) consecutive days immediately prior to the work (demonstrated by a copy of the Declaration of Insurance Coverage showing the dates of continuous coverage or proof that the contractor has a contractual obligation to provide such medical coverage) or has offered such medical coverage to its employees within one hundred and eighty (180) consecutive days

immediately prior to the work. A construction contractor without regular construction employees may satisfy this standard by having a contractual obligation to hire construction contractors that provide such coverage. Any change in coverage must be immediately provided to the City.

3. Local Hire: For any job classification with more than four (4) employees, the construction contractor has made a good faith effort to hire City residents, with a goal of at least twenty percent (20%), demonstrated by proof of address that is not a post office box.

D. Five-Year Exemption.

1. All new buildings and those buildings on which major renovations are completed after July 1, 1981, will be eligible for a five-year exemption from the business tax rate described in subsection A of this section.

2. A person that qualifies for this exemption shall pay a business tax of \$60.00 per year for the first \$33,335.00 or less of annual gross receipts, plus \$1.80 for each additional \$1,000.00 of annual gross in excess of \$44,445.00, during the five-year exemption period.

3. In determining the five-year exemption period:

a. The five-year exemption shall be deemed to commence in the year in which new buildings and/or major renovations are completed and to end in the fifth year from the year of completion irrespective of the date on which an application for exemption is filed.

b. There will be no extensions of the five-year exemption period for subsequent major renovations after the first major renovations are completed.

c. All lessors are entitled to only one five-year exemption for each business location. The five-year exemption applies to the building or structure and not the lessor.

d. There will be no proration in applying for the first year of the five year exemption. The year in which new buildings are completed or major renovations are completed shall be considered to be a full year regardless of the date of completion.

4. To qualify for an exemption, the person must file an annual exemption on a form prescribed by the City.

5. Definitions applicable to this subsection are as follows:

“Major renovation” means any instance where the cost of renovation is equal to or exceeds fifty (50%) percent of the after-renovation appraised value of the building as determined by a certified, independent appraiser.

“New building” means any newly constructed building completed after July 1, 1981 for which a temporary certificate of occupancy or certificate of occupancy has been issued by the City.

“New lessor” means any change which results in an eighty (80%) percent or more change of ownership.

6. Notwithstanding any other terms of this Section, the exemption described in this subpart applies only to persons engaged in the business of renting or letting a building, structure, or other property for commercial/industrial purposes, or a portion of such building, structure, or property within the City for a purpose other than dwelling, sleeping, or lodging to a tenant. Notwithstanding any other terms of this Section, the exemption created by this Section shall not apply to any new buildings completed after December 31, 2020 or buildings on which major renovations are completed after December 31, 2020.

E. Tax Exemption/Reduction for Owner-Occupied Rental Property.

1. For the purpose of this subsection D, “Owner” is defined as a natural person, who is an owner of record holding an interest equal to or greater than thirty-three percent (33%) in the property.

2. For the purposes of this subsection D, “household income” shall not include the income of a person renting a room in a single-family house, townhouse, or condominium unless the person is a member of the Owner’s family.

3. An Owner of a single-family house, townhouse, or condominium who offers for rent no more than two (2) rooms in said house, townhouse, or condominium shall be exempt from the business tax described in subsection A of this section if:

a. the Owner currently lives in the house, townhouse, or condominium as his or her principal place of residence and has received the homeowner property tax exemption on their County property assessment under California Revenue and Taxation Code section 218; and

b. the Owner has owned and lived in the house, townhouse, or condominium as his or her principal place of residence for at least one (1) year immediately preceding the application of this exemption; and

c. the Owner's total household income from all sources is less than or equal to 150% of the Area Median Income (AMI); and

d. the Owner has no ownership interest in any other residential rental property in the City of Oakland.

4. An Owner of a single-family house, townhouse, or condominium who offers for rent three (3) rooms in said house, townhouse, or condominium shall only be required to pay the business tax described in subsection A of this section on one-third (1/3) of the total annual gross receipts if the Owner satisfies all of the conditions set forth above in subsections D.3.a-d of this section.

5. An Owner of a duplex, or a single-family house with one or two accessory dwelling unit(s) ("ADUs") shall be exempt from the business tax described in subsection A of this section if:

a. the Owner currently lives in one of the dwelling units as his/her principal place of residence and has received the homeowner property tax exemption on their County property assessment under California Revenue and Taxation Code section 218; and

b. the Owner has owned the property and lived in one of the dwelling units as his/her principal place of residence for at least one (1) year immediately preceding the application of this exemption; and

c. for duplexes, the rental unit is a "Covered Unit" as defined in Oakland Municipal Code section 8.22.020; and

d. the Owner's total household income from all sources is less than or equal to 150% of the Area Median Income (AMI); and

e. the Owner has no ownership interest in any other residential rental property in the City of Oakland

6. The exemption and reduction to the business tax described in subsection A provided for in this subsection D shall apply only to rental agreements with a tenancy term of 30 days or more; it shall not apply to Short Term Residential Rentals.

7. The exemption and reduction to the business tax described in subsection A provided for in this subsection D shall not be applied retroactively to taxes paid or due on or before December 31, 2022.

8. The exemption and reduction to the business tax described in subsection A provided for in this subsection D is a provisional adjustment to the business tax and shall be effective from January 1, 2023 through December 31, 2032 ("Effective Term"). On January 1, 2033 and thereafter, the tax rate described in subsection A shall be applied without consideration of subsection D, unless the Effective Term is further extended by the City Council.

9. The City Administrator or designee may create regulations to implement this subsection including, but not limited to, documentation requirements to verify Owner occupancy and income requirements set forth in this subsection D, and an administrative option of receiving tax savings pursuant to subsection D through rebate to property owner. Prior to adoption of any regulations pursuant to this section, the City Administration must publicize and hold at least one community meeting for stakeholders and the public.

5.04.190 Class N. Non-residential Rental

A. Persons engaged in Class N business activities (non-residential rental) shall pay a business tax of \$13.95 for each \$1,000 of annual gross receipts.

B. Every person engaged in the business of renting or letting a building, structure, or other property or a portion of such building, structure or property within the City for non-residential purposes, or for a purpose other than dwelling, sleeping, or lodging to a tenant shall pay a business tax of \$13.95 for each \$1,000.00 of gross receipts.

C. A person otherwise subject to the business tax described in subsection A of this section shall not be exempt therefrom by reason of the fact that one or more persons may reside within a building or structure where the primary purpose of the particular tenancy or the primary use or right to use by the tenant is for some purpose other than dwelling, sleeping, or lodging.

D. For new buildings that are finally approved through all regulatory processes and permitted for construction after the effective date of this Chapter, a person otherwise subject to the business tax described in subsection A of this section shall be given a five dollar (\$5.00) per \$1,000 of annual gross receipts reduction in the business tax if: (1) all construction contractors at all tiers constructing the new building are in compliance with the following apprenticeship, health care and local hire standards, as outlined below; or (2) construction of the new building is covered entirely by a project labor agreement or similar agreement with the Building and Construction Trades Council of Alameda County.

For purposes of the exemption outlined in subsection (D)(1) above, the following standards apply:

1. Apprenticeship: The construction contractor either (i) participates in a Joint Apprenticeship Program approved by the State of California Division of Apprenticeship Standards or (ii) participates in an apprenticeship program approved by the State of California Division of Apprenticeship Standards that has a graduation rate of 50% or higher and has graduated an average of at least thirty (30) apprentices annually for the five (5) years immediately preceding the work. The construction contractor will also maintain at least the ratio of apprentices required by California Labor Code section 1777.5. Any change in program participation must be immediately provided to the City.

2. Health Care: The construction contractor provides medical coverage for all of its construction craft employees during periods of employment and has maintained such medical coverage in good standing for one hundred and eighty (180) consecutive days immediately prior to the work (demonstrated by a copy of the Declaration of Insurance Coverage showing the dates of continuous coverage or proof that the contractor has a contractual obligation to provide such medical coverage) or has offered such medical coverage to its employees within one hundred and eighty (180) consecutive days immediately prior to the work. A construction contractor without regular construction employees may satisfy this standard by having a contractual obligation to hire construction contractors that provide such coverage. Any change in coverage must be immediately provided to the City.

3. Local Hire: For any job classification with more than four (4) employees, the construction contractor has made a good faith effort to hire City residents, with a goal of at least twenty percent (20%), demonstrated by proof of address that is not a post office box.

E. Five-Year Exemption.

1. All new buildings and those buildings on which major renovations are completed after July 1, 1981 will be eligible for a five-year exemption from the business tax rate described in subsection A of this section.

2. A person that qualifies for this exemption shall pay a business tax of \$60.00 per year for the first \$33,335.00 or less of gross receipts, plus \$1.80 for each additional \$1,000.00 of gross receipts in excess of \$44,445.00, during the five-year exemption period.

3. In determining the five-year exemption period:

 a. The five-year exemption shall be deemed to commence in the year in which new buildings and/or major renovations are completed and to end in the fifth year

from the year of completion irrespective of the date on which an application for exemption is filed.

b. There will be no extensions of the five-year exemption period for subsequent major renovations after the first major renovations are completed.

c. All lessors are entitled to only one five-year exemption for each business location. The five-year exemption applies to the building or structure and not the lessor.

d. There will be no proration in applying for the first year of the five-year exemption. The year in which new buildings are completed or major renovations are completed shall be considered to be a full year regardless of the date of completion.

4. To qualify for an exemption, the lessor of commercial/industrial property must file an annual exemption on a form prescribed by the Business Tax Section.

5. Definitions applicable to this subsection are as follows:

“Major renovation” means any instance where the cost of renovation is equal to or exceeds fifty (50%) percent of the after-renovation appraised value of the building as determined by a certified, independent appraiser.

“New building” means any newly constructed building completed after July 1, 1981 for which a temporary certificate of occupancy or certificate of occupancy has been issued by the City.

“New lessor” means any change which results in an eighty (80%) percent or more change of ownership.

F. Gross Receipts for Rental of Non-residential. The tax basis for persons taxed pursuant to subsection A of this section shall include gross receipts as defined herein plus all payments made to the lessor, and/or paid to third parties on behalf of the lessor as part of said lease agreement, including but not limited to, all taxes, insurance, mortgage payment, rent, and the cash value of all services rendered to or on behalf of the lessor by said lessee in lieu of rental or lease fee payments.

