



DAN KALB, Council Member

CITY OF OAKLAND

CITY HALL - ONE FRANK H. OGDEN PLAZA, 2ND FLOOR - OAKLAND - CALIFORNIA 94612

To: City Council and Members of the Public  
From: Council President Pro Tempore Dan Kalb and Council President Rebecca Kaplan  
Date: October 3, 2019  
Subject: Item 6 – Council Finance Committee of October 8, 2019  
Ordinance Amending Cannabis Business Tax Rates

Colleagues and Members of the Public,

This memorandum accompanies a modified version of the Ordinance Amending Cannabis Business Tax Rates that we filed on July 11, 2019. The changes that were made to that version include:

1. Making a distinction between Indoor Cultivation and Outdoor Cultivation;
2. Extending the low .12% rate up to \$1,000,000 in gross receipts after the transitional period, and making it a marginal rate for businesses up to \$1,500,000;
3. Has Cannabis Testing being taxed as a non-cannabis business, effective in 2020; and
4. Assigns the Transitional rates to become effective on January 2020 for businesses making up to \$1,500,000 in gross receipts, and on January 2021 for businesses making more than \$1,500,000.

See Attachment A and Attachment B for summaries of the proposed rate structure. Also, note the Administration's agenda report discussing potential revenue impacts.

Respectfully submitted,

Dan Kalb, Councilmember, District 1

Rebecca Kaplan, City Council President

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
INTRODUCED BY COUNCILMEMBER KALB AND COUNCIL PRESIDENT KAPLAN  
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APPROVED AS TO FORM AND LEGALITY

**DRAFT**

CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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

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

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

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

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

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

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

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

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

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

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

**SECTION 1.** Title 5, Chapter 5.04 of the Oakland Municipal Code containing the business tax requirements applicable to cannabis businesses is amended to add, delete or modify sections as set forth below (section numbers and titles are indicated in bold type; additions are indicated by underscoring and deletions are indicated by strike-through type.) Portions of regulations not cited or not shown in underscoring or strike-through are not changed.

**SECTION 2. Code Amendments.**

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

**5.04.480 – Cannabis businesses.**

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

1. “Cannabis Business” means any business that involves planting, cultivating, harvesting, transporting, dispensing, delivering, selling at retail or wholesale, manufacturing, compounding, converting, processing, preparing, storing, packaging, or testing any part of the plant Cannabis sativa L. or any of its derivatives.
2. “Cannabis Cultivation” means to plant, grow, harvest, dry, cure, grade, or trim cannabis.
3. “Cannabis Distribution and Transportation” means any business that 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. “Indoor Cultivation” means any Cannabis Business involved in Cannabis Cultivation within a permanent structure and using primarily artificial light.
8. “Medical Cannabis Business” means any Cannabis Business conducted pursuant to Health and Safety Code Sections 11362.5 and 11362.7—11362.83.
9. “Non-Medical Cannabis Business” means any Cannabis Business not conducted pursuant to Health and Safety Code Sections 11362.5 and 11362.7—11362.83.
10. “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.”
11. “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. Under \$500k Businesses.

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

2. Retail Cannabis (Under \$1.5 million).

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

a. New 2019 Business and Annual 2020/2021 Business Certificates.

With respect to any 2020 or 2021 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

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

b. 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 dollars (\$1,000,000.00); plus
- ii. Thirty dollars (\$30.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million dollars (\$1,000,000.00).

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

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

a. New 2019 Business and Annual 2020 Business Certificates.

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

- i. 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. One-hundred dollars (\$100.00) 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, fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

- i. Thirty dollars (\$30.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Forty dollars (\$40.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00).

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

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

a. New 2019 Business and Annual 2020 Business Certificates.

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

- i. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Medical Cannabis Business; plus
- ii. One-hundred dollars (\$100.00) 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.

5. Indoor Cultivation (Under \$1.5 million).

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

a. New 2019 Business and Annual 2020/2021 Business Certificates.

