

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Jose Cisneros, Treasurer, Office of the Treasurer and Tax Collector

FROM: Linda Wong, Assistant Clerk  
Budget and Finance Committee

DATE: January 12, 2021

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, introduced by Supervisor Catherine Stefani:

**File No. 201415**

**Ordinance waiving business registration fees for the fiscal year commencing July 1, 2020, and certain license fees originally due on March 31, 2020, for businesses with \$25,000,000 or less in San Francisco gross receipts that received more than 50% of such receipts from business activities precluded during all or a portion of the period from March 16, 2020, through March 1, 2021, due to a Local Health Officer's order to mitigate the spread of COVID-19 and/or from the activities of a facility that prepares and serves food for delivery or carry out or a restaurant, and refunding any waived amounts paid to the City.**

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [linda.wong@sfgov.org](mailto:linda.wong@sfgov.org).

c: Amanda Kahn Fried, Office of the Treasurer and Tax Collector

1 [Waiver of Business Registration Fees and Certain License Fees]

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3 **Ordinance waiving business registration fees for the fiscal year commencing**  
4 **July 1, 2020, and certain license fees originally due on March 31, 2020, for businesses**  
5 **with \$25,000,000 or less in San Francisco gross receipts that received more than 50%**  
6 **of such receipts from business activities precluded during all or a portion of the period**  
7 **from March 16, 2020, through March 1, 2021, due to a Local Health Officer’s order to**  
8 **mitigate the spread of COVID-19 and/or from the activities of a facility that prepares and**  
9 **serves food for delivery or carry out or a restaurant, and refunding any waived**  
10 **amounts paid to the City.**

11  
12 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
13 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
14 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
15 **Board amendment additions** are in double-underlined Arial font.  
16 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
17 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
18 subsections or parts of tables.

19 Be it ordained by the People of the City and County of San Francisco:

20 Section 1. Background and Purpose.

21 (a) On February 25, 2020, Mayor London Breed proclaimed a state of emergency in  
22 response to the COVID-19 pandemic. On March 3, 2020, the Board of Supervisors concurred  
23 in the February 25 Proclamation.

24 (b) On March 16, 2020, to mitigate the spread of COVID-19, the Local Health Officer  
25 issued Order No. C19-07, which has been amended and replaced by subsequent orders,  
directing San Franciscans to “shelter in place” beginning on March 17, 2020. These orders,

1 which are now known as “stay-safer-at-home” orders, generally require individuals to stay in  
2 their homes to the extent possible, and require businesses to cease all non-essential  
3 operations at physical locations in the City, with some limited exceptions.

4 (c) In response to the COVID-19 emergency, on March 11, 2020, the Mayor extended  
5 the due date for certain license fees otherwise due on March 31, 2020 under Section 76.1 of  
6 the Business and Tax Regulations Code to June 30, 2020. On April 23, 2020, to lessen the  
7 economic impact of the COVID-19 emergency, the Mayor further extended the payment  
8 deadline for those fees and certain deadlines for the payment of business registration fees to  
9 September 30, 2020. On August 4, 2020, the Mayor further extended those deadlines to  
10 March 1, 2021.

11 (d) Due to the public health emergency related to COVID-19 and the actions required  
12 to respond to the emergency, businesses engaged in non-essential operations have closed.  
13 The adverse economic impacts of the COVID-19 emergency have therefore been particularly  
14 severe on businesses engaged in non-essential operations. Even as some businesses  
15 previously closed have been or may be permitted to partially reopen on a limited basis, they  
16 are suffering and will continue to suffer severe economic harm due to the COVID-19  
17 emergency and the actions required to respond to it.

18 (e) The COVID-19 outbreak has caused significant negative impacts on businesses in  
19 the City, including the closure or partial closure of many of those businesses. While the exact  
20 course of the pandemic cannot be predicted, it is expected to continue to pose serious public  
21 health concerns in San Francisco for months to come, and will continue to have a serious  
22 negative impact on businesses during that time. This ordinance is intended to mitigate the  
23 economic harm and other hardships inflicted on businesses in San Francisco due to the public  
24 health emergency.