5.04.200 Class P. Persons engaged in Class P business activities (hotel and motel) shall pay a business tax as follows:

| | |
|-------------------|---------------------------------------------|
| Up to \$1,000,000 | \$1.80 per \$1,000 of annual gross receipts |
|-------------------|---------------------------------------------|

| | |
|---------------------------------------------|-------------------------------------------------------------------------------|
| Over \$1,000,000 but not over \$2,500,000 | \$1,800, plus \$2.25 per \$1,000 of annual gross receipts over \$1,000,000 |
| Over \$2,500,000 but not over \$20,000,000 | \$5,175, plus \$2.52 per \$1,000 of annual gross receipts over \$2,500,000 |
| Over \$20,000,000 but not over \$50,000,000 | \$49,275, plus \$2.88 per \$1,000 of annual gross receipts over \$20,000,000 |
| Over \$50,000,000 | \$135,675, plus \$3.60 per \$1,000 of annual gross receipts over \$50,000,000 |

5.04.210 Class Q. Firearms and Ammunition Sales.

Persons engaged in Class Q business activities (firearms and ammunition sales) shall pay a business tax of \$60 per year for the first \$2,500 or less of annual gross receipts, plus \$24 per year for each additional \$1,000 of annual gross receipts in excess of \$2,500.

5.04.220 Class R. Real estate developers.

A. Persons engaged in Class R business activities (real estate developers) shall pay a business tax of \$60.00 for the first \$33,335.00 or less of gross receipts, plus \$1.80 for each additional \$1,000 of gross receipts in excess of \$33,335.00.

B. A person shall be deemed to be engaged in the business described in this section who:

1. As a subdivider, as that term is defined in Section 11508 of the California Business and Professions Code, has recorded a subdivision map respecting the property sold in accordance with the Subdivision Map Act of California; provided, however, that a person filing or joining in filing of a subdivision map for the sole purpose of accomplishing a street vacation shall not be considered a subdivider; or

2. Has, prior to sale, divided the property held pursuant to the "lot-split" regulations of the Oakland Municipal Code; or

3. Sells two or more pieces of real property within a calendar year and upon each of which a building was constructed or caused to be constructed by the seller; provided such sales were within three years of the recordation by anyone of a subdivision map respecting the property sold pursuant to the Subdivision Map Act; or

4. Sells any real property upon which said person has constructed or caused to be constructed an apartment house or commercial building; provided such sale is either prior to or within three years after the issuance of a certificate of occupancy or its equivalent respecting the property sold

5.04.230 Class S. Rehabilitation of real estate.

Persons engaged in Class S business activities (rehabilitation of real estate) shall pay a business tax of \$60.00 per year for the first \$33,335.00 or less of gross receipts, plus \$1.80 for each additional \$1,000 of gross receipts in excess of \$33,335.00. A person who sells real property on which said seller performed the rehabilitation or had rehabilitation performed by another person, shall be deemed to be engaged in business described in this section.

5.04.240 Class T. Media Firms. Persons engaged in Class T business activities (media firms) shall pay a business tax as follows:

| | |
|---------------------------------------------|------------------------------------------------------------------------------|
| Up to \$1,000,000 | \$1.20 per \$1,000 of annual gross receipts |
| Over \$1,000,000 but not over \$2,500,000 | \$1,200, plus \$1.32 per \$1,000 of annual gross receipts over \$1,000,000 |
| Over \$2,500,000 but not over \$20,000,000 | \$3,180, plus \$1.50 per \$1,000 of annual gross receipts over \$2,500,000 |
| Over \$20,000,000 but not over \$50,000,000 | \$29,430, plus \$1.80 per \$1,000 of annual gross receipts over \$20,000,000 |
| Over \$50,000,000 | \$83,430, plus \$2.40 per \$1,000 of annual gross receipts over \$50,000,000 |

5.04.250 Class U. Public Utility. Persons engaged in Class U business activities (public utility) shall pay a business tax as follows:

| | |
|--------------------------------------------|----------------------------------------------------------------------------|
| Up to \$1,000,000 | \$1.00 per \$1,000 of annual gross receipts |
| Over \$1,000,000 but not over \$2,500,000 | \$1,000, plus \$1.10 per \$1,000 of annual gross receipts over \$1,000,000 |
| Over \$2,500,000 but not over \$20,000,000 | \$2,650, plus \$1.25 per \$1,000 of annual gross receipts over \$2,500,000 |

| | |
|---------------------------------------------|------------------------------------------------------------------------------|
| Over \$20,000,000 but not over \$50,000,000 | \$24,525, plus \$1.50 per \$1,000 of annual gross receipts over \$20,000,000 |
| Over \$50,000,000 | \$69,525, plus \$1.75 per \$1,000 of annual gross receipts over \$50,000,000 |

5.04.260 Class W. Miscellaneous. Persons engaged in Class W business activities (miscellaneous) shall pay a business tax as follows:

| | |
|---------------------------------------------|------------------------------------------------------------------------------|
| Up to \$1,000,000 | \$1.20 per \$1,000 of annual gross receipts |
| Over \$1,000,000 but not over \$2,500,000 | \$1,200, plus \$1.32 per \$1,000 of annual gross receipts over \$1,000,000 |
| Over \$2,500,000 but not over \$20,000,000 | \$3,180, plus \$1.50 per \$1,000 of annual gross receipts over \$2,500,000 |
| Over \$20,000,000 but not over \$50,000,000 | \$29,430, plus \$1.80 per \$1,000 of annual gross receipts over \$20,000,000 |
| Over \$50,000,000 | \$83,430, plus \$2.40 per \$1,000 of annual gross receipts over \$50,000,000 |

5.04.270 Class X. Ambulance Service.

Persons engaged in Class X business activities (ambulance service) shall pay a business tax of \$75 for each ambulance.

5.04.280 Class Y. Transportation and Trucking.

A. Persons engaged in Class Y business activities (transportation and trucking) shall pay an annual business tax based upon the average number of persons employed by such business in the City as follows:

1. \$72 for the first person employed;
2. \$18 per person for the next 19 persons employed;
3. \$9 per person for the next 80 persons employed;
4. \$7.50 per person for the next 100 persons employed;

5. \$4.50 per person for all other persons employed.

B. “Average number of persons employed” means the average number of persons employed daily in the business for the period of one year, and shall be determined by ascertaining the total number of hours of service performed by all employees during the previous year, and dividing the total number of hours of service thus obtained by the number of hours of service constituting a day’s work, according to the custom or laws governing such employments, and by again dividing the sum thus obtained by the number of business days in each year. In computing the “average number of persons employed,” fraction of numbers shall be excluded. “Employee,” as used in this section, means all persons engaged in the operation or conduct of the business, whether as owner, any member of the owner’s family, partner, manager, and any and all other persons employed or working in said business.

5.04.290 Class Z. Cannabis Business

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

1. “Cannabis Business” means any business that involves planting, cultivating, harvesting, transporting, dispensing, delivering, selling at retail or wholesale, manufacturing, compounding, converting, processing, preparing, storing, packaging, or testing any part of the plant *Cannabis sativa* L. or any of its derivatives.

2. “Cannabis Cultivation” means to plant, grow, harvest, dry, cure, grade, or trim cannabis.

3. “Cannabis Distribution and Transportation” means any business that sells at wholesale and any business that transports cannabis between licensees, including any business that operates under a “Distributor” license issued by the California Bureau of Cannabis Control pursuant to California Business and Profession’s Code Section 26070, and as that section may be amended or renumbered.

4. “Cannabis Manufacturing” means any business that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

5. “Cannabis Storage or Packaging” means any business that packages or stores cannabis but only to the extent that the business’s packing or storing activity is not attributable to cannabis cultivation, cannabis manufacturing, or retail cannabis carried on within Oakland.

6. “Cannabis Testing” means any business that conducts analytical testing of cannabis, cannabis-derived products, hemp, or hemp-derived products.

7. “Equity Cannabis Business” means a cannabis business that satisfies the “equity criteria” as that term is defined and applied in Sections 5.81.050 and 5.81.060.

8. “General Cannabis Business” shall mean any cannabis business that is not an equity business.

9. “Indoor Cultivation” means any cannabis business involved in cannabis cultivation within a permanent structure and using primarily artificial light.

10. “Medical Cannabis Business” means any cannabis business conducted pursuant to Health and Safety Code Sections 11362.5 and 11362.7—11362.83.

11. “Non-Medical Cannabis Business” means any cannabis business not conducted pursuant to Health and Safety Code Sections 11362.5 and 11362.7—11362.83.

12. “Outdoor Cultivation” means any cannabis business involved in cannabis cultivation that is not within a permanent structure or that does not primarily use artificial light. For the purposes of applying this definition, any “mixed-light cultivation”—including greenhouses, hoop-houses, glasshouses, conservatories, hothouses, or other similar structures—as that term is defined by the California Department of Food and Agriculture (2 CCR § 8000), does not use “primarily artificial light.”

13. “Retail Cannabis” means any business that dispenses or sells cannabis for use or consumption by end-users, either in-person, by delivery, or in conjunction with another party, and includes any business regulated or permitted by Chapter 5.80 of this Code and as that Chapter may be re-numbered or amended.

B. Business Tax Rate. Every person engaged in a cannabis business shall pay business tax at the rates provided in this section.

1. Equity Cannabis Businesses (Under One Million Five Hundred Dollars (\$1,500,000.00)). With respect to any 2020 business tax certificate, and for each following year, and for a business tax certificate issued pursuant to Section 5.04.310 for a business newly established in calendar year 2019, every person engaged in an equity cannabis business with total gross receipts less than or equal to one million five hundred thousand dollars (\$1,500,000.00) shall pay a business tax of one-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

2. General Cannabis Businesses (Under Five Hundred Thousand (\$500,000.00)). With respect to any 2020 business tax certificate, and for each following year, and for a business tax certificate issued pursuant to Section 5.04.310 for a business

newly established in calendar year 2019, every person engaged in a general cannabis business with total gross receipts less than or equal to five hundred thousand dollars (\$500,000.00) shall pay a business tax of one-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

3. Equity Retail Cannabis and Equity Indoor Cultivation (Over One Million Five Hundred Thousand Dollars (\$1,500,000.00) But Less Than Five Million Dollars (\$5,000,000.00)).