With respect to any 2020 or 2021 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

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

b. 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 dollars (\$1,000,000.00); plus
- ii. Thirty dollars (\$30.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million dollars (\$1,000,000.00).

6. Indoor Cultivation (Under \$5 million).

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

a. New 2019 Business and Annual 2020 Business Certificates.

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

i. 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. One-hundred dollars (\$100.00) 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, fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

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

ii. Forty dollars (\$40.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00).

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

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

a. New 2019 Business and Annual 2020 Business Certificates.

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

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

ii. One-hundred dollars (\$100.00) 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.

8. Cannabis Manufacturing (Under \$1.5 million).

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

a. New 2019 Business and Annual 2020/2021 Business Certificates.

With respect to any 2020 or 2021 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

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

b. 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 dollars (\$1,000,000.00); plus
- ii. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million dollars (\$1,000,000.00).

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

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

a. New 2019 Business and Annual 2020 Business Certificates.

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

- i. 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. One-hundred dollars (\$100.00) 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, fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

- i. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00).

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

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

a. New 2019 Business and Annual 2020 Business Certificates.

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

- i. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Medical Cannabis Business; plus
- ii. One-hundred dollars (\$100.00) 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, fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

- i. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus
- iii. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over \$5,000,000.00.

11. Cannabis Packaging & Storage (Under \$1.5 million).

Every person engaged in Cannabis Packaging & Storage with total gross receipts greater than five hundred thousand dollars (\$500,000.00) but less than or equal to one million five hundred thousand dollars (\$1,500,000.00) shall pay a business tax of:

a. New 2019 Business and Annual 2020/2021 Business Certificates.

With respect to any 2020 or 2021 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

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

b. 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 dollars (\$1,000,000.00); plus
- ii. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million dollars (\$1,000,000.00).

12. Cannabis Packaging & Storage (Under \$5 million).

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

a. New 2019 Business and Annual 2020 Business Certificates.

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

- i. 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. One-hundred dollars (\$100.00) 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, fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

- i. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00).

13. Cannabis Packaging & Storage (Over \$5 million).

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

a. New 2019 Business and Annual 2020 Business Certificates.

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

- i. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Medical Cannabis Business; plus
- ii. One-hundred dollars (\$100.00) 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, fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

- i. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus
- iii. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over \$5,000,000.00.

14. Outdoor Cultivation (Under \$1.5 million).

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

a. New 2019 Business and Annual 2020/2021 Business Certificates.

With respect to any 2020 or 2021 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

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

b. 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 dollars (\$1,000,000.00); plus
- ii. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million dollars (\$1,000,000.00).

15. Outdoor Cultivation (Under \$5 million).

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

a. New 2019 Business and Annual 2020 Business Certificates.

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

- i. 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. One-hundred dollars (\$100.00) 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, fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

- i. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00).



16. Outdoor Cultivation (Over \$5 million).

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

a. New 2019 Business and Annual 2020 Business Certificates.

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

- i. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Medical Cannabis Business; plus
- ii. One-hundred dollars (\$100.00) 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, fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

- i. Twenty-five dollars (\$25.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Thirty-five dollars (\$35.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus
- iii. Forty-five dollars (\$45.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over \$5,000,000.00.

17. Cannabis Distribution and Transportation (Under \$1.5 million).

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

a. New 2019 Business and Annual 2020/2021 Business Certificates.

With respect to any 2020 or 2021 business tax certificate and for any business tax certificate issued pursuant to Section 5.04.110 for a business newly established in calendar year 2019:

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

b. 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 dollars (\$1,000,000.00); plus
- ii. Fifteen dollars (\$15.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million dollars (\$1,000,000.00).

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

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

a. New 2019 Business and Annual 2020 Business Certificates.

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

- i. 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. One-hundred dollars (\$100.00) 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, forty dollars (\$40.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

- i. Fifteen dollars (\$15.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Twenty dollars (\$20.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00).

