

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

2
3 **Ordinance amending the program established in Ordinance No. 143-21 waiving certain**
4 **first-year permit, license, and business registration fees for certain businesses,**
5 **retroactive to November 1, 2021, to 1) extend the program through June 30, 2023;**
6 **2) increase the gross receipts permissible for a business to qualify for the tax and fee**
7 **waiver from \$2,000,000 to \$5,000,000; 3) remove the requirement that the business be**
8 **located on the ground floor; 4) extend the period for refunds to the later of one year**
9 **from the date of payment or June 30, 2023; 5) revise the procedures for challenging Tax**
10 **Collector determinations that a business improperly claimed a waiver under this**
11 **Ordinance; 6) increase the gross receipts above which the waiver would be**
12 **retroactively revoked from \$10,000,000 to \$15,000,000 in the calendar year of, or in any**
13 **calendar year during the three full calendar years following, the date the business**
14 **commenced business within San Francisco or opened a new business location for**
15 **commercial use; and 7) make other administrative and reporting changes, as defined**
16 **herein.**

17
18 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
19 **Additions to Codes** are in *single-underline italics Times New Roman font*.
20 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
21 **Board amendment additions** are in double-underlined Arial font.
22 **Board amendment deletions** are in ~~strikethrough Arial font~~.
23 **Asterisks (* * * *)** indicate the omission of unchanged Code
24 subsections or parts of tables.
25

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

1 Section 1. Summary of Amendments to “First Year Free” Program.

2 Ordinance No. 143-21 (Board of Supervisors File No. 210741) established the “First
3 Year Free” program, which waived most initial registration fees, initial license fees, and permit
4 fees for certain new businesses and businesses with new locations through October 31, 2022.
5 To qualify, new businesses were required to have \$2,000,000 or less in estimated
6 San Francisco gross receipts for the calendar year in which the business commenced within
7 the City, and existing businesses with new locations were required to have reported
8 \$2,000,000 or less in annual San Francisco gross receipts or estimated San Francisco gross
9 receipts on their most recently filed gross receipts tax return, application for a registration
10 certificate, or renewal of a registration certificate. The “First Year Free” program was limited
11 to businesses with locations for certain ground-floor commercial uses. If a business originally
12 subject to waiver had more than \$10,000,000 in San Francisco gross receipts in the calendar
13 year of, or in any calendar year during the three full-year calendar years following, the date
14 the business commenced business in San Francisco or opened a new qualified business
15 location in San Francisco, the waiver was subject to retroactive revocation and the business
16 was required to remit to the City all waived amounts.

17 This ordinance amends Ordinance No. 143-21 to extend the “First Year Free” program
18 through June 30, 2023, including extending the period within which a business that paid
19 waived fees may request a refund to the extent such period would have expired prior to
20 June 30, 2023. It also expands that program retroactively to November 1, 2021, by:
21 (1) increasing from \$2,000,000 to \$5,000,000 the maximum San Francisco gross receipts
22 permissible for a business to qualify for the tax and fee waiver; (2) removing the requirement
23 that the business be located on the ground floor; and (3) increasing the San Francisco gross
24 receipts above which the waiver would be retroactively revoked from \$10,000,000 to
25 \$15,000,000 in the calendar year of, or in any calendar year during the three full-year

1 calendar years following, the date the business commenced business within San Francisco or
2 opened a new qualified business location in San Francisco. Finally, it revises the procedures
3 for challenging Tax Collector determinations that a business improperly claimed a waiver
4 under this ordinance, and makes other administrative and reporting changes.

5
6 Section 2. Amendments to “First Year Free” Program.

7 This ordinance amends the following provisions of Ordinance No. 143-21:

- 8 Section 1(d)
- 9 Section 1(f)
- 10 Section 2: definition of License Fees
- 11 Section 2: definition of Permit Fees
- 12 Section 2: definition of Qualified Business With New Location
- 13 Section 2: definition of Qualified New Business
- 14 Section 3(a)
- 15 Section 3(b)
- 16 Section 3(c)(3)
- 17 Section 3(d)(1)
- 18 Section 3(d)(2)
- 19 Section 3(d)(3)
- 20 Section 4
- 21 Section 6.