Every equity cannabis business engaged in retail cannabis or indoor cultivation with total gross receipts greater than one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates. With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.310 for a business newly established in calendar year 2019:

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

ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, greater than to one million five hundred thousand dollars (\$1,500,000.00) and derived from a medical cannabis business; plus

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

b. Annual 2021 Business Certificates. With respect to any 2021 business tax certificate:

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

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

c. Annual 2022 Business Certificates and After. With respect to any 2022 business tax certificate and for each following year:

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

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

4. General Retail Cannabis and General Indoor Cultivation (over five hundred thousand dollars (\$500,000.00) But Less Than five million dollars (\$5,000,000)). Every general cannabis business engaged in retail cannabis or indoor cultivation with total gross receipts greater than five hundred thousand dollars (\$500,000.00) but less than or equal to five million dollars (\$5,000,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates. With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.310 for a business newly established in calendar year 2019:

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

ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, greater than to five hundred thousand dollars (\$500,000.00) and derived from a medical cannabis business; plus

iii. Sixty-five dollars (\$65.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, greater than to five hundred thousand dollars (\$500,000.00) and derived from a non-medical cannabis business.

b. Annual 2021 Business Certificates. With respect to any 2021 business tax certificate:

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

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

c. Annual 2022 Business Certificates and After. With respect to any 2022 business tax certificate and for each following year:

i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to seven hundred fifty thousand dollars (\$750,000.00); plus

ii. Forty dollars (\$40.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over seven hundred fifty thousand dollars (\$750,000.00), but less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus

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

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

a. New 2019 Business and Annual 2020 Business Certificates. With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.310 for a business newly established in calendar year 2019:

i. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any medical cannabis business; plus

ii. Ninety-five dollars (\$95.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any non-medical cannabis business.

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

6. Retail Cannabis (Over five million dollars (\$5,000,000.00)). 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 5.04.310 for a business newly established in calendar year 2019:

i. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any medical cannabis business; plus

ii. Ninety-five dollars (\$95.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any non-medical cannabis business.

b. Annual 2021 Business Certificates. With respect to any 2021 business tax certificate:

i. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any medical cannabis business; plus

ii. Eighty dollars (\$80.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any non-medical cannabis business.

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

7. Equity Cannabis Manufacturing, Equity Outdoor Cultivation, and Equity Cannabis Packaging and Storage (Over one million five hundred thousand dollars (\$1,500,000.00)). Every equity cannabis business engaged in cannabis manufacturing, outdoor cultivation, or cannabis packaging with total gross receipts greater than one million five hundred thousand dollars (\$1,500,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates. With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.310 for a business newly established in calendar year 2019:

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

ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) and attributable to any medical cannabis business; plus

iii. Sixty-five dollars (\$65.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00) and attributable to any non-medical cannabis business; plus

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

b. Annual 2021 Business Certificates. With respect to any 2021 business tax certificate:

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

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

c. Annual 2022 Business Certificates and After. With respect to any 2022 business tax certificate and for each following year:

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

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

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

8. General Cannabis Manufacturing, General Outdoor Cultivation, & General Cannabis Packaging and Storage (over five hundred thousand dollars (\$500,000,000)). Every general cannabis business engaged in cannabis manufacturing, outdoor cultivation,

or cannabis packaging with total gross receipts greater than five hundred thousand dollars (\$500,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates. With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.310 for a business newly established in calendar year 2019:

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

ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over to five hundred thousand dollars (\$500,000.00) and attributable to any medical cannabis business; plus

iii. Sixty-five dollars (\$65.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five hundred thousand dollars (\$500,000.00) but less than or equal to five million dollars (\$5,000,000.00) and attributable to any non-medical cannabis business; plus

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

b. Annual 2021 Business Certificates. With respect to any 2021 business tax certificate:

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

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

c. Annual 2022 Business Certificates and After. With respect to any 2022 business tax certificate, and for each following year:

i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to seven hundred fifty thousand dollars (\$750,000.00); plus

ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over seven hundred fifty thousand dollars (\$750,000.00) but less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus

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

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

9. Equity Cannabis Distribution and Transportation (Over One Million Five Hundred Thousand Dollars (\$1,500,000.00)). Every equity cannabis business engaged in cannabis distribution and transportation with total gross receipts greater than one million five hundred thousand dollars (\$1,500,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates. With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.310 for a business newly established in calendar year 2019:

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

ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) and attributable to any medical cannabis business; plus

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

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

b. Annual 2021 Business Certificates. With respect to any 2021 business tax certificate:

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

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

c. Annual 2022 Business Certificates. With respect to any 2022 business tax certificate, and for each year thereafter:

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

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

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

10. General Cannabis Distribution and Transportation (Over Five Hundred Thousand Dollars (\$500,000,000)). Every general cannabis business engaged in cannabis distribution and transportation with total gross receipts greater than five hundred thousand dollars (\$500,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020 Business Certificates. With respect to any 2020 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.310 for a business newly established in calendar year 2019:

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

ii. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over five hundred thousand dollars (\$500,000.00) and attributable to any medical cannabis business; plus

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

dollars (\$500,000.00) but less than or equal to five million dollars (\$5,000,000.00) and attributable to any non-medical cannabis business; plus

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

b. Annual 2021 Business Certificates. With respect to any 2021 business tax certificate:

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

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

c. Annual 2022 Business Certificates. With respect to any 2022 business tax certificate, and for each year thereafter:

i. One-dollar and twenty cents (\$1.20) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to seven hundred fifty thousand dollars (\$750,000.00); plus

ii. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof over seven hundred fifty thousand dollars (\$750,000.00) but less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus

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

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

11. Cannabis Testing. With respect to any 2020 business tax certificate and for each year thereafter, and for any business tax certificate issued pursuant to Section 5.04.310 for a business newly established in calendar year 2019, the rates defined in this Section 5.04.290 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 5.04.290.

C. Vertically Integrated Businesses. Any person who engages in a business that produces gross receipts from more than one (1) 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 5.04.290 B.3., B.4., or B.6. as applied to any gross receipts entirely or partially derived from any retail cannabis activity attributable to Oakland; plus

2. The tax due from the rate described in 5.04.290 B.3., B.4., or B.5. as applied to any gross receipts entirely or partially derived from any indoor cultivation activity attributable to Oakland, but not including any gross receipts partially derived from retail cannabis activity attributable to Oakland; plus

3. The tax due from the rate described in 5.04.290 B.7. or B.8. as applied to any gross receipts entirely or partially derived from cannabis manufacturing activity attributable to Oakland, but not including any gross receipts partially derived from retail cannabis activity or indoor cultivation activity attributable to Oakland; plus

4. The tax due from the rate described in 5.04.290 B.7. or B.8. as applied to any gross receipts entirely or partially derived from outdoor cultivation activity attributable to Oakland, but not including any gross receipts partially derived from retail cannabis activity, indoor cultivation, or cannabis manufacturing activity attributable to Oakland; plus

5. The tax due from the rate described in 5.04.290 B.7. or B.8. as applied to any gross receipts entirely or partially derived from cannabis packaging and storage activity attributable to Oakland, but not including any gross receipts partially derived from retail cannabis activity, indoor cultivation, cannabis manufacturing, or outdoor cultivation activity attributable to Oakland; plus

6. The tax due from the rate described in 5.04.290 B.9. or B.10. as applied to any gross receipts entirely or partially derived from cannabis distribution and transportation activity attributable to Oakland, but not including any gross receipts partially derived from retail cannabis activity, indoor cultivation, cannabis manufacturing, outdoor cultivation, or cannabis packaging and storage activity attributable to Oakland.

For the purposes of applying this Subsection, references to “total gross receipts” in Subsection 5.04.290 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 Subsection 5.04.400.

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 5.04.420, 5.04.310, and 5.04.320 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.

5.04.300 Cannabis Equity Tax Rebate Program.

A. Definitions. The definitions stated in Subsection 5.04.290 A. also apply to this Section. In addition, the following definitions apply to this Section:

1. "Equity Employee" means:

a. An employee who lives in any combination of Oakland police beats 2X, 2Y, 6X, 7X, 19X, 21X, 21Y, 23X, 26Y, 27X, 27Y, 29X, 30X, 30Y, 31Y, 32X, 33X, 34X, 5X, 8X and 35X and has lived in any combination of such police beats for the immediately preceding two (2) years; or

b. An employee who lives anywhere in Oakland and was arrested after November 5, 1996 and convicted of a cannabis crime in California.

2. "Essential Roles" means employment roles that are within the usual course of the hiring entity's business.

3. "Full Time Employee" means employment in which an employee is employee for at least thirty-six (36) hours per week.

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

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

1. Rebate Program. Any Cannabis Business that timely and fully pays business taxes owed pursuant to Section 5.04.290 for operation in any given calendar

year shall be entitled to a rebate for each rebate condition, described below, that the business can demonstrate it satisfied with respect to that calendar year. The rebate program described in this section will be effective for any business tax certificate issued for operation in calendar year 2020, with respect to rebate conditions met during calendar year 2020, and for all business tax certificates issued thereafter.

2. Rebate Conditions. The following “Rebate Conditions” apply to this Section:

a. Local Equity Hiring Rebate Conditions.

i. During at least one-hundred and eighty-two (182) days of the relevant calendar year, equity employees represented at least thirty (30) percent of the business’s total workforce.

ii. During at least one-hundred and eighty-two (182) days of the relevant calendar year, equity employees in essential roles represented at least twenty-five (25) percent of the business’s total workforce.

iii. During at least one-hundred and eighty-two (182) days of the relevant calendar year, equity employees represented at least twenty (20) percent of the business’s employees in managerial roles.

b. Equity Supply Chain Rebate Conditions.

i. With respect to the relevant calendar year, at least thirty (30) percent of the value of cannabis products delivered to the business were delivered by a cannabis distribution and transportation business that was an equity cannabis business.

ii. With respect to the relevant calendar year, at least twenty-five (25) percent of the value of cannabis products delivered to the business were originally cultivated or manufactured by a cannabis cultivation or cannabis manufacturing business that was an equity cannabis business.

c. Workforce Quality of Life Rebate Conditions.

i. Throughout the relevant calendar year, none of the employees of the business earned a wage less than twenty dollars (\$20.00) per hour, if the employer provides “health benefits” as that term is used in the City’s Living Wage Ordinance (Chapter 2.28), or twenty-five dollars (\$25.00) per hour, if the employer does not provide health benefits.

ii. Throughout the relevant calendar year, at least eighty (80) percent of the business's employees were full time employees.

d. Incubation.

i. The business previously served as an equity incubator for an equity applicant and continues to provide free real estate or rent to the equity applicant, on terms that comply with Subsections 5.80.050 D.3.b.—D.3.d. or 5.81.060 D.3.b.—D.3.d., either throughout the relevant calendar year or for that portion of the relevant calendar year that is beyond the initial three (3) year period described in Subsections 5.80.050 D.3. and 5.81.060 D.3.

ii. The business provides free real estate or rent to an equity applicant, on terms that comply with Subsections 5.80.050 D.3.b.—D.3.d. or 5.81.060 D.3.b.—D.3.d., throughout the relevant calendar year, and does not intend to seek any “permitting priority” pursuant to those sections.