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

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

a. New 2019 Business and Annual 2020 Business Certificates.

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

- i. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, attributable to any Medical Cannabis Business; plus
- ii. One-hundred dollars (\$100.00) 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, forty dollars (\$40.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof.

c. Annual 2022 Business Certificates and After.

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

- i. Fifteen dollars (\$15.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, less than or equal to one million five hundred thousand dollars (\$1,500,000.00); plus
- ii. Twenty dollars (\$20.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over one million five hundred thousand dollars (\$1,500,000.00) but less than or equal to five million dollars (\$5,000,000.00); plus
- iii. Thirty dollars (\$30.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, over \$5,000,000.00.

20. Cannabis Testing.

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

- C. ~~Every person engaged in a Cannabis Business with total gross receipts greater than five hundred thousand dollars (\$500,000.00) shall pay a business tax of:~~
- ~~1. Fifty dollars (\$50.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, derived from any Medical Cannabis Business activity; *plus*~~
  - ~~2. One hundred dollars (\$100.00) for each one thousand dollars (\$1,000.00) of gross receipts, or fractional part thereof, derived from any Non-Medical Cannabis Business activity.~~

Vertically Integrated Businesses.

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

1. The tax due from the rate described in 5.04.480(B)(2), (3), or (4) as applied to any gross receipts entirely or partially derived from any Retail Cannabis activity attributable to Oakland; *plus*
2. The tax due from the rate described in 5.04.480(B)(5), (6), or (7) as applied to any gross receipts entirely or partially derived from any Indoor Cultivation activity attributable to Oakland, but not including any gross receipts partially derived from Retail Cannabis activity attributable to Oakland; *plus*
3. The tax due from the rate described in 5.04.480(B)(8), (9), or (10) as applied to any gross receipts entirely or partially derived from Cannabis Manufacturing activity attributable to Oakland, but not including any gross receipts partially derived from Retail Cannabis activity or Indoor Cultivation activity attributable to Oakland; *plus*
4. The tax due from the rate described in 5.04.480(B)(11), (12), or (13) as applied to any gross receipts entirely or partially derived from Cannabis Storage or Packaging activity attributable to Oakland, but not including any gross receipts partially derived from Retail Cannabis activity, Indoor Cultivation activity, or Cannabis Manufacturing activity attributable to Oakland; *plus*

5. The tax due from the rate described in 5.04.480(B)(14), (15), or (16) as applied to any gross receipts entirely or partially derived from Outdoor Cultivation activity attributable to Oakland, but not including any gross receipts partially derived from Retail Cannabis activity, Indoor Cultivation activity, Cannabis Manufacturing activity, or Cannabis Storage or Packaging activity attributable to Oakland; plus
6. The tax due from the rate described in 5.04.480(B)(17), (18), or (19) 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 activity, Cannabis Manufacturing activity, Cannabis Storage or Packaging activity, or Cannabis Cultivation activity attributable to Oakland.

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

D. Deductions for Raw Materials.

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

E. Maximum Rates.

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

F. Quarterly Reporting.

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

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

**SECTION 3. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

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

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

ATTEST:

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

Date of Attestation:

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

NOTICE AND DIGEST

2019 OCT -3 PM 3:49

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

This ordinance substantially amends the business tax structure and rates applicable to all cannabis businesses operating in the City of Oakland. The ordinance defines various categories of cannabis businesses including: Cannabis Cultivation, Cannabis Distribution and Transportation, Cannabis Manufacturing, Cannabis Storage and Packaging, and Retail Cannabis. The ordinance defines tax rates ranging from .12% to 10% of annual gross receipts. The ordinance creates a series of transitional tax rate structures, effective through 2021, and a series of permanent tax rate structures, effective from 2022 and beyond. With respect to Cannabis Testing businesses, the ordinance removes such businesses from the City's cannabis business licensing regime, and requires such businesses to apply for business tax certificates in other applicable categories. The ordinance defines a process for applying tax rates to businesses operating in multiple defined categories. Cannabis businesses operating in Oakland should review the text of the ordinance to determine the tax rates applicable to their particular operation.



