

BOARD of SUPERVISORS



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# MEMORANDUM

TO: Regina Dick-Endrizzi  
**Small Business Commission, City Hall, Room 448**

FROM: Linda Wong, Assistant Clerk  
Budget and Finance Committee

DATE: December 7, 2020

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Budget and Finance Committee

The Board of Supervisors' Budget and Finance Committee has received the following substitute legislation, which is being referred to the Small Business Commission for comment and recommendation.

**File No. 201260-2**

Ordinance waiving certain license fees originally due on March 31, 2020, and March 31, 2021, business registration fees for the fiscal years beginning July 1, 2020, and July 1, 2021, and payroll expense taxes for the tax year beginning January 1, 2020, for businesses with no more than \$20,000,000 in San Francisco gross receipts holding a place of entertainment permit; waiving certain license fees originally due on March 31, 2020, business registration fees for the fiscal year beginning July 1, 2020, and payroll expense taxes for the tax year beginning January 1, 2020, for businesses with no more than \$750,000 in San Francisco gross receipts holding a restaurant permit; and refunding any waived amounts paid to the City.

Please return this cover sheet with the Commission's response to Linda Wong, Budget and Finance Clerk, by email to: linda.wong@sfgov.org.

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**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

\_\_\_\_\_ **No Comment**

\_\_\_\_\_ **Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

[Waiver of License Fees, Business Registration Fees, and Payroll Expense Taxes for Certain Entertainment and Restaurant Businesses]

**Ordinance waiving certain license fees originally due on March 31, 2020, and March 31, 2021, business registration fees for the fiscal years beginning July 1, 2020, and July 1, 2021, and payroll expense taxes for the tax year beginning January 1, 2020, for businesses with no more than \$20,000,000 in San Francisco gross receipts holding a place of entertainment permit; waiving certain license fees originally due on March 31, 2020, business registration fees for the fiscal year beginning July 1, 2020, and payroll expense taxes for the tax year beginning January 1, 2020, for businesses with no more than \$750,000 in San Francisco gross receipts holding a restaurant permit; and refunding any waived amounts paid to the City.**

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

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

Section 1. Background and Purpose.

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

(b) On March 16, 2020, to mitigate the spread of COVID-19, the Local Health Officer issued Order No. C19-07, which has been amended and replaced by subsequent orders,

1 directing San Franciscans to “shelter in place” beginning on March 17, 2020. These orders,  
2 which are now known as “stay-safer-at-home” orders, generally require individuals to stay in  
3 their homes to the extent possible, and require businesses to cease all non-essential  
4 operations at physical locations in the City, with some limited exceptions.

5 (c) Due to the public health emergency related to COVID-19 and the actions required  
6 to respond to the emergency, San Francisco’s entertainment and nightlife and restaurant  
7 businesses either have not been able to operate at all or have opened only on a limited basis,  
8 which has caused many of these businesses to suffer economic harm. These businesses  
9 include music venues, clubs, and bars with live performances, and restaurants, all of which  
10 contribute tremendously to San Francisco’s culture. Despite not being able to operate at full  
11 capacity or at all, these businesses currently are still required to pay certain license fees and  
12 taxes. This ordinance is intended to mitigate the economic harm inflicted on certain  
13 entertainment and restaurant businesses in San Francisco due to the public health  
14 emergency.

15  
16 Section 2. Definitions.

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

18 “Business Registration Certificate” means a “registration certificate,” as defined in  
19 Section 852.2 of Article 12 of the Business and Tax Regulations Code.

20 “Business Registration Fee” means the tax imposed under Article 12 of the Business  
21 and Tax Regulations Code.

22 “City” means the City and County of San Francisco.

23 “Combined Group” has the meaning described in Section 956.3 of Article 12-A-1 of the  
24 Business and Tax Regulations Code.

1           “License Fees” means the fees payable to the Tax Collector under Section 76.1 of  
2 Article 2 of the Business and Tax Regulations Code.

3           “Newly Established Business” has the meaning set forth in Section 852.1 of Article 12  
4 of the Business and Tax Regulations Code.

5           “Payroll Expense Tax” means the tax imposed under Article 12-A of the Business and  
6 Tax Regulations Code.

7           “Person” has the meaning set forth in Section 6.2-15 of Article 6 of the Business and  
8 Tax Regulations Code.

9           “Place of Entertainment” has the meaning set forth in Section 1060 of Article 15.1 of  
10 the Police Code.

11           “Place of Entertainment Permit” means the permit for any Place of Entertainment  
12 required under Section 1060.1 of Article 15.1 of the Police Code.

