

CITY OF OAKLAND MEASURE F

F Shall City of Oakland's business tax, which currently imposes a tax rate of \$1.20 per \$1,000 on "cannabis business" gross receipts, be amended to establish a new tax rate of \$18 per \$1,000 of gross receipts?	YES
	NO

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE F

BALLOT TITLE

ORDINANCE AMENDING THE CITY OF OAKLAND'S BUSINESS TAX TO ESTABLISH A NEW TAX RATE FOR "CANNABIS BUSINESSES"

BALLOT SUMMARY

The measure creates a new Business Tax rate for "Cannabis Businesses" of \$18 for each \$1,000 of gross receipts from business activity. Currently, Cannabis Businesses in Oakland are taxed at the rate for retail sales businesses, which is \$60.00 per year for the first \$50,000.00 of gross receipts, plus \$1.20 for each additional \$1,000.00. The City of Oakland may use the revenue from the tax for any legal municipal purpose, including but not limited to maintenance of vital services and facilities. The tax must be approved by a majority of Oakland voters who cast ballots.

s/JOHN RUSSO
City Attorney

CITY ATTORNEY'S IMPARTIAL LEGAL ANALYSIS OF MEASURE F

Under the City of Oakland's current Business Tax, "Cannabis Businesses" are taxed as retail sales businesses. The tax rate for Retail Sales businesses is \$60.00 per year for the first \$50,000.00 of gross receipts, plus \$1.20 for each additional \$1,000.00. "Gross receipts" are a business's total revenue without deducting expenses. This measure would amend Oakland's Business Tax which is found at Chapter 5.04 of the Oakland Municipal Code to establish a new tax rate for "Cannabis Businesses" of \$18 for every \$1,000.00 of gross receipts from the businesses' activity in Oakland. The amendment will tax gross receipts from the planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, wholesale, and retail sales of marijuana and its derivatives.

The Cannabis Business tax is a general tax because the City could use the tax revenue for any legal municipal purpose. The California Constitution, Article XIII(C), Section 2(b) requires that the electorate approve a general tax by a majority vote. Before the City can establish the new tax rate for "Cannabis Businesses," a majority of the electorate must approve the measure.

s/JOHN RUSSO
City Attorney

5-22-09

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CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE F

SUMMARY

Measure F authorizes the City of Oakland to modify the business tax, Chapter 5.04 of the Oakland Municipal Code by adding Section 5.04.480, which would create a new "Cannabis" business classification. Oakland's existing business tax category list does not contain a specific tax category for cannabis businesses, since permitted cannabis dispensaries did not exist at the time the business tax system was created.

Under the proposed cannabis business classification, cannabis businesses will be taxed at a rate of \$18 per \$1,000 of gross receipts. The amendment will tax cannabis business activity generating gross receipts from planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, wholesale, and retail sales of marijuana and its derivatives.

Since 1996, when California voters authorized the use of cannabis for medical purposes, cannabis businesses have been paying the general retail business tax rate of \$1.20 per \$1,000 of gross receipts, rather than under a specific category.

If Measure F is approved by a majority of voters, the new cannabis business classification and tax rate will be effective beginning January 1, 2010.

FINANCIAL IMPACT

In Calendar Year (CY) 2007 and CY 2008, there were four cannabis dispensaries licensed with the City of Oakland. Gross receipts from the dispensaries for each fiscal year were \$17,918,000 and \$19,673,000 respectively. Under the general retail business tax rate of \$1.20 per \$1,000, business tax revenues from the dispensaries for each calendar year were \$21,500 and \$23,608 respectively.

For CY 2010, the City projects the same number of licensed cannabis dispensaries and estimated gross receipts of \$17,500,000. As a result, the new business tax classification and tax rate for cannabis facilities is estimated to generate \$294,000 in additional annual revenue, as shown in the table below.

Calendar Year	Projected Cannabis Business Gross Receipts	Annual Revenue based on \$1.20 per \$1,000 (A)	Annual Revenue based on \$18 per \$1,000 (B)	Estimated Increase in Revenue under Proposed Ordinance (B-A)
2010	\$17,500,000	\$21,000	\$315,000	\$294,000

The estimated increase in revenue will be deposited into the general fund for general fund purposes. The ballot measure does not earmark the increased revenue for any specific purpose.