1 Section 2. Definitions.

2 For purposes of this ordinance, the following terms shall have the following meanings:

3 "Business Registration Certificate" means a "registration certificate," as defined in  
4 Section 852.2 of Article 12 of the Business and Tax Regulations Code.

5 "Business Registration Fee" means the tax imposed under Article 12 of the Business  
6 and Tax Regulations Code.

7 "City" means the City and County of San Francisco.

8 "Combined Group" has the meaning described in Section 956.3 of Article 12-A-1 of the  
9 Business and Tax Regulations Code.

10 "License Fees" means the fees payable to the Tax Collector under Section 76.1 of  
11 Article 2 of the Business and Tax Regulations Code.

12 "Newly Established Business" has the meaning set forth in Section 852.1 of Article 12  
13 of the Business and Tax Regulations Code.

14 "Person" has the meaning set forth in Section 6.2-15 of Article 6 of the Business and  
15 Tax Regulations Code.

16 "Qualified Business" means a Person or Combined Group that both (a) received more  
17 than 50% of its total combined San Francisco Gross Receipts for calendar year 2019 from  
18 business activities in the City that were precluded during all or a portion of the period from  
19 March 17, 2020 through March 1, 2021 by an order of the Local Health Officer to mitigate the  
20 spread of COVID-19 and/or from the activities of a facility that prepares and serves food for  
21 delivery or carry out or a restaurant; and (b) had \$25,000,000 or less in total combined  
22 San Francisco Gross Receipts in calendar year 2019.

23 For purposes of determining whether it is a "Qualified Business," a Person or  
24 Combined Group that was a Newly Established Business commencing business in the City in  
25 calendar year 2020 or 2021 shall use its estimated total combined San Francisco Gross

1 Receipts for the calendar year in which the Person or Combined Group first commenced  
2 business in the City instead of its total combined San Francisco Gross Receipts in calendar  
3 year 2019.

4 "Registration Year" has the meaning set forth in Section 852.4 of Article 6 of the  
5 Business and Tax Regulations Code.

6 "San Francisco Gross Receipts" has the meaning used in Section 855 of Article 12 of  
7 the Business and Tax Regulations Code.

8 "Tax Collector" has the meaning set forth in Section 6.2-19 of Article 6 of the Business  
9 and Tax Regulations Code.

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11 Section 3. Waiver of Business Registration Fees and Certain License Fees.

12 (a) The Business Registration Fee for the Registration Year beginning July 1, 2020,  
13 and all License Fees originally due on March 31, 2020 without regard to any extensions by  
14 Mayoral declaration or otherwise, shall be waived for each Qualified Business.

15 (b) No penalties shall be imposed on any Qualified Business with respect to the  
16 Business Registration Fee for the Registration Year beginning July 1, 2020. No penalties  
17 shall be imposed with respect to the payment of any License Fees waived under this  
18 Section 3.

19 (c) The Tax Collector may set the forms and procedures required for a Person or  
20 Combined Group to apply for a waiver under this Section 3.

1           Section 4. Refund of Waived Fees and Penalties Paid to City.

2           If a Person or Combined Group pays or has paid to the City any tax, fee, or penalty  
3 waived under Section 3 of this ordinance, the Tax Collector shall refund or cause to be  
4 refunded the amount of that tax, fee, or penalty, without interest, upon request of that Person  
5 or Combined Group. Any refund request under this Section 4 must be filed in writing on a  
6 form prescribed by the Tax Collector within one year of payment of the tax, fee, or penalty.  
7

8           Section 5. Effect of Fee Waiver.

9           (a) Notwithstanding Section 76.1(b) of Article 2 of the Business and Tax Regulations  
10 Code, the failure of a Person to pay any License Fees waived under Section 3 of this  
11 ordinance shall neither cause the license to expire by operation of law nor require the Person  
12 to obtain a new license, and such failure shall not preclude the Person from continuing to do  
13 or perform the act or carry on the business, trade, profession, or calling for which City law  
14 requires the license.