3. Rebate Amount.

a. Local Hiring, Supply Chain, and Wage Rebate Conditions. For each rebate condition satisfied pursuant to Subsections 5.04.300 B.2.a., B.2.b., and B.2.c.i.:

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

ii. With respect to each rebate condition satisfied for calendar year 2022 and beyond, the business shall be entitled to a rebate equal to five dollars (\$5.00) for every one-thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, up to twelve million five hundred thousand dollars (\$12,500,000.00) of gross receipts for which the business timely and fully paid business taxes for the relevant calendar year.

b. Full Time Employees Rebate Condition. For each rebate condition satisfied pursuant to Subsection 5.04.300 B.2.c.ii.:

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

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

c. Incubation Rebate Conditions. For each rebate condition satisfied pursuant to Subsection 5.04.300 B.2.d.:

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

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

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

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

d. Exceptions. The following exceptions apply to this subsection:

i. In any given year, a business may not claim more than one (1) rebate pursuant to Subsection 5.04.300 B.2.d.

ii. A business may not claim, over any number of years, more than five (5) rebates pursuant to Subsection 5.04.300 B.2.d. on the basis of free real estate or rent provided to any single equity applicant.

iii. In any given year, a business may not claim any rebates pursuant to 5.04.300 B.2.c. unless it also qualifies for at least one (1) rebate pursuant to Subsection 5.04.300 B.2.a.

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

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

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

5. Process for Applying for and Granting Rebates. The City shall accept requests for rebates from any business at the time the business pays business tax for the calendar year following the calendar year pursuant to which the business seeks a rebate, and for thirty (30) days thereafter, or within thirty (30) days of cessation of business activities pursuant to Section 5.04.490. The business shall submit any documentary evidence requested by the City Administrator, or their designee.

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

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

5.04.310 “Annual Gross Receipts”—Definition—First Certificate.

“Annual gross receipts” for a newly established business receiving its first business tax certificate shall mean the total gross receipts received from the initiation of any business activities to the expiration of the person’s first business tax certificate.

Every person applying for the first business tax certificate for a newly established business shall provide a reasonable estimate of their anticipated gross receipts for the period from the initiation of any business activities to the expiration of its first business tax certificate. The applicant shall pay an initial tax payment based on the estimate.

In a manner and time prescribed by the City Administrator, the City shall allow a credit against future taxes for any overpayment in comparison to actual gross receipts and the applicant shall make an additional payment for any undercharge in comparison to actual gross receipts. The true up required by this paragraph shall proceed regardless of whether the person seeks a second business tax certificate.

The City Administrator may demand any information necessary to verify any estimate, reject any estimate, or unilaterally amend any estimate to conform to the City Administrator’s understanding of a reasonable estimate of any person’s anticipated gross receipts based on any factual information in the City Administrator’s possession.

5.04.320 “Annual Gross Receipts”—Definition—Second Certificate.

“Annual gross receipts” for a business receiving its second business tax certificate means the total gross receipts received from January 1 to December 31 of the year for which the business tax certificate is issued.

Every person applying for a second business tax certificate shall provide a reasonable estimate of their anticipated gross receipts for the period from January 1 to December 31 of the year for which the business tax certificate is issued. The applicant shall pay an initial tax payment based on the estimate.

In a manner and time prescribed by the City Administrator, the City shall allow a credit against future taxes for any overpayment in comparison to actual gross receipts and the applicant shall make an additional payment for any undercharge in comparison to actual gross receipts. The true up required by this paragraph shall proceed regardless of whether the person seeks a further business tax certificate.

The City Administrator may demand any information necessary to verify any estimate, reject any estimate, or unilaterally amend any estimate to conform to the City Administrator’s understanding of a reasonable estimate of any person’s anticipated gross receipts based on any factual information in the City Administrator’s possession.

5.04.330 “Annual Gross Receipts”—Definition—Third Certificate and Thereafter.

“Annual gross receipts” for a business receiving its third business tax certificate, and for any business tax certificates, means the total gross receipts received from January 1 to December 31 of the year immediately preceding the year for which the business tax certificate is issued.

5.04.340 “Annual Gross Receipts”—Definition—Construction Contractors.

A. Any person engaging in the business of a construction contractor shall apply the method for determining “annual gross receipts” defined in section 5.04.310 with respect to its first business tax certificate.

B. Any person engaging in the business of a construction contractor shall apply the method for determining “annual gross receipts” defined in section 5.04.320 with respect to its second business tax certificate and for all business tax certificates applied for thereafter, notwithstanding any terms to contrary in section 5.04.320 or 5.04.330.

5.04.350 Exemption: Buildings rented by the City.

A person who rents or leases a building to the City shall be exempt from the business tax to the extent the taxpayer receives gross receipts from the City with respect to the rental or lease of the building, if the City and the person enter into an agreement pursuant to which the City assumes responsibility for payment of the business tax.

5.04.360 Exemption: Affordable housing developments.

A. General Rule. A person engaged in residential rental of a property that is eligible for a partial property tax exemption pursuant to Section 214(g) of the California Revenue and Taxation Code shall be exempt from business tax liability with respect to the property in an amount to equal to the gross receipts derived from the property multiplied by the percentage calculated for the purpose of determining the amount of the property tax exemption allowed pursuant to Section 214(g) for the most recent property tax bill issued for the property.

B. Conditions. Any person entitled to a deduction pursuant to this section shall provide the City with any information deemed necessary by the City Administrator to confirm that the property is eligible for a partial property tax exemption pursuant to Section 214(g) of the California Revenue and Taxation Code and the extent to which such property is eligible for such exemption.

C. Denial of Exemption. The City may deny the deduction provided for by this section, in part or in whole, to any person who the City Administrator reasonably believes does not qualify for, or has miscalculated, the partial property tax exemption created by Section 214(g) of the California Revenue and Taxation Code, regardless of any determinations made or exemptions granted by any other public or private party.

5.04.370 Exemption: Family daycare.

Every person licensed by the State of California Department of Social Services as a family daycare provider, and maintaining a state license permitting up to fourteen (14) children or less per facility, shall be exempt from the business tax imposed under this Chapter to the extent that they derive gross receipts from such activity. Persons seeking an exemption pursuant to this section must submit an annual statement, as described in Section 5.04.420, together with a copy of the most current license issued by the State of California Department of Social Services to the City.

5.04.380 Exemption: Parking Stalls.

Parking stall operators who are subject to the parking stall fee shall be exempt from business tax under this section to the extent they derive gross receipts from such activity.

5.04.390 Optional method of determining tax.

When a person engages in two or more business activities, other than manufacturing, which are taxed on the basis of gross receipts under different provisions of this Chapter, such person may elect to combine all such gross receipts and pay a tax determined by applying the rate of tax applicable to that business activity producing the greatest amount of gross receipts, subject to the following provisions:

- A. All businesses must be conducted at the same location; and
- B. The gross receipts of all business activities, except the business producing the greatest amount of gross receipts, must not exceed twenty (20%) percent of the total combined gross receipts of all business activities.

Each person required to obtain a business tax certificate for engaging in the business of selling firearms or firearms ammunition shall not be required to obtain a business tax certificate for activities covered by any other section of this Chapter and shall pay tax on gross receipts derived from any activity covered by any section of this Chapter at the rate prescribed for gross receipts from the sale of firearms or firearms ammunition.

5.04.400 Raw Materials.

Any person engaging in the business activity of a manufacturer may deduct the value of raw materials actually used from their calculation of annual gross receipts. Only the value of raw materials actually used during the same time period as the time period used to calculate the person's annual gross receipts may be deducted.

5.04.410 Constitutional Apportionment.

A. Right to Apportionment. No taxes, penalties, fees, or interest provided for by this Chapter shall be applied so as to impose an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the constitutions of the United States and of the State of California.

B. Submission of Application. If any person believes that any business tax places an undue burden upon interstate commerce or violates the constitution of the United States or State of California, the person may apply to the City Administrator for an adjustment of the tax. Such application must be in writing within one-year after the original deadline to pay the underlying tax. If the person does not make such request within one-year, they shall be conclusively deemed to have waived any adjustment for that year.

Each person submitting an application shall by sworn statement and supporting testimony, show the proposed apportionment method, describe the extent to which the person conducts any business activities within and outside of the City and provide any other information that the City Administrator may deem necessary to determine the extent, if any, of the undue burden or violation.

C. Consideration of Application. With respect to any application, the City Administrator shall conduct an investigation, and shall fix as the tax an amount that is reasonable and nondiscriminatory, or if the tax has already been paid, shall order a refund of the amount over and above the tax so fixed. In fixing the tax to be charged, the City Administrator shall have the power to base the tax upon a percentage of gross receipts or any other measure that will assure that the tax assessed is uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the tax as prescribed by this Chapter. In no event is any taxpayer entitled to a refund that results in a windfall to such taxpayer. If the City Administrator determines no adjustment is necessary, they may require the person to submit a sworn statement of the gross receipts and pay the amount of tax determined by the City Administrator.

D. Guidelines. The City Administrator may issue guidelines to be used to determine the appropriate apportionment method for any given business. Such guidelines may be general or specific to a particular industry or industries.

5.04.420 Certificates—Issuance, Declaration, Content, Due Date.

A. Annual Certificate and Written Declaration. Every person engaging in business activities in the City shall file with the City an annual written statement setting forth the then applicable factor or factors that constitute the measure of the tax, together with such other information as may be required by the City Administrator. Written statements shall include a declaration confirming, under penalty of perjury, that the information contained in the application is true and correct. Each applicant who is subject to the contractor's license law, shall state that they are licensed under such law, that this license is in full force and effect, and the number of the license.

B. New Business Registration. Every person applying for a first business tax certificate for a newly established business shall provide any information to the City that the City Administrator deems reasonably necessary to properly categorize the person's business activities and pay a registration fee in the amount set forth in the City's master fee schedule (as amended from time to time) within thirty (30) days from the date of commencement of business activity. Failure to register shall subject the taxpayer to penalty and interest.