13           “Qualified Entertainment Business” means a Person or Combined Group that both  
14 (a) had no more than \$20,000,000 in total combined San Francisco Gross Receipts in  
15 calendar year 2019; and (b) held a valid Place of Entertainment Permit on or after  
16 April 1, 2020. For purposes of determining whether it is a “Qualified Entertainment Business,”  
17 a Person or Combined Group that was a Newly Established Business commencing business  
18 in the City in calendar year 2020, 2021, or 2022 shall use its estimated total combined San  
19 Francisco Gross Receipts for the calendar year in which the Person or Combined Group first  
20 commenced business in the City instead of its total combined San Francisco Gross Receipts  
21 in calendar year 2019.

22           “Qualified Restaurant Business” means a Person or Combined Group that both (a) had  
23 no more than \$750,000 in total combined San Francisco Gross Receipts in calendar year  
24 2019; and (b) held a valid Restaurant Permit on or after April 1, 2020. For purposes of  
25 determining whether it is a “Qualified Restaurant Business,” a Person or Combined Group that

1 was a Newly Established Business commencing business in the City in calendar year 2020 or  
2 2021 shall use its estimated total combined San Francisco Gross Receipts for the calendar  
3 year in which the Person or Combined Group first commenced business in the City instead of  
4 its total combined San Francisco Gross Receipts in calendar year 2019.

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

7 “Restaurant Permit” means the permit that is required by the Department of Public  
8 Health to operate a food preparation and service establishment, as defined in Section 451 of  
9 the Health Code, and for which payment of the Class A annual license fee is required by  
10 Section 249.1(a) of Article 2 of the Business and Tax Regulations Code.

11 “San Francisco Gross Receipts” has the meaning used in Section 855 of Article 12 of  
12 the Business and Tax Regulations Code.

13 “Tax Collector” has the meaning set forth in Section 6.2-19 of Article 6 of the Business  
14 and Tax Regulations Code.

15 “Tax Year” has the meaning set forth in Section 6.2-20 of Article 6 of the Business and  
16 Tax Regulations Code.

17  
18 Section 3. Waiver of License Fees, Business Registration Fees, and Payroll Expense  
19 Taxes.

20 (a) The following shall be waived for each Qualified Entertainment Business:

21 (1) All License Fees due on March 31, 2020 and March 31, 2021 without regard  
22 to any extensions by Mayoral declaration or otherwise;

23 (2) Business Registration Fees for the Registration Years beginning  
24 July 1, 2020 and July 1, 2021; and

25 (3) Payroll Expense Taxes for the Tax Year beginning January 1, 2020.

1 (b) The following shall be waived for each Qualified Restaurant Business:

2 (1) All License Fees due on March 31, 2020 without regard to any extensions  
3 by Mayoral declaration or otherwise;

4 (2) Business Registration Fees for the Registration Year beginning July 1, 2020;  
5 and

6 (3) Payroll Expense Taxes for the Tax Year beginning January 1, 2020.

7 (c) No penalties shall be imposed on any Qualified Entertainment Business with  
8 respect to the Business Registration Fee for the Registration Years beginning July 1, 2020  
9 and July 1, 2021 or with respect to the Payroll Expense Tax for the Tax Year beginning  
10 January 1, 2020. No penalties shall be imposed on any Qualified Restaurant Business with  
11 respect to the Business Registration Fee for the Registration Year beginning July 1, 2020 or  
12 with respect to the Payroll Expense Tax for the Tax Year beginning January 1, 2020. No  
13 penalties shall be imposed with respect to the payment of any License Fee waived under this  
14 Section 3.

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

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18 Section 4. Refund of Waived Taxes, Fees, and Penalties Paid to City.

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

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

8           (b) The waiver of a Person or Combined Group's Business Registration Fee under  
9 Section 3 of this ordinance shall not relieve a Person or Combined Group from the registration  
10 and other applicable requirements under Articles 6 and 12 of the Business and Tax  
11 Regulations Code, except for the payment of that Person or Combined Group's waived  
12 Business Registration Fee. If a Person or Combined Group satisfies the registration and  
13 other applicable requirements under Articles 6 and 12 of the Business and Tax Regulations  
14 Code for the Registration Years beginning July 1, 2020 and July 1, 2021 in the case of a  
15 Qualified Entertainment Business and for the Registration Year beginning July 1, 2020 in the  
16 case of a Qualified Restaurant Business, except in either case for the payment of any waived  
17 Business Registration Fee, such Person or Combined Group shall be treated as if they had  
18 paid the Business Registration Fee for all purposes for the applicable Registration Year.

19           (c) The waiver of a Person or Combined Group's Payroll Expense Tax under Section 3  
20 of this ordinance shall not relieve a Person or Combined Group from the filing requirements  
21 under Articles 6 and 12-A of the Business and Tax Regulations Code.

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23           Section 6. Severability.

24           If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any  
25 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a