15           (b) The waiver of a Person or Combined Group's Business Registration Fee under  
16 Section 3 of this ordinance shall not relieve a Person or Combined Group from the registration  
17 and other applicable requirements under Articles 6 and 12 of the Business and Tax  
18 Regulations Code, except for the payment of that Person or Combined Group's waived  
19 Business Registration Fee. If a Person or Combined Group satisfies the registration and  
20 other applicable requirements under Articles 6 and 12 of the Business and Tax Regulations  
21 Code for the Registration Year beginning July 1, 2020, except for the payment of any waived  
22 Business Registration Fee, such Person or Combined Group shall be treated as if they had  
23 paid the Business Registration Fee for all purposes.  
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1 Section 6. Severability.

2 If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any  
3 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a  
4 decision of a court of competent jurisdiction, such decision shall not affect the validity of the  
5 remaining portions or applications of this ordinance. The Board of Supervisors hereby  
6 declares that it would have passed this ordinance and each and every section, subsection,  
7 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to  
8 whether any other portion of this ordinance or application thereof would be subsequently  
9 declared invalid or unconstitutional.

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11 Section 7. Effective Date. This ordinance shall become effective 30 days after  
12 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
13 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
14 of Supervisors overrides the Mayor's veto of the ordinance.

15  
16 APPROVED AS TO FORM:  
17 DENNIS J. HERRERA, City Attorney

18 By:  /s/  
19 KERNE H. O. MATSUBARA  
Deputy City Attorney

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## LEGISLATIVE DIGEST

[Waiver of Business Registration Fees and Certain License Fees]

**Ordinance waiving business registration fees for the fiscal year commencing July 1, 2020, and certain license fees originally due on March 31, 2020, for businesses with \$25,000,000 or less in San Francisco gross receipts that received more than 50% of such receipts from business activities precluded during all or a portion of the period from March 16, 2020, through March 1, 2021, due to a Local Health Officer's order to mitigate the spread of COVID-19 and/or from the activities of a facility that prepares and serves food for delivery or carry out or a restaurant, and refunding any waived amounts paid to the City.**

### Existing Law

Businesses in the City must obtain a registration certificate from the Tax Collector and pay an annual registration fee under Article 12 of the Business and Tax Regulations Code on a fiscal year basis. They also pay various annual license fees that are due and payable to the Tax Collector on March 31 of each year under Section 76.1 of Article 2 of the Business and Tax Regulations Code.

### Amendments to Current Law

This ordinance would waive, for each Qualified Business: (1) the business registration fee for the fiscal year commencing July 1, 2020; (2) all annual license fees otherwise due and payable to the Tax Collector on March 31, 2020, without regard to any extensions; and (3) all penalties with respect to these waived business registration fees and license fees. This ordinance also would refund any waived taxes, fees, and penalties paid to the City, upon written request of the Qualified Business filed within one year of payment of the tax, fee, and/or penalty.

A Qualified Business is a business that satisfied both of the following in calendar year 2019: (1) had \$25,000,000 or less in total combined San Francisco gross receipts, and (2) generated more than 50 percent of those receipts from business activities in the City that were precluded during all or a portion of the period from March 17, 2020 through March 1, 2021 by an order of the Local Health Officer to mitigate the spread of COVID-19 and/or from the activities of a facility that prepares and serves food for delivery or carry out or a restaurant. For purposes of determining whether it is a "Qualified Business," a business commencing business in the City in calendar year 2020 or 2021 would use its estimated total combined San Francisco gross receipts for the calendar year in which they first commenced business in the City, rather than 2019 total combined San Francisco gross receipts.



Background Information

On February 25, 2020, the Mayor proclaimed a state of emergency in response to the COVID-19 pandemic, and the Board of Supervisors concurred in that proclamation on March 3, 2020. On March 16, 2020, the Local Health Officer issued a shelter in place order directing San Franciscans to stay in their homes and requiring businesses to cease all non-essential operations at physical locations in the City. That order has been amended and replaced by subsequent orders extending shelter in place (now referred to as “stay safer at home”), with modifications but with no expiration date.

On March 11, 2020, by emergency declaration, the Mayor extended the due date for annual license fees otherwise due on March 31, 2020. On April 23, 2020, the Mayor further extended that due date to September 30, 2020, and also extended the deadline for the payment of registration fees to September 30, 2020. On August 4, 2020, the Mayor further extended those deadlines to March 1, 2021.

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