C. Due Date - Rental Businesses. With respect to any persons engaging in residential and non-residential rental businesses activities, annual declarations and

business tax payments shall be due by or before March 1 of each calendar year for which a person is issued a business tax certificate, unless the City Council, in its discretion, declares a different due date.

D. Due Date - All Other Businesses. With respect to any persons engaging in any business activities other than residential and non-residential rental businesses activities, annual declarations and business tax payments shall be due by or before July 1 of each calendar year for which a person is issued a business tax certificate, unless the City Council, in its discretion, declares a different due date.

E. Estimates. Persons who are unable to provide final figures before the due date for annual declarations and business tax payments shall provide estimates following procedures established by City Administrator.

F. Holidays and Weekends. To the extent any deadlines in this section fall on holidays or weekends, such deadlines shall be extended to the next business day.

G. Certificate Contents. Certificates shall contain the name of the business, the place where the business is to be carried on, the business activity, the date of the expiration of such business tax certificate, and such other information as the City Administrator may deem appropriate.

H. Refusal to Issue Certificate. The City Administrator may refuse to issue any person a business tax certificate for the same or any other business if such person has outstanding and unpaid liabilities pursuant to this Chapter.

I. Extensions. The City Administrator may grant extensions of up to forty-five (45) days for the payment of business tax or for the making and filing of declarations. No penalty shall be added to the amount due and payable if said tax is paid within the extension period. During such extension period, the amount subject to the extension may, in the City Administrator's discretion, bear interest beginning with the original due date to the date of filing of the declaration and full payment of the tax at a rate of one percent (1%) per month or fraction thereof, notwithstanding the granting of the extension.

J. No Intent to Continue Business. A person who does not intend to carry on usual and customary business activities beyond December 31st of any given year is not liable to obtain and pay for a business tax certificate, unless otherwise provided by any section of this Chapter. A person did not intend to carry on "usual and customary business activities" beyond December 31st of any given year if:

1. It is established by written documentation (i.e., opening escrow, bill of sale, etc.) that the person was in the act of selling, liquidating, transferring, or otherwise

permanently disposing of its business on or before December 31st of the year preceding the calendar year such business was terminated or transferred, and such sale, liquidation, transfer, or other permanent disposal is not made to or for the direct benefit of a related entity; and

2. Such termination, liquidation, transfer, or disposition is final with no gross receipts either received or attributable to the taxpayer eligible for the subject proration as of the 15th day of April of the calendar year after action to terminate, transfer, liquidate or otherwise dispose of the business was initiated.

5.04.430 Related Entities.

A. Definition. “Related entities” means any business units that are commonly owned and integrated in a way that transfers value among the business units and includes any business units that comprise part of a “unitary business” as defined by California law and any business units that are required to, actually do, or may, file a combined report pursuant to California Revenue & Taxation Code section 25102, or any statute or law that amends or supersedes that section.

B. Indicia of Related Entities. The City Administrator may presume that entities with common ultimate ownership and any of the following indicia, as determined by the City Administrator, are related entities:

1. Same type of business: Entities that engage in the same general line of business activity.

2. Steps in a vertical process: Entities that engage in different steps in a large, vertically structured enterprise.

3. Strong centralized management: Entities with strong central management, coupled with the existence of centralized departments for such functions as financing, advertising, research, or purchasing.

5.04.440 Master Certificates—Aggregation of gross receipts.

A. Applicability. The following persons shall apply for a collective master certificate and any appropriate subsidiary certificates pursuant to the terms of this section:

1. All persons and their related entities that generate gross receipts attributable to the City by engaging in similarly categorized business activities from separate branch establishments or places of business; and

2. All persons who receive goods, wares, merchandise, services, or similar advantages in exchange for compensation that is excluded from the definition of “gross receipts” pursuant to exception 8 in section 5.04.040 and the person who provided such goods, wares, merchandise, services, or similar advantages.

B. Effect of Master Certificate—Aggregation of Gross Receipts. For the purpose of determining the business tax due for any master certificate, all persons and related entities conducting business activities pursuant to a master certificate shall aggregate the applicable annual gross receipts from all persons and related entities subject to the master certificate before applying the rates described in this Chapter. Other subsidiary certificates shall not be subject to further tax.

With respect to any master certificate issued pursuant to subsection (A)(2) of this section, “annual gross receipts” shall include any gross receipts received on account of any goods, wares, merchandise, services, or similar advantages received in exchange for compensation that was excluded from the definition of “gross receipts” pursuant to exception 8 in section 5.04.040, in addition to any other applicable annual gross receipts.

C. Maintenance of Master Certificate. All persons required to apply for a master certificate pursuant to subsection (A)(1) of this section shall maintain such master certificate for at least as long as the persons or related entities generate gross receipts attributable to the City by engaging in similarly categorized business activities from separate branch establishments or places of business.

All persons required to apply for a master certificate pursuant to subsection (A)(2) of this section shall maintain such master certificate at least until:

1. They receive gross receipts on account of all goods, wares, merchandise, services, or similar advantages received in exchange for compensation that was excluded from the definition of “gross receipts” pursuant to the exclusion for “transactions between related entities” in section 5.04.040; or

2. Demonstrate, to the satisfaction of the City Administrator, that they will never generate gross receipts on account of such goods, wares, merchandise, services, or similar advantages.

5.04.450 Public inspection.

A. The following information for each business tax certificate under this Chapter shall be available for inspection by the public during normal working hours:

1. The name and address of the business;

2. The name of the owner of the business, if such name is shown on the records filed pursuant to this Chapter;

3. Industrial classification;

4. Expiration date;

5. Account number.

B. The City Administrator may enact such regulations as are necessary to permit reasonable public access to the information. Such regulations may prescribe the time and manner in which to receive and act upon requests for such information.

5.04.460 Procedure for changes to business tax certificate.

No business tax certificate may be transferred or assigned or authorize any person other than the person named in the business tax certificate to carry on the business named or to transact such business in any place other than the place or location named without the written consent of the City. Any time the place of location for the carrying on of such business or the business name is changed, the person applying for such change shall pay a fee in the amount set forth in the City's master fee schedule.

5.04.470 Business tax certificate to be conspicuously posted—Exception.

Every person having a business tax certificate and carrying on a business at a fixed place of business shall keep the business tax certificate conspicuously posted and exhibited while in force in a part of said place of business accessible to the view of the public.

Every person having such a business tax certificate and not having a fixed place of business shall carry such business tax certificate with him or her at all times while carrying on the business for which the same was granted.

The City Administrator may designate appropriate staff who shall have the right to enter, free of charge and during business hours, any place of business for which a business tax certificate is required, for the sole purpose of verifying the existence of and to demand the exhibition of such tax business tax certificates for the current term from any person engaged or employed in the transaction of such business.

5.04.480 Lost certificate.

The City shall issue a duplicate business tax certificate to replace any business tax certificate issued under the provisions of this Chapter that has been lost or destroyed at no

cost to the taxpayer for the first duplicate business tax certificate. Each replacement business tax certificate issued thereafter will be issued for the amount set forth in the City's master fee schedule (as amended from time-to-time).

5.04.490 Notice of business termination.

Any business that ceases their normal and customary business activities within the City must notify the City within thirty (30) days of cessation of business activities. This notification must be in writing and signed by the registered business owner or authorized agent. Failure to file a timely notification will be subject to a late filing fee.

5.04.500 Penalty for nonpayment.

A. The following non-payments are declared delinquent:

1. Every annual business tax or portion thereof that is not paid on or before the deadline to make such payment;
2. Every registration fee and portion thereof for a newly established business, that is not paid within thirty (30) days after commencing business; and
3. Any other tax, penalty, fee, or interest, or portion thereof, that is not paid by any date and time established or declared pursuant to this Chapter.

B. Any person whose non-payments are declared delinquent shall pay a penalty as follows:

1. Ten percent (10%) of the total amount that remains delinquent as of the expiration of the deadline to make such payment; plus
2. Twenty-five percent (25%) of the total amount that remains delinquent as of the expiration of sixty (60) days after the deadline to make such payment, not including any penalty amount. For the purpose of this subsection, any partial payments shall be first credited against any outstanding penalties and then against the principal delinquent amount.

C. Proof of payment of Business Tax or Registration Fee. If a dispute arises regarding the date a payment was received by the City, the burden of proof is on the taxpayer to demonstrate that the taxpayer made and the City received timely payment.

Payment is considered timely made and received if it is either actually received by the City or deposited in the United States mail on or before the date the payment is due. The following shall be considered proof of timely payments:

1. Cash register or electronic receipt issued by the City through an authorized employee, or through an online transaction, to those taxpayers making payment;
2. Certificate of mailing issued by the U.S. Post Office;
3. Certificate of registered or certified mail issued by the U.S. Post Office;
4. Receipt of delivery to private mail services; or
5. Postmark issued by the U.S. Post Office.

5.04.510 Interest.

In addition to the penalties imposed, any person whose non-payments are declared delinquent shall pay interest at the rate of one percent (1%) per month or fraction thereof, on the amount of the non-payment inclusive of penalties from the date on which the non-payment first became delinquent until paid. Interest is not a penalty. Interest is charged in order to compensate the City for the loss of the use of revenue after the due date of the tax.

5.04.520 Business tax a debt—Liens.

The amount of any business tax and penalty imposed by this Chapter shall be deemed a debt to the City; and any person carrying on any business without first having procured a business tax certificate from the City, or without having paid all appropriate and due taxes, penalties, interest, and fees City shall be liable to an action in the name of the City in any court of competent jurisdiction, for the amount of taxes, penalties, interest, and fees imposed on such person.

The City must commence an action to collect any tax, penalty, or interest within the time required by California law and subject to any applicable tolling periods. To the extent allowed by California law “applicable tolling periods” includes, but is not limited to, any period during which the City is unaware of the existence of a business or the ongoing activities of a business due to the taxpayer’s failure to obtain a business license or failure to comply with annual reporting requirements, the time during which a taxpayer pursues any administrative review or appeals, and the time during which the City pursues any lawful audit. (See *City of Los Angeles v. Centex Telemanagement, Inc.* (1994) 29 Cal.App.4th 1384.)

The amount of taxes, penalties, interest, and fees imposed under this Chapter is assessed against the business property on which the tax is imposed in those instances where the owner of the business and the business property are one and the same. If the

taxes are not paid when due, such tax, penalty and interest shall constitute an assessment against such business property and shall be a lien on the property for the amount thereof, which lien shall continue until the amount thereof including all penalties and interest are paid, or until it is discharged of record.