22 Ordinance No. 143-21 is hereby amended as follows:

23 (a) Subsection (d) of Section 1 currently provides: “Prior to the pandemic,
24 neighborhoods across the City were already seeing a proliferation of vacant storefronts. To
25 ensure vibrant commercial corridors, the City must focus not only on sustaining existing

1 businesses but also on addressing vacancies. In order to lower the barriers that new
2 businesses face before they open their doors, San Francisco voters passed Proposition H in
3 November 2020, a package of commercial permit streamlining changes, and pending
4 legislation would expand those streamlining changes. To further lower those barriers,
5 complement the permit process changes, remove the financial barrier that City fees create for
6 prospective small business owners, and support a full and fast recovery of the City’s
7 commercial corridors and small businesses, this ordinance will waive certain City first-year
8 permit, initial license, and initial business registration fees for many new small businesses and
9 certain first-year permit and initial license fees for many small businesses that open a new
10 ground floor location.”

11 Subsection (d) of Section 1 is hereby replaced in its entirety to provide: “Prior to the
12 pandemic, neighborhoods across the City were already seeing a proliferation of vacant
13 storefronts. To ensure vibrant commercial corridors, the City must focus not only on
14 sustaining existing businesses but also on addressing vacancies. In order to lower the
15 barriers that new businesses face before they open their doors, San Francisco voters passed
16 Proposition H in November 2020, a package of commercial permit streamlining changes, and
17 subsequent legislation expanded those streamlining changes. To further lower those barriers,
18 complement the permit process changes, remove the financial barrier that City fees create for
19 prospective small business owners, and support a full and fast recovery of the City’s
20 commercial corridors and small businesses, this ordinance will waive certain City first-year
21 permit, initial license, and initial business registration fees for many new small businesses and
22 certain first-year permit and initial license fees for many small businesses that open a new
23 location.”

24 (b) Subsection (f) of Section 1 currently provides: “The Board of Supervisors finds that
25 it is reasonable to waive first-year permit, license, and business registration fees for certain

1 small businesses whose business location is for ground floor commercial use and not Formula
2 Retail uses. The Board of Supervisors further finds that while small businesses with one or
3 few locations have been especially impacted by the economic downturn, Formula Retail
4 businesses, in general, are better positioned to navigate the economic downturn due to the
5 fact that Formula Retail establishments have multiple locations.”

6 Subsection (f) of Section 1 is hereby replaced in its entirety to provide: “The Board of
7 Supervisors finds that it is reasonable and in the public interest to waive first-year permit,
8 license, and business registration fees for certain small businesses whose business location
9 is for commercial use and not Formula Retail uses. The Board of Supervisors further finds
10 that while small businesses with one or few locations have been especially impacted by the
11 economic downturn, Formula Retail businesses, in general, are better positioned to navigate
12 the economic downturn due to the fact that Formula Retail establishments have multiple
13 locations.”

14 (c) The definition of “License Fees” in Section 2 currently provides: “‘License Fees’
15 means all license fees payable to the City, including but not limited to fees payable to the City
16 under Sections 76.1 and 76.2 of Article 2 of the Business and Tax Regulations Code, relating
17 to the operation of a business at a location that is for ground floor Commercial Use, and not
18 including fees for licenses under Chapter 94A of the Administrative Code, as may be
19 amended from time to time.”

20 The definition of “License Fees” in Section 2 is hereby replaced in its entirety to
21 provide: “‘License Fees’ means all license fees payable to the City, including but not limited to
22 fees payable to the City under Sections 76.1 and 76.2 of Article 2 of the Business and Tax
23 Regulations Code, relating to the operation of a business at a location that is for Commercial
24 Use, and not including fees for licenses under Chapter 94A of the Administrative Code, as
25 may be amended from time to time.”

1 (d) The definition of “Permit Fees” in Section 2 currently provides: “‘Permit Fees’
2 means the fees payable to the City upon application for and issuance of any permit, including
3 but not limited to permits subject to Article 1 of the Business and Tax Regulations Code, for
4 the establishment, modification, and/or operation of a ground floor Commercial Use, and not
5 including fees for permits under Chapter 94A of the Administrative Code, as may be amended
6 from time to time.”

