

1 [Waiver of Permit, License, and Business Registration Fees for New Small Businesses]

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3 **Ordinance waiving certain first-year permit, license, and business registration fees for**
 4 **businesses that commence engaging in business within the City from**
 5 **November 1, 2021, through October 31, 2022, have estimated first-year San Francisco**
 6 **gross receipts of \$2,000,000 or less, and have a registered business location that is for**
 7 **storefront commercial use and not formula retail uses; and refunding any waived fees**
 8 **paid to the City.**

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

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

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17 Section 1. Background, Purpose, and Findings.

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19 (a) San Francisco is home to thousands of small businesses, employing hundreds of
 20 thousands of workers. Small businesses are the lifeblood of our neighborhoods and our
 21 communities. While many have managed to stay afloat during the COVID-19 pandemic and
 22 economic downturn, adjust to quickly shifting guidelines and practices, and creatively promote
 23 new ways of doing business, many have not, and have not survived.

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24 (b) The City seeks a robust and equitable recovery that revives the small business
 25 sector, gets service and retail workers back to work, reassures San Franciscans that

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1 neighborhood corridors are still there for them to gather, shop, and dine, and attracts visitors
2 to enjoy all that is special and unique about our City.

3 (c) In March 2021, the San Francisco Budget and Legislative Analyst issued a report
4 estimating unpaid commercial rent in San Francisco through December 2020 due to the
5 COVID-19 pandemic and related public health orders. The report estimated that, while non-
6 payment of rent from retail chains had recovered slightly from spikes early in the pandemic,
7 between 52% and 63% of small local businesses had not been able to pay rent in full and
8 that unpaid commercial rent ranged from \$172 million to \$404 million, with almost all of that –
9 89% to 98% – owed by storefront retail, services, restaurants, and bars. Commercial eviction
10 protections, lease renegotiations, and other strategies will allow some, but not all, of these
11 small businesses to continue to operate.

12 (d) Prior to the pandemic, neighborhoods across the City were already seeing a
13 proliferation of vacant storefronts. To ensure vibrant commercial corridors, the City must focus
14 not only on sustaining existing businesses but also on addressing vacancies. In order to
15 lower the barriers that new businesses face before they open their doors, San Francisco
16 voters passed Proposition H in November 2020, a package of commercial permit streamlining
17 changes, and pending legislation would expand those streamlining changes. To further lower
18 those barriers, complement the permit process changes, remove the financial barrier that City
19 fees create for prospective small business owners, and support a full and fast recovery of the
20 City’s commercial corridors and small businesses, this ordinance will waive City certain first-
21 year permit, initial license, and initial business registration fees for many new small
22 businesses.

23 (e) Small businesses are an effective economic development pathway for communities
24 of color and an alternative to minimum wage jobs for working class San Franciscans.
25 According to a 2015 paper published by the Brookings Institution, “Business ownership can

1 catalyze social mobility. . . . African American entrepreneurs are both more likely to move into
2 higher income groups than are African American nonentrepreneurs, . . [and] successful
3 entrepreneurship is correlated with wealth, savings, job satisfaction, and economic mobility.”
4 A recent article by What Works Cities stated, “[S]mall business entrepreneurship has long
5 served as an important vehicle of economic mobility for families. In many immigrant
6 communities and communities of color, owning a business and hiring neighbors and
7 community members is a way to build wealth for their families and create vibrant
8 communities.” Among its benefits, this ordinance will encourage and support small business
9 entrepreneurship in immigrant communities and communities of color, though its reach will be
10 broader and its impact will be across-the-board and citywide.

11 (f) The Board of Supervisors finds that it is reasonable to waive first-year permit,
12 license, and business registration fees for certain new small businesses whose business
13 location is for storefront commercial use and not Formula Retail uses. The Board of
14 Supervisors further finds that while small businesses with one or few locations have been
15 especially impacted by the economic downturn, Formula Retail businesses, in general, are
16 better positioned to navigate the economic downturn due to the fact that Formula Retail
17 establishments have multiple locations.

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19 Section 2. Definitions.

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

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

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

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

1 “City Departments” means the departments and agencies that issue any permit,
2 license, or Business Registration Certificate, the fees for which are subject to waiver under
3 Section 3(a) of this ordinance, including but not limited to the Planning Department,
4 Department of Building Inspection, Fire Department, Department of Public Works, Department
5 of Public Health, Police Department, Public Utilities Commission, Entertainment Commission,
6 Office of Cannabis, and Office of the Treasurer and Tax Collector.