5.04.530 Notice of hearing on lien.

The City Administrator shall prepare a written notice of those persons against whose property the City will file liens and submit that notice to the City Council. The City Council shall forthwith fix a time and place for a public hearing on such notice.

The City Administrator shall cause a copy of such notice to be served upon the owner of the business/business property not less than ten days prior to the time fixed for such hearing. Mailing a copy of such notice to the owner of the business/business property at the address listed in the most recent property ownership records provided to the City by the County Assessor as of the date that the City Administrator causes notice to be mailed shall comprise proper service. Service shall be deemed complete at the time of deposit in the United States mail.

5.04.540 Collection of delinquent taxes by special tax roll assessment.

With the confirmation of the report by the City Council, the listed delinquent business tax charges that remain unpaid by the owner of the business/business property shall constitute a special assessment against said business property and shall be collected at such time as is established by the County Assessor for inclusion in the next property tax assessment.

The City Administrator shall turn over to the County Assessor for inclusion in the next property tax assessment the total sum of unpaid delinquent business tax charges consisting of the delinquent business taxes, penalties, interest at the rate of one percent per month or fraction thereof from the date of recordation to the date of lien, an administrative charge in the amount set forth in the City of Oakland master fee schedule (as amended from time-to-time) and a release of lien filing fee in an amount equal to the amount charged by the Alameda County Recorder's Office.

Thereafter, said assessment may be collected at the same time and in the same manner as ordinary property taxes are collected, and shall be subject to the same penalties and the same procedure of sale as provided for delinquent ordinary property taxes. The assessment liens shall be subordinate to health and safety liens except for those of state, county, and municipal taxes with which it shall be upon parity. The lien shall continue until the assessment and all interest and charges due and payable thereon are paid. All laws applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to said special assessments.

5.04.550 Recordation of lien for delinquent charges.

Upon confirmation of the report of delinquent business tax charges by the City Council, a lien on the real property for delinquent business tax charges which were assessed will be recorded with the Recorder of the County of Alameda.

5.04.560 Audit—Examination of books, records, witnesses.

The City may conduct audits and examinations pursuant to the terms of this section.

The City Administrator or any authorized employee is authorized to examine the books, papers, tax returns, and records of any person subject to this Chapter for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax due.

Every person subject to the provisions of this Chapter is directed and required to furnish to the City Administrator, the means, facilities, and opportunity for making such examination and investigations. The City Administrator is authorized to examine a person under oath, for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax or registration fees due under this Chapter. In order to ascertain the business tax or registration fees due under this Chapter, the City Administrator may compel, by administrative subpoena, the production of relevant books, papers and records and the attendance of all persons as parties or witnesses.

The refusal to submit to such examination or production by any employer or person subject to the provisions of this Chapter shall be deemed a violation of this Chapter, and administrative subpoenas shall be enforced pursuant to applicable state law.

5.04.570 Results of audit—Reclassification Determination.

A. Notice of Determination. If, pursuant to an audit or examination conducted pursuant to Section 5.04.560, the City determines that a person's business activity should be reclassified, the City may issue a notice of determination ordering such reclassification.

B. Reclassification-Pro prospective Only. If an audit or examination results in reclassification, not made necessary by earlier misclassification based upon incorrect and/or incomplete information supplied by a taxpayer to the City, the reclassification shall be effective in the current year only and shall not be retroactive.

C. Reclassification-Retroactive. If an audit or examination results in reclassification made necessary by earlier misclassification based upon incorrect or incomplete information supplied by a taxpayer to the City, the taxpayer shall have twenty (20) days from notification of audit results in which to pay any additional tax liability resulting from the reclassification. If full payment is not received within the twenty (20) day period, penalties and interest pursuant to Sections 5.04.400 and 5.04.405 shall be retroactively assessed upon amounts underpaid from the date the correct taxes would have been due.

5.04.580 Results of Audit—Deficiency determination.

A. Notice of Determination. If, pursuant to an audit or examination conducted pursuant to Section 5.04.560, the City determines that a person's has not properly completed any declaration, has failed to make a declaration, has improperly calculated the amount of business tax owed, or made some similar error or omission, the City may issue a notice of determination ordering an appropriate correction.

B. Recomputation of Tax—Authority to Make—Basis of Recomputation. If the City Administrator, in the exercise of reasonable discretion, is not satisfied with the declaration or declarations of the tax or the amount of tax computed, the City Administrator may compute and determine the amount required to be paid upon the basis of the facts contained in the declaration or declarations or upon the basis of any factual information within the City Administrator's possession or that may come into the City Administrator's possession. One or more deficiency determination may be made of the amount due for one or for more than one period.

C. Interest and Penalties on Deficiency. The amount of the determination in excess of that amount timely paid by the taxpayer, inclusive of penalties, shall bear interest and penalties in the amount and manner set forth in Sections 5.04.500 and 5.04.510 of this Chapter.

D. Offsetting of Overpayments. In making a determination, the City Administrator may offset overpayments for a period or periods against underpayments for any period or periods, and against any City debt.

5.04.590 Determination if no declaration filed—Penalty.

A. Notice of Determination. If any person fails to file a declaration as required by this Chapter, the City Administrator may issue a notice of determination imposing a penalty pursuant to the terms of this Section.

B. Estimate, Computation, Penalty. If any person fails to file a declaration as required by this Chapter, the City Administrator may, in the exercise of reasonable

discretion, make an estimate of the amount of the gross receipts or other measure of tax applicable to the person or persons subject to the tax. The estimate shall be made for the period or periods for which the person failed to file a declaration and shall be based upon any factual information in the City's possession or which may come into the City's possession. Upon the basis of this estimate, the City Administrator may impose a penalty of up to ten percent (10%) of the tax estimated to be owed, in addition to any penalties and interest that may be due pursuant to Section 5.04.500 and Section 5.04.510.

5.04.600 Notice of determination—Service of—Finalization—Payment.

Any notice of determination issued by the City pursuant to this Chapter shall be served personally or mailed to the taxpayer at the taxpayer's last address shown on the City's records. If served personally, such service is deemed complete at the time of personal service. If mailed, such service is deemed complete at the time of deposit in the United States mail. All notices of determination shall state any related penalties or interest.

Notices of determination become final twenty (20) days after service is deemed complete, unless an extension is granted by the City or the taxpayer files a timely petition for redetermination pursuant to section 5.04.610.

The taxpayer shall have twenty (20) days after a notice of determination becomes final to pay any additional tax liability described in the notice of determination. If full payment is not timely received, the unpaid amount is deemed to be delinquent. Interest pursuant to Section 5.04.510 shall begin accruing upon delinquent amounts and penalties shall be assessed upon delinquent amounts pursuant to Section 5.04.500.

5.04.610 Redetermination.

A. Right of Petition For—Time to File Petition. Any person issued a notice of determination under this Chapter, or any person directly interested, may file a petition for a redetermination within twenty (20) days after service of the notice of determination. The City Administrator in individual cases may, in the exercise of reasonable discretion in administering the provisions of this Chapter, extend the twenty (20) day period. If a petition for redetermination is not filed within the twenty (20) day period, or within the extension period granted by the City Administrator, the determination becomes final at the expiration of the twenty (20) day period. The City Administrator's decisions on applications for extension of time in which to file petitions for redetermination must be served in the manner provided in Section 5.04.600.

B. Grant of Oral Hearing—Notice—Continuances. If a petition for redetermination is timely filed, the City Administrator shall reconsider the determination and, if the petition includes a request for hearing, shall grant the person an oral hearing,

giving the person ten days' notice of the time and place thereof. The City Administrator may continue the hearing from time to time as may be necessary. The City Administrator shall exercise reasonable discretion in the decision on redetermination.

C. Alteration of Determination—Limitation on Right to Increase Amount. Once a petition for reconsideration has been filed, the City Administrator may amend the notice of determination until the notice of determination becomes final; however, the City Administrator must assert any claim for increasing any liability owed by the taxpayer at or before the hearing, if a hearing has been requested. If no hearing has been requested, or if the City Administrator asserts a claim before the hearing without reasserting it at the hearing, notice of the increase must be served on the person in the manner provided in Section 5.04.600.

D. Finality of Order on Petition. The order or decision of the City Administrator upon a petition for redetermination becomes final twenty (20) days after service upon the petitioner of notice thereof in the manner provided in Section 5.04.600, unless appeal of such order or decision is timely filed with the Board of Review pursuant to Section 5.04.630.

E. Time for Payment of Amounts Found Due—Penalty for Delinquency. All determinations made by the City Administrator or Board of Review are due and payable at the time they become final.

5.04.620 Refund of tax, penalty or interest.

A. Illegally or Erroneously Collected Tax. Any person who alleges that any tax, penalty, or interest has been illegally or erroneously paid to, collected by, or received by the City may file a claim with the City, executed under penalty of perjury and stating the specific grounds upon which the claim is founded. If the City Administrator finds, in their reasonable discretion, that claim is valid or partially valid and that the claim was filed within one (1) year of the payment, collection, or receipt of the tax, the City shall compensate the taxpayer to the extent of the illegally or erroneously collected tax.

B. Submission of Claim. A claim made pursuant to this section shall be on a form furnished by the City Administrator. A claim for refund may only be signed by the taxpayer, the taxpayer's authorized agent, or other person determined to be liable for the tax or said person's guardian or conservator. Class claims for refunds shall not be permitted. If the claim is approved by the City Administrator, the excess amount collected may be refunded or may be credited on any amount due and payable from the person from whom it was collected, or by whom paid, and the balance may be refunded to such person, his or her administrators or executors.

No refund of any tax or registration fee paid under this Chapter shall be made by virtue of the discontinuance, dissolution, or other termination of a business.

5.04.630 Board of review.

A. Composition. A business tax board of review ("board of review") consisting of the City Administrator, the City Auditor, an employee of the City selected by the City Administrator, and two community members nominated by the Mayor and appointed by the City Council each for a term of four years is hereby created. The board of review shall select from its members a chairperson who shall serve at its pleasure. The City Administrator and the City Auditor may each deputize in writing filed with the board of review for such period or for such hearings as may be desired, a person to serve as their designee to the board of review. A majority of members of the board of review shall constitute a quorum.

