

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: November 9, 2020

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Budget and Finance Committee

The Board of Supervisors' Budget and Finance Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 201260

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, 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.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

- No Comment**
- Recommendation Attached**

Chairperson, Small Business Commission

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

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

8
9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

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

17 Section 1. Background and Purpose.

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

21 (b) On March 16, 2020, to mitigate the spread of COVID-19, the Local Health Officer
22 issued Order No. C19-07, which has been amended and replaced by subsequent orders,
23 directing San Franciscans to “shelter in place” beginning on March 17, 2020. These orders,
24 which are now known as “stay-safer-at-home” orders, generally require individuals to stay in
25 their homes to the extent possible, and require businesses to cease all non-essential
operations at physical locations in the City, with some limited exceptions.

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

10
11 Section 2. Definitions.

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

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

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

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

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

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

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

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

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

3 "Place of Entertainment" has the meaning set forth in Section 1060 of Article 15.1 of
4 the Police Code.

5 "Place of Entertainment Permit" means the permit for any Place of Entertainment
6 required under Section 1060.1 of Article 15.1 of the Police Code.

7 "Qualified Business" means a Person or Combined Group that both (a) had no more
8 than \$20,000,000 in total combined San Francisco Gross Receipts in calendar year 2019; and
9 (b) held a valid Place of Entertainment Permit on or after April 1, 2020.

10 For purposes of determining whether it is a "Qualified Business," a Person or
11 Combined Group that was a Newly Established Business commencing business in the City in
12 calendar year 2020 or 2021 shall use its estimated total combined San Francisco Gross
13 Receipts for the calendar year in which the Person or Combined Group first commenced
14 business in the City instead of its total combined San Francisco Gross Receipts in calendar
15 year 2019.

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

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

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

22 "Tax Year" has the meaning set forth in Section 6.2-20 of Article 6 of the Business and
23 Tax Regulations Code.

1 Section 3. Waiver of License Fees, Business Registration Fees, and Payroll Expense
2 Taxes.

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

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

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

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

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

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

16
17 Section 4. Refund of Waived Taxes, Fees, and Penalties Paid to City.

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

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, except for the
15 payment of any waived Business Registration Fee, such Person or Combined Group shall be
16 treated as if they had paid the Business Registration Fee for all purposes.

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

20
21 Section 6. Severability.

22 If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any
23 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
24 decision of a court of competent jurisdiction, such decision shall not affect the validity of the
25 remaining portions or applications of this ordinance. The Board of Supervisors hereby

1 declares that it would have passed this ordinance and each and every section, subsection,
2 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to
3 whether any other portion of this ordinance or application thereof would be subsequently
4 declared invalid or unconstitutional.

5

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

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11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By: /s/
14 KERNE H. O. MATSUBARA
Deputy City Attorney

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