7 “License Fees” means all license fees payable to the City, including but not limited to
8 fees payable to the City under Sections 76.1 and 76.2 of Article 2 of the Business and Tax
9 Regulations Code, relating to the operation of a business at a location that is for Storefront
10 Commercial Use, and not including fees for licenses under Chapter 94A of the Administrative
11 Code, as may be amended from time to time.

12 “Permit Fees” means the fees payable to the City upon application for and issuance of
13 any permit, including but not limited to permits subject to Article 1 of the Business and Tax
14 Regulations Code, for the establishment, modification, and/or operation of a Storefront
15 Commercial Use, and not including fees for permits under Chapter 94A of the Administrative
16 Code, as may be amended from time to time.

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

19 “Public Right of Way” means the dedicated public alleys, boulevards, courts, lanes,
20 roads, sidewalks, spaces, streets, and ways within the City, which are under the permitting
21 jurisdiction of the Department of Public Works.

22 “Qualified New Business” means a Person that (1) applies for a Business Registration
23 Certificate in accordance with Section 856 of Article 12 of the Business and Tax Regulations
24 Code indicating its date of commencing business within the City on or after November 1, 2021
25 and on or before October 31, 2022, (2) has \$2,000,000 or less in estimated San Francisco

1 Gross Receipts for the calendar year in which the Person commences business within the
2 City, and (3) has a registered business location that is for Storefront Commercial Use as
3 reported on the Person’s application for a Business Registration Certificate.

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

6 “Storefront Commercial Use” means the commercial use of the ground floor of any
7 portion of a building or structure, where such ground floor is adjacent or tangent to a Public
8 Right of Way, other than Formula Retail uses as defined in Section 303.1(b) of the Planning
9 Code.

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

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13 Section 3. Waiver of Certain Permit, License, and Business Registration Fees.

14 (a) All Permit Fees, initial License Fees, and the initial Business Registration Fee shall
15 be waived for each Qualified New Business. The waiver in this Section 3(a) shall apply to
16 applications for a permit, initial license, or initial Business Registration Certificate filed by the
17 Qualified New Business on or after November 1, 2021 and on or before October 31, 2022.
18 The waiver in this Section 3(a) shall not apply to (1) any fees for the renewal of a license or
19 Business Registration Certificate, and (2) any fees collected by the City on behalf of any
20 federal, state, or other local government or agency.

21 (b) No penalties shall be imposed on a Qualified New Business with respect to the
22 payment of any fees waived under Section 3(a). A misrepresentation or misstatement by any
23 Person regarding eligibility for the waiver authorized by Section 3(a) that results in the
24 underpayment of any Permit Fees, License Fees, and/or the Business Registration Fee shall
25 be subject to the penalties applicable to those fees.

1 (c) City Departments and the Tax Collector shall implement the waiver of fees under
2 Section 3(a) and the refunding of any fees under Section 4 of this ordinance.

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4 Section 4. Refund of Waived Fees Paid to City.

5 Any fee waived under Section 3(a) of this ordinance that has been collected by the City
6 shall be refunded, without interest, upon request of the payer of the fee. Any refund request
7 under this Section 4 must be filed in writing with the Tax Collector within one year of payment
8 of the fee.

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10 Section 5. Effect of Fee Waiver.

11 (a) Notwithstanding Article 1 and Article 2 of the Business and Tax Regulations Code,
12 the failure of a Person to pay any Permit Fees and/or License Fees waived under Section 3(a)
13 of this ordinance shall not preclude the Person from continuing to do or perform the act or
14 carry on the business, trade, profession, or calling for which City law requires the permit or
15 license.

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

1 Section 6. Information Collection and Reporting.

2 The Tax Collector shall collect information on the number of Qualified New Businesses
3 by supervisorial district that received a waiver of one or more fees under Section 3(a) of this
4 ordinance, the business activity codes under the North American Industry Classification
5 System of those Qualified New Businesses by supervisorial district, and the fees and total
6 amounts waived in the aggregate. The Tax Collector shall submit a report to the Board of
7 Supervisors no later than June 15, 2022 on the information collected for the six-month period,
8 November 1, 2021 through April 30, 2022.

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10 Section 7. Severability.

11 If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any
12 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
13 decision of a court of competent jurisdiction, such decision shall not affect the validity of the
14 remaining portions or applications of this ordinance. The Board of Supervisors hereby
15 declares that it would have passed this ordinance and each and every section, subsection,
16 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to
17 whether any other portion of this ordinance or application thereof would be subsequently
18 declared invalid or unconstitutional.

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

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6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By: /s/
9 KERNE H. O. MATSUBARA
Deputy City Attorney

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