A board of review member may fully participate in all decisions in which such board member participates while on holdover status and such decisions are not invalid because of the board of review member's holdover status. Neither the members of the board of review nor the members of their offices deputized to serve in their places at any time shall receive any compensation as such members or acting members for their services.

B. Right to Appeal. Any person whose petition for redetermination pursuant to section 5.04.610 is denied in whole or in part, and any person granted a waiver by the City Administrator, may file an appeal to the business tax board of review.

C. Appeals. Any person entitled to file an appeal pursuant to this Section may file an appeal in writing to the board of review within twenty (20) days from the date of service of the denial of a petition for redetermination or the waiver giving rise to the person's right to appeal. The City may waive or extend the deadline to file an appeal. The board of review shall make findings of fact in support of its decisions on appeal. The board of review shall exercise its reasonable discretion in administering the provisions of this Chapter in rendering a decision on appealed rulings and findings. The board of review's decision on appeal becomes final upon giving notice of the decision to the appellant in the manner provided in section 5.04.600. Any tax, penalty, or interest found to be owing is due and payable at the time the board of review's decision becomes final.

D. Extension of Time for Filing and Payment. On written application showing good cause, the board of review or its chairperson may, with or without hearing, by written order filed with the City Administrator, extend for not more than forty-five (45) days the time provided in this Chapter for the filing of any declaration or making any payment. In no event will such an extension be granted for an annual tax on any written

application received after the applicable annual deadline. For the period of such extension the penalty in regard thereto shall be waived.

E. Exhaustion of Remedies. Any person whose case may be resolved by employing the administrative remedies provided by this section, or in section 5.04.610, must exhaust those remedies before filing suit for refund, rebate, exemption, cancellation, amendment, adjustment, or modification of tax, interest, or penalty.

F. Review of Tax Rulings. The board of review shall, on motion of any one of its members, hold a hearing to ascertain its position regarding any business tax ruling. The board of review may affirm, modify, or reverse such ruling as necessary or advisable to effectuate the purposes of this Chapter. The board of review's decision on such ruling shall have only prospective effect.

5.04.640 Declaration—Confidential documents.

The statements filed pursuant to the provisions of this Chapter are presumed to be confidential in character and will not be subject to public inspection to the fullest extent allowed by law, and shall be kept so that the contents of such statements will not become known except to the persons charged with the administration of this Chapter.

Any officer or employee who willfully violates any provision of this section shall be deemed guilty of an infraction, and such violation shall be cause for discharge from the City's service.

5.04.650 Disclosure of business taxpayers, etc. limitation on rule.

Notwithstanding any other provision of any City ordinance, the City Administrator is authorized to enter into agreements with the California Franchise Tax Board, the State Board of Equalization, or the Internal Revenue Service providing for the exchange of information for official purposes of said agencies, and to implement any such agreement through the exchange of information.

5.06.660 Return check penalty.

Whenever a person submits a check for payment of a business tax and said check is subsequently returned unpaid by the bank upon which said check is drawn, and the check is not redeemed prior to the expiration of the renewal or registration due date, the person's non-payment will be declared delinquent and the person will be liable for the tax amount due plus penalties and interest.

5.04.670 Prior year registration assessments.

If any person fails to apply for and secure a business tax certificate, the business tax due shall be that amount due and payable from the first date on which the person was engaged in business in the City, together with applicable penalties and interest.

5.04.680 Notice not required.

The City is not required to send any renewal, delinquency, or other notices or bills to any person subject to the provisions of this Chapter, except as explicitly provided. Failure to send such notices or bills will not affect the validity of any tax, penalty, or interest due under the provisions of this Chapter.

5.04.690 Conviction for violation not waiver of business tax.

The conviction and punishment of any person for transacting any business without a business tax certificate shall not excuse or exempt such person from the payment of any business tax due or unpaid at the time of such conviction, and nothing herein shall prevent a criminal prosecution of any violation of the provisions of this Chapter.

5.04.700 Duties of the City Administrator.

It shall be the duty of the City Administrator to:

- A. Collect and receive and keep an accurate record of all taxes imposed by this Chapter;
- B. Enforce this Chapter, except as otherwise provided;
- C. Prescribe, adopt, and enforce rules and regulations necessary or advisable to effectuate the purposes of this Chapter, as sometimes referenced herein and including but not limited to provisions for the re-examination and correction of declarations and payments; the exclusive discretionary authority to waive penalties; and the authority to defer the payment due dates as prescribed by Section 5.04.420 by up to 45 days.
- D. Make findings of fact in support of decisions, determinations, and rulings enforcing this Chapter, including making findings of fact in support of decisions, determinations, and rulings enforcing this Chapter; and
- E. Prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

5.04.710 Late Penalty—Declaration.

Every person who, without an extension authorized by the City Administrator, fails to timely file any business tax declaration or statement of renewal shall pay a late filing fee of fifty dollars (\$50.00) or in the amount set forth in the City of Oakland master fee schedule (as amended from time-to-time), in addition to any other taxes, penalties, fees, or interest that may due under this Chapter.

5.04.720 Violations, infraction, misdemeanor.

In the exercise of the duties imposed upon the City Administrator, and acting through deputies or duly authorized representatives, the City Administrator shall examine or cause to be examined all places of business in the City to ascertain whether the provisions of this Chapter have been complied with. For the purposes of this paragraph, in the case of a person coming into the City to do business from a location outside the City, the “place of business” shall be deemed to be the place where such person is engaging in business or offering to engage in business in the City.

Any person violating any provision of this Chapter shall be guilty of an infraction. Any person knowingly or intentionally misrepresenting to any officer or employee of this City any material fact in procuring the business tax certificate herein provided for shall be guilty of a misdemeanor, and conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500.00) or imprisonment in the county jail for a period of not more than six months or by both fine and imprisonment.

5.04.730 Records required from taxpayers.

Every person required to obtain a business tax certificate shall keep and preserve for a period of three years such records as may be necessary to determine the amount of tax for which the person is liable.

5.04.740 No enjoinder of collection.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against the City or any officer thereof, to prevent or enjoin the collection of business taxes sought to be collected.

5.04.750 Revenue measure does not permit business otherwise prohibited.

The taxes prescribed by the provisions of this Chapter constitute a tax for revenue purposes and are not regulatory permit fees.

Persons holding business tax certificates pursuant to this Chapter shall comply with all requirements of the Oakland Municipal and Planning Code and all other applicable laws and shall not carry on any business activity that violates of any law.

5.04.760 Implementation and Delegation.

The City Administrator may adopt rules and regulations consistent with this Chapter as needed to implement and enforce this Chapter, subject to the review and approval of the City Attorney, and to develop all related forms or other materials, and to take other steps needed to implement this Chapter. The City Administrator may delegate any duties, rights, powers or privileges granted by this Chapter to any appropriate City officer, including the Director of Finance.

5.04.770. Use of Proceeds.

A. The funds raised by the taxes imposed by this Chapter shall be divided into two categories:

(i) funds derived from the rates in effect during 2022 (“Baseline Rates”), which shall be deposited into and used for purposes of the General Fund (“Baseline Revenues”); and

(ii) funds derived from the increase in the rates imposed by this Chapter (“New Rates”), which shall be used only for the specific purposes stated in this section (“Special Purpose Revenues”).

B. All monies collected under this Chapter based on the difference between the Baseline Rates and the New Rates shall be deposited into a separate fund or funds (“Special BLT Fund”), which shall be maintained separate and apart from all other City funds, and which shall be subject to appropriation by the City Council only for the specific purposes described herein. Any balance remaining in the Special BLT Fund at the close of any fiscal year shall be deemed to have been provided for a special purpose and shall be carried forward and accumulated in the Special BLT Fund for the specific purposes described herein.

C. All monies collected under this Chapter based on the Baseline Rates shall be deposited into the General Fund.

D. Monies in the Special BLT Fund shall be expended only for the specific purposes described herein and shall not be spent to replace existing City, County, state, federal or other funds utilized by the City for homeless shelters, grants to local and small businesses, and clean public spaces.

E. Objectives. The Special Purpose Revenues raised by the special tax imposed by this Chapter shall be used only to pay for costs or expenses relating to or arising from efforts to achieve the following desired outcomes and objectives:

1. HOMELESS SHELTER AND SUPPORTIVE SERVICES. These funds will be used for additional shelter – temporary, transitional and permanent – for Oakland’s unhoused population.

2. GRANTS TO LOCAL AND SMALL BUSINESSES. These grants will focus on maintaining, sustaining and expanding local businesses demonstrating the potential for business and job growth and for supporting the City’s Business Improvement Districts (“BIDs”) and business-supporting organizations.

3. CAPITAL EXPENDITURES AND SUPPORT FOR SERVICES TO MAINTAIN A CLEAN CITY. These expenditures will focus on cleaning up litter and trash in Oakland’s parks, streets and public places and fighting illegal dumping.

4. THE DIRECT AND INDIRECT ADMINISTRATIVE EXPENSES ASSOCIATED WITH THE BUSINESS TAX.

F. Uses. Subject to the budgetary and fiscal provisions of City law, monies in the Special BLT Fund shall be appropriated by the City Council on an annual or supplemental basis and used exclusively for programs, services and capital expenditures which further the objectives set forth above, such as but not limited to the following:

1. HOMELESS SHELTER AND SUPPORTIVE SERVICES. Capital expenditures and related supportive services to address homelessness by providing a range of additional shelters for Oakland’s unhoused residents, including costs associated with alleviating homelessness and its impacts within the City, such as but not limited to:

(a) Providing emergency physical shelters for unsheltered and unhoused residents including beds in emergency shelters, Community Cabins, safe parking, acquisition of hotels, motels and similar properties convertible to residences, community day centers, affordable housing focused on the unhoused, and permanent housing;

(b) Providing services to currently or formerly unhoused persons which help them obtain or retain housing, including employment services, rapid rehousing services, and services to persons residing in shelters, transitional housing, and permanent supportive housing developments;

(c) Increasing the number of shelter beds which include support services and housing resources;

(d) Supporting safe RV parking sites with health, hygiene, security, and case management services; and

(e) Providing employment training programs to provide job training, job placement, and wage paying work experience for current or recent homeless residents.

2. **GRANTS TO LOCAL AND SMALL BUSINESSES.** Grants to local, small businesses, BIDs, and business-serving organizations to support economic resilience and job growth in Oakland, based on potential for growth, job projection and specific business plans.

