

FILED
REVISED BY COUNCIL 3-7-17
OFFICE OF THE CITY CLERK
OAKLAND

2017 APR -4 PM 1:50

APPROVED AS TO FORM AND LEGALITY

Rocio V. Garcia
City Attorney's Office

OAKLAND CITY COUNCIL
RESOLUTION No. 86633 C.M.S.

Introduced by Councilmember Kaplan

**RESOLUTION ESTABLISHING BUDGET PRIORITIES FOR
EXPENDITURE OF CANNABIS BUSINESS TAXES COLLECTED BY
THE CITY PURSUANT TO OAKLAND MUNICIPAL CODE SECTION
5.04.480 AND 5.04.481**

WHEREAS, through the passage of Proposition 215, the voters of California authorized the use of cannabis for medical purposes in 1996; and

WHEREAS, by a 79% vote in favor of the proposition, the voters of Oakland overwhelmingly approved Proposition 215; and

WHEREAS, the City Council of the City of Oakland has adopted medical cannabis permitting ordinances to prevent nuisance, provide for effective controls, enable medical cannabis patients to obtain cannabis from safe sources, and provide appropriate licensing in a manner consistent with state law, as codified at Chapters 5.80 and 5.81 of the Oakland Municipal Code (hereinafter, "OMC"); and

WHEREAS, in November 2010, the City's electorate approved a 5% business license tax for medical cannabis businesses and a 10% business license tax for adult use cannabis businesses, both of which are respectively codified in OMC Section 5.04.480 and OMC Section 5.04.481; and

WHEREAS, a cannabis business' obligation to pay taxes pursuant to Chapter 5.04 of the Oakland Municipal Code is wholly independent of the business' right to operate the business under federal, state or city law, and the imposition and collection of such taxes do not confer any regulatory right to operate. (*See OMC Section 5.04.050- "the taxes prescribed by the provisions of this chapter constitute a tax for revenue purposes, and are not regulatory permit fees."*); and

WHEREAS, the payment of a business tax required by this chapter, and its acceptance by the City, and the issuance of a business certificate to any person shall not entitle the holder thereof (1) to carry on any business unless he or she has complied with all of the requirements of this chapter and all other applicable laws, nor (2) to carry on any business activity in any building or on any premises designated in such business tax certificate in the event that such business activity in the building or premises violates of any law; and

WHEREAS, certain low-income communities and communities of color have been negatively and disproportionately impacted by disparate enforcement of cannabis laws, and police arrest data reflect disproportionately higher arrests for cannabis offenses in certain police

beats; and

WHEREAS, individuals arrested and previously convicted for cannabis related offenses face significant barriers to obtaining employment, financial aid, housing, and other economic opportunities; and

WHEREAS, at the November 14, 2016 special council meeting, the City Council adopted the racial equity outcome goal of promoting equitable ownership and employment opportunities in the cannabis industry in order to decrease disparities in life outcomes for marginalized communities of color and to address the disproportionate impacts of the war on drugs in those communities; and

WHEREAS, at the November 14, 2016 special council meeting, the City Council directed the City Administrator to perform a race and equity analysis of medical cannabis regulations and return to the council with revised versions of Oakland Municipal Code Sections 5.80 and 5.81; and

WHEREAS, the City Administrator's March 7, 2017 race and equity analysis identified access to capital and real estate as well as the need for technical assistance as key barriers to achieving equity within the medical cannabis industry; and

WHEREAS, the City of Oakland seeks to address these barriers to equity in business ownership in the cannabis industry through the incorporation of an Equity Assistance Program that will provide financial and technical assistance to Equity Applicants under Oakland Municipal Code Sections 5.80 and 5.81; and

WHEREAS, said financial assistance shall include zero interest loans for business start-up, operations costs, equipment, technology and system upgrades, and preparation of business plans and compliance with all applicable laws; and

WHEREAS, to serve around thirty to thirty-five cannabis businesses annually, the City Administrator anticipates the Equity Assistance Program requiring an initial one-time seed fund of approximately \$3 million for the revolving no-interest loan program, and one-time funding in the amount of approximately \$400,000 to fund an outside entity to operate the program at the cost of up to \$200,000 annually; and

WHEREAS, the City Administrator and City Council desire to evaluate the Equity Assistance Program after two years to ensure it is achieving its intended goals of reducing equity barriers and promoting a more equitable cannabis industry; now, therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES RESOLVE AS FOLLOWS:

Section 1. Budget Priorities.

A. In the first year of the Equity Assistance Program, the City will appropriate \$200,000 from the general fund to pay for a consultant to administer zero interest loans and provide technical assistance, preparation of business plans, and compliance with all applicable law. The general fund will be reimbursed from incoming business taxes collected pursuant to Sections 5.04.480 and 5.04.481 of the Oakland Municipal Code from cannabis operations.

B. The City Administrator shall allocate the first \$3.4 million of incoming business taxes collected from cannabis operations (other than the initial eight licensed medical cannabis dispensaries) pursuant to OMC Sections 5.04.480 and 5.04.481 for the Cannabis Equity Assistance Program consisting of the following services:

1. \$3 million of one-time funds towards financial assistance for cannabis equity applicants in the form of zero interest loans for business start-up, operations costs, equipment, technology and system upgrades; and
2. \$400,000 of one-time funds towards a consultant to administer the financial assistance described above for the first two years (\$200,000 per year), and provide technical assistance, in the community through trusted advocates, to cannabis equity applicants; including preparation of business plans and compliance with all applicable laws. Part of these funds will be used to reimburse the general fund, as provided in Section A, above. Ongoing funding will be determined by the City Administrator and City Council in conjunction with the evaluation of the Equity Assistance Program's performance after two years.
3. The initial \$3.4 million of business taxes collected from cannabis operations (other than the City's initial eight licensed medical cannabis dispensaries) will be deposited in the General Purpose Fund (1010), Treasury: Operations Org (08721), Local Taxes: Business Tax Account (41511), DP080 Administrative Project (1000007), Financial Management Program (IP59), and upon receipt of these revenues the City Administrator is authorized to appropriate this one-time funding in the City Administrator's Organization (02111) for the Cannabis Equity Assistance Program described above.

C. After the initial \$3.4 million allocation, the City Administrator shall allocate and budget for the expenditure of 20% of the taxes collected pursuant to OMC Section 5.04.480 for the purposes listed below. The City Council will determine the specific services and programs selected at a future date.

1. One third for job training and other job-preparation and placement services.
2. One third for blight abatement, prevention and cleanup of illegal dumping, graffiti abatement, and services for homeless persons.
3. One third to fund loans for lower-income, under-served persons or entities who seek to open, or to continue operating, medical marijuana dispensaries or cultivation facilities in the City's jurisdiction, in compliance with OMC Chapters 5.80 and/or 5.81.

Section 2. Severability. The provisions of this Resolution are severable. If a court of competent jurisdiction determines that any word, phrase, clause, sentence, paragraph, subsection, section, chapter or other provision (collectively called "Part") is invalid, or that the application of any Part of this Resolution to any person or circumstance is invalid, such decision shall not affect the validity of the remaining Parts of this Resolution. The City Council declares that it would have adopted this Resolution irrespective of the invalidity of any Part of this Resolution or its application to such persons or circumstances have expressly excluded from its coverage.

Section 3. California Environmental Quality Act Requirements. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., including without limitation" Public Resources Code section 21065, CEQA Guidelines 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 07 2017


PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY,
~~DAVIS~~, KALB, KAPLAN AND PRESIDENT REID- 7

NOES- *Guillen*- 1

ABSENT- 0

ABSTENTION- 0

ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

2072533v4