<b><u>Proposed Oakland Cannabis Business Tax Structure*</u></b>				
<b><u>Total Gross Receipts</u></b>	<b><u>Cannabis Retail Businesses (including retail delivery), and Indoor Cultivation</u></b>	<b><u>Cannabis Manufacturing, Packaging &amp; Storage, and Outdoor Cultivation</u></b>	<b><u>Wholesale Distribution and Transportation (non-retail)</u></b>	
Up to \$500,000 in gross receipts	.12% of gross receipts	.12% of gross receipts	.12% of gross receipts	Already enacted for \$500K
Over \$500,000 and up to \$1,500,000	.12% of gross receipts up to \$1,000,000 + 3% of gross receipts over \$1,000,000 and up to \$1,500,000	.12% of gross receipts up to \$1,000,000 + 2.5% of gross receipts over \$1,000,000 and up to \$1,500,000	.12% of gross receipts up to \$1,000,000 + 1.5% of gross receipts over \$1,000,000 and up to \$1,500,000	Effective Jan. 2022
Over \$1,500,000 and up to \$5,000,000	3% of gross receipts up to \$1,500,000 + 4% of gross receipts over \$1,500,000 up to \$5,000,000	2.5% of gross receipts up to \$1,500,000 + 3.5% of gross receipts over \$1,500,000 up to \$5,000,000	1.5% of gross receipts up to \$1,500,000 + 2.0% of gross receipts over \$1,500,000 up to \$5,000,000	Effective Jan. 2022
Over \$5,000,000	5% of gross receipts (no marginal rates)	2.5% of gross receipts up to \$1,500,000 + 3.5% of gross receipts over \$1,500,000 and up to \$5,000,000 + 4.5% of gross receipts over \$5,000,000	1.5% of gross receipts up to \$1,500,000 + 2.0% of gross receipts over \$1,500,000 and up to \$5,000,000 + 3% of gross receipts over \$5,000,000	Effective Jan. 2022
*No distinction between medical and non-medical (adult use); Cannabis Testing taxed at same rate as relevant non-cannabis businesses.				

<b>Proposed Oakland Cannabis Business Tax Structure - TRANSITIONAL*</b>				
<b><u>Total Gross Receipts</u></b>	<b><u>Cannabis Retail Businesses (including retail delivery), and Indoor Cultivation</u></b>	<b><u>Cannabis Manufacturing, Packaging &amp; Storage, and Outdoor Cultivation</u></b>	<b><u>Wholesale Distribution and Transportation (non-retail)</u></b>	
Up to \$500,000 in gross receipts	.12% of gross receipts	.12% of gross receipts	.12% of gross receipts	Already enacted for \$500K
Over \$500,000 and up to \$1,500,000	.12% of gross receipts up to \$500,000 + 5% of gross receipts (over \$500,000 up to \$1,500,000)	.12% of gross receipts up to \$500,000 + 4.5% of gross receipts (over \$500,000 up to \$1,500,000)	.12% of gross receipts up to \$500,000 + 4% of gross receipts (over \$500,000 up to \$1,500,000)	Effective Jan. 2020
Over \$1,500,000 and up to \$5,000,000	5% of total gross receipts (no marginal rates)	5% of total gross receipts (no marginal rates)	4% of total gross receipts (no marginal rates)	Effective Jan. 2021
Over \$5,000,000	5% of total gross receipts (no marginal rates)	5% of total gross receipts (no marginal rates)	4% of total gross receipts (no marginal rates)	Effective Jan. 2021
*Effective Jan. 2021, no distinction between medical and non-medical (adult use); Cannabis Testing taxed at same rate as non-cannabis businesses.				