(a) Grant criteria will be developed, implemented and monitored by the office of Community and Economic Development under the policy direction of the Oakland Business Tax Commission, based on the definitions of small and local businesses used by the City.

(b) The maximum grant will be \$100,000 per business or organization.

(c) Grants to and in support of BIDs and business-serving organizations will be used for marketing, economic development and increasing public safety and security along Oakland's commercial corridors, including ambassadors and crime prevention through environmental design.

3. **CAPITAL EXPENDITURES AND SUPPORT FOR SERVICES TO MAINTAIN A CLEAN CITY.** Capital expenditures for necessary facilities and equipment and support for services to maintain a clean city, focusing on litter in the City's parks and most vulnerable communities. These funds will be administered by the Public Works Department and may be used to fund City or nonprofit organizations' efforts to pick up litter and trash, develop educational programs to eliminate litter and trash, penalize illegal dumping, and obtain equipment or facilities to aid in the elimination of litter and trash in parks, public streets and public places.

4. **DIRECT AND INDIRECT ADMINISTRATIVE EXPENSES ASSOCIATED WITH THE BUSINESS TAX.** Includes direct and indirect costs associated with this special tax and the provision of the aforementioned programs, services and capital expenditures, such as but not limited to:

(a) Paying fees charged by any government agency to collect and remit the tax, if any;

(b) Costs to levy the tax;

(c) Costs for annual auditing and financial monitoring of the tax, a performance tracking system, and evaluating the effectiveness of services, programs and capital expenditures which are funded by the special tax;

(d) Expenses of the Oakland Business Tax Commission; and

(e) Any other administrative costs required to implement the services, programs and capital expenditures.

G. Allocation. The monies in the Special BLT Fund shall be appropriated by the City Council on an annual basis in the following proportions:

1. One percent (1%) of the total funds appropriated annually by the special tax, net of any collection and tax levy costs and fees, shall be appropriated for direct and indirect costs associated with the business tax and the provision of the aforementioned programs, services and capital expenditures.

2. Fifty percent (50%) of the total funds appropriated annually by the special tax, net of any collection and tax levy costs and fees, shall be appropriated for homeless shelters as described herein.

3. Thirty percent (30%) of the total funds appropriated annually by the special tax, net of any collection and tax levy costs and fees, shall be appropriated for grants to local and small businesses as described herein.

4. Twenty percent (20%) of the total funds appropriated annually by the special tax, net of any collection and tax levy costs and fees, shall be appropriated for clean public spaces as described herein.

5. These allocations shall be net of the amount needed to reimburse the City for costs incurred in connection with the election seeking voter approval of this Chapter.

Notwithstanding any of the above, the City Council may approve minor variations in these allocations as long as they are consistent with the purposes and objectives of this Chapter.

H. Beginning in 2033, all funds collected pursuant to this Chapter, including Special Purpose Revenues, shall be deposited into the General Fund and shall not be subject to the special purposes described above.

5.04.780 Oakland Business Tax Commission.

1. There is hereby created an Oakland Business Tax Commission (“OBT Commission”) whose purpose shall be to review and monitor the spending of monies in the Special BLT Fund authorized by this measure and other actions affecting businesses in Oakland.

2. The OBT Commission shall be composed of seven commissioners, one of whom shall be appointed by the Mayor, two of whom shall be appointed by the City Council, three of whom shall be appointed by the Oakland Chamber of Commerce, and one of whom shall be selected by the other six commissioners. Commissioners shall each serve for one two-year term. Commissioners must be an owner or part of management of an Oakland business at the time of their appointment or within three years of such appointment.

3. The Department of Finance shall provide staff and support to the OBT Commission.

4. The OBT Commission shall:

(a) Annually review the expenditures authorized by the City Council and actually made from the Special BLT Fund;

(b) Have the authority to review and require changes in any guidelines adopted by the City Council or any City Department regarding the programs, services and capital expenditures funded by the Special BLT Fund;

(c) Have the authority to review any tax increase or measure approved by the City Council, prior to the Council taking action on such increase or measure. The City Council shall provide the OBT Commission with sufficient information about any such proposed increase or measure not less than 30 days before the action will be taken, unless the Council finds by a two-thirds vote that there is a public emergency that requires action sooner than 30 days. The OBT Commission shall report its findings on any such measure to the City Council and to the voters of Oakland through advertisements in one or more papers of general circulation, reports on the City website, and other social media; and

(d) Have the authority to review and comment publicly on any action proposed to be taken by the City Council or proposed as an initiative presented to the voters that would have a significant economic impact on businesses in Oakland.

5.04.790 Savings clause.

A. The provisions of this Chapter shall not apply to any person, association, or corporation or to any property, as to whom or which it is beyond the power of the City to impose the business tax. If any provision, clause, sentence, word, section, or part of this Chapter, or any business tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such provision, clause, sentence, word, section, or

part of this Chapter and shall not affect or impair any of the remaining provisions, clauses, sentences, words, sections, or other parts of this Chapter. It is the intent of the People of Oakland that this Chapter would have been adopted had such unconstitutional, illegal, or invalid provision, clause, sentence, word, clause, section, or part thereof not been included herein.

B. Any person claiming an exemption from the business tax imposed by this Chapter by virtue of this section, shall submit to the City a statement signed under penalty of perjury setting forth the facts necessary to establish such claim of exemption.

SECTION 4. Conflicting Measures.

A. This measure is intended to be comprehensive. It is the intent of the people of Oakland that in the event this measure and one or more measures relating to business taxes appear on the same ballot, whether placed on the ballot through a citizens initiative or by the City Council, the provisions of the other measure or measures shall be deemed to be in conflict with this measure.

B. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

C. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than any other measure appearing on the same ballot regarding business taxes, provisions of this measure shall take effect to the extent that they are not in conflict with said other measure or measures.

D. If this measure is approved by the voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

SECTION 5. Liberal Construction.

This measure shall be liberally construed to effectuate its purposes.

SECTION 6. Municipal Affair.

The People of Oakland hereby declare that providing funding for homeless shelters, grants to local and small businesses, and clean public spaces through a business gross receipts tax constitutes a municipal affair. The People hereby further declare their desire for this measure to coexist with any similar tax measures adopted at the City, county or state levels.

SECTION 7. Not a Sales and Use Tax.

The tax imposed by this Chapter is a tax on the privilege of conducting business within City of Oakland for the specific purposes described herein. It is not a sales tax or use tax or other excise tax on the sale, consumption, or use of any products.

SECTION 8. Effective Date.

This measure shall be effective if approved by a simple majority of the voters and shall go into effect ten (10) days after the vote is declared by the City Council. Notwithstanding the effective date provided for by this section, the tax rates imposed by this measure shall only be imposed when and as stated in this measure.

SECTION 9. City Council Amendments.

The City Council is authorized to amend provisions adopted by this measure in any manner which is consistent with the measure's objectives and purposes, which does not increase the business tax, and which does not constitute a tax increase for which voter approval is required.

SECTION 10. Severability and Savings Clause.

A. If any provision, sentence, word, clause, section, or part of this measure is found to be unconstitutional, illegal, or invalid by a court of competent jurisdiction, including any exemption to the business tax or any defined term, such unconstitutionality, illegality, or invalidity shall affect only such provision, sentence, word, clause, section, or part of this measure and shall not affect or impair any of the remaining provisions, sentences, words, clauses, sections, or parts. It is declared that this measure, including any exemption to the business tax or any defined term, would have been adopted had such unconstitutional, illegal, or invalid provision, sentence, word, clause, section, or part not been included.

B. If any tax imposed by this measure is found to be unconstitutional, illegal or invalid, the programs, services and capital expenditures required to be funded from such taxes shall be reduced proportionately by any revenues lost due to such unconstitutionality, illegality or invalidity.

C. No provision, sentence, word, clause, section, or part of this measure shall be construed as requiring the payment of any tax which would be in violation of City, state or federal law.

SECTION 11. Statement of Facts.

This true and impartial Statement of Facts explicitly and affirmatively identifies each tax in this measure and the specific limitation on how the revenue therefrom can be spent. This measure establishes a gross receipts tax for business activity classifications at the rates outlined herein. The funds derived from the increase in the rates imposed by this measure shall be specifically used for homeless shelters, grants to local and small businesses, and clean public spaces.

SECTION 12. Challenge to Tax.

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

SECTION 13. Legal Defense.

The People of Oakland desire that this measure, if approved by the voters and thereafter challenged in court, be defended by the City. The People, by approving this measure, hereby declare that the proponent(s) of this measure have a direct and personal stake in defending this measure from constitutional or statutory challenges to the measure's validity or implementation. In the event the City fails to defend this measure, or the City fails to appeal an adverse judgment against the constitutionality, statutory permissibility or implementation of this measure, in whole or in part, in any court of law, the measure's proponents shall be entitled to assert their direct personal stake by defending the measure's validity and implementation in any court of law and shall be empowered by the People through this measure to act as agents of the People. The City shall indemnify the proponents for reasonable expenses and any losses incurred by the proponents, as agents, in defending the validity and/or implementation of the challenged measure. The rate of indemnification shall be no more than the amount it would cost the City to perform the defense itself.

SECTION 14. Home Rule.

The authority to pass this measure is derived from Oakland's home rule powers outlined in the City Charter and Article XI, section 5 of the California Constitution. The People of Oakland declare their intent that this citizen initiative be enacted, and the business tax be collected, if this measure is approved by a simple majority of the voters pursuant to California Cannabis Coalition v. City of Upland (2017) 3 Cal.5th 924, City of Fresno v. Fresno Building Healthy Communities (2020) 59 Cal.App.5th 220 and Jobs & Housing Coalition v. Oakland (12/30/21) Case. No. A158977. To the extent that the California Constitution or state law is amended on or after the date that this measure is passed by the voters to change or create additional voting requirements in order to implement or to continue to implement this measure, the People of Oakland declare their

intent that such amendments should be applied prospectively only and not apply to, or in any way affect, this tax or this measure.

SECTION 15. Findings.

This measure is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq. ("CEQA"), since in accordance with CEQA Guidelines Section 15061, subdivision (b)(3), it can be seen with certainty that there is no possibility that the activity authorized herein may have significant effect on the environment.

SECITON 16. Appropriations Limit.

To the extent that the revenue from the tax is in excess of the spending limit for the City, as provided for in applicable provisions of the California Constitution and state law, the approval of this measure by the voters shall constitute approval to increase the City's spending limit in an amount equal to the revenue derived from the tax for the maximum period of time as allowed by law.