Based on our analysis of the data provided by City staff, the projected revenues appear reasonable. We relied on the

best data available at this time, however actual results may vary from our estimates.

s/COURTNEY A. RUBY, CPA
City Auditor

5-22-09
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ARGUMENT IN FAVOR OF MEASURE F

The voters of California authorized the use of medical cannabis in 1996 – in a ballot initiative which Oakland voters supported by over 79% of the vote. Therefore, the City of Oakland has worked to create regulations and a permitting system for medical cannabis dispensaries. Regulations are used to prevent nuisance while protecting patients, and keeping customers away from the criminal market. Oakland's business tax system does not yet have a category for medical cannabis dispensaries. As a result, they have been paying at the "general retail rate," of \$1.20 per \$1,000 of gross receipts. This ballot measure creates a new business tax classification and rate for cannabis dispensaries, with a new, increased rate of \$18.00 per \$1,000. This will provide revenue to help balance Oakland's budget and help with funding for essential public services. State law in California requires that any new business tax rate must be approved by the voters. Community organizations, city leaders and the medical cannabis dispensaries themselves all support this measure, which will help avoid cuts to services for the public. We ask for your yes vote. For more information, visit www.Yes4Oakland.org

s/Dr. Frank H. Lucido

Family Practice Physician

s/Rebecca Kaplan

Oakland City Councilmember At-Large

s/Jan S. Rodolfo, RN

California Nurses Association

s/Richard Lee

President – Oaksterdam University

s/Nate Miley

Alameda County Supervisor

5-22-09
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**NO ARGUMENT AGAINST MEASURE F WAS
SUBMITTED.**

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FULL TEXT OF MEASURE F

ORDINANCE AMENDING THE CITY OF OAKLAND'S BUSINESS TAX TO ESTABLISH A NEW TAX RATE FOR "CANNABIS BUSINESSES"

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 regulations to prevent nuisance, provide for effective controls, enable medical cannabis patients to obtain cannabis from safe sources, and provide appropriate licensing and revenues for the City in a manner consistent with state law; and

WHEREAS, every person engaged in business activity in the City of Oakland is required to obtain a business tax certificate and to pay the City's business tax; and

WHEREAS, the City of Oakland has a business tax system which applies to all businesses in the City, and which contains a list of categories of types of businesses, and provides for the collection of business taxes at specified rates based on the classifications of the businesses operating in the City; and

WHEREAS, because permitted medical cannabis dispensaries did not exist at the time the business tax system was created, Oakland's current business tax category list does not contain a specific tax category for cannabis businesses; and

WHEREAS, cannabis businesses are currently taxed under the business classification of general retail at a business tax rate of \$1.20 per \$1,000 of gross receipts, rather than under a specific category; and

WHEREAS, under the newly created business classification cannabis businesses will be taxed at a rate of \$18 per \$1,000; and

WHEREAS, accordingly, the City Council of the City of Oakland desires to amend Chapter 5.04, adding section 5.04.480 to the Oakland Municipal; and

WHEREAS, all revenues received from the tax will be deposited in the general fund of the City to be expended for general fund purposes; now, therefore, be it

RESOLVED: That the City Council of the City of Oakland does hereby request that the Board of Supervisors of Alameda County order the Special Municipal election, consistent with the provisions of state law; and be it

FURTHER RESOLVED: That the City Council of the City of Oakland does hereby submit to the voters at the special election, not more than 88 days and not more than 150 days from the date of passage of this resolution, the text of the proposed ordinance, which shall be as follows; and be it

FURTHER RESOLVED: That each ballot used at said municipal election shall have printed therein, in addition to any other matter required by law the following:

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ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO MODIFY THE BUSINESS TAX BY CREATING A NEW "CANNABIS" BUSINESS CLASSIFICATION

Be it ordained by the People of the City of Oakland:

Section 1. The Municipal Code is hereby 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 the regulations not cited or not shown in underscoring or strike-through type are not changed).

Section 2. Code Amendment. Chapter 5.04 of the Oakland Municipal Code is hereby amended adding Section 5.04.480 to read as follows:

5.04.480 Cannabis.

A. Every person engaged in a cannabis business not otherwise specifically taxed by other business tax provisions of this chapter, shall pay a business tax of eighteen dollars \$18 for each one thousand dollars (\$1,000.00) of gross receipts or fractional part thereof.

B. For the purpose of this section, "cannabis business" means business activity including, but not limited to, planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, wholesale, and/or retail sales of marijuana, any part of the plant Cannabis sativa L. or its derivatives.

Section 3. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

Section 4. 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.

Section 5. Majority Approval; Effective Date. This Ordinance shall be effective only if approved by a majority of the voters voting thereon and after the vote is declared by the City Council. The effective date of this Ordinance shall be January 1, 2010.

Section 6. Council Amendments. The City Council of the City of Oakland is hereby authorized to amend Section 5.04.480 of the Oakland Municipal Code as adopted by this Ordinance in any manner that does not increase the tax rate, otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution or entirely dis-

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pense with the requirement for independent audits stated in Section 4.28.190.

FURTHER RESOLVED: That the City Council of the City of Oakland does hereby find and determine that pursuant to Article XIII C, section 2(b) of the California Constitution the City Council of the City of Oakland has adopted a resolution declaring the existence of a fiscal emergency in the City of Oakland that necessitates asking the voters to approve the proposed medical cannabis tax before the next regular election of the Oakland City Council;

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