

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: January 12, 2021

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.

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.

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 Business Registration Fees and Certain License Fees]

2
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.

10
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.
24
25

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.

10
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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