7 The definition of “Permit Fees” in Section 2 is hereby replaced in its entirety to provide:
8 “‘Permit Fees’ means the fees payable to the City upon application for and issuance of any
9 permit, including but not limited to permits subject to Article 1 of the Business and Tax
10 Regulations Code, for the establishment, modification, and/or operation of a Commercial Use,
11 and not including fees for permits under Chapter 94A of the Administrative Code, as may be
12 amended from time to time.”

13 (e) The definition of “Qualified Business With New Location” in Section 2 currently
14 provides: “‘Qualified Business With New Location’ means a Person that (a) commenced
15 business within the City before November 1, 2021 and holds a valid Business Registration
16 Certificate, (b) commences business at a new business location that is for ground floor
17 Commercial Use on or after November 1, 2021 and on or before October 31, 2022, as
18 reported to the Tax Collector, and (c) reported \$2,000,000 or less in annual San Francisco
19 Gross Receipts or estimated San Francisco Gross Receipts on its most recently filed Gross
20 Receipts Tax Return, application for a Registration Certificate, or renewal of a Registration
21 Certificate.”

22 The definition of “Qualified Business With New Location” in Section 2 is hereby
23 replaced in its entirety to provide: “‘Qualified Business With New Location’ means a Person
24 that (a) commenced business within the City before November 1, 2021 and holds a valid
25 Business Registration Certificate, (b) commences business at a new business location that is

1 for Commercial Use on or after November 1, 2021 and on or before June 30, 2023, as
2 reported to the Tax Collector, and (c) reported \$5,000,000 or less in annual San Francisco
3 Gross Receipts or estimated San Francisco Gross Receipts on its most recently filed Gross
4 Receipts Tax Return, application for a Registration Certificate, or renewal of a Registration
5 Certificate.”

6 (f) The definition of “Qualified New Business” in Section 2 currently provides:
7 “‘Qualified New Business’ means a Person that (1) applies for a Business Registration
8 Certificate in accordance with Section 856 of Article 12 of the Business and Tax Regulations
9 Code indicating its date of commencing business within the City on or after November 1, 2021
10 and on or before October 31, 2022, (2) has \$2,000,000 or less in estimated San Francisco
11 Gross Receipts for the calendar year in which the Person commences business within the
12 City, and (3) has a registered business location that is for ground floor Commercial Use as
13 reported on the Person’s application for a Business Registration Certificate.”

14 The definition of “Qualified New Business” in Section 2 is hereby replaced in its entirety
15 to provide: “‘Qualified New Business’ means a Person that (1) applies for a Business
16 Registration Certificate in accordance with Section 856 of Article 12 of the Business and Tax
17 Regulations Code indicating its date of commencing business within the City on or after
18 November 1, 2021 and on or before June 30, 2023, (2) has \$5,000,000 or less in estimated
19 San Francisco Gross Receipts for the calendar year in which the Person commences
20 business within the City, and (3) has a registered business location that is for Commercial Use
21 as reported on the Person’s application for a Business Registration Certificate or any update
22 to that registration information provided to the Tax Collector.”

23 (g) Subsection (a) of Section 3 currently provides: “All Permit Fees, initial License
24 Fees, and the initial Business Registration Fee shall be waived for each Qualified New
25 Business. The waiver in this Section 3(a) shall apply to applications for a permit, initial

1 license, or initial Business Registration Certificate filed by the Qualified New Business on or
2 after November 1, 2021 and on or before October 31, 2022. The waiver in this Section 3(a)
3 shall not apply to (1) any fees for the renewal of a license or Business Registration Certificate,
4 and (2) any fees collected by the City on behalf of any federal, state, or other local
5 government or agency.”

6 Subsection (a) of Section 3 is hereby replaced in its entirety to provide: “All Permit
7 Fees, initial License Fees, and the initial Business Registration Fee shall be waived for each
8 Qualified New Business. The waiver in this Section 3(a) shall apply to applications for a
9 permit, initial license, or initial Business Registration Certificate filed by the Qualified New
10 Business on or after November 1, 2021 and on or before June 30, 2023. The waiver in this
11 Section 3(a) shall not apply to (1) any fees for the renewal of a license or Business
12 Registration Certificate, and (2) any fees collected by the City on behalf of any federal, state,
13 or other local government or agency.”

14 (h) Subsection (b) of Section 3 currently provides: “All Permit Fees and initial License
15 Fees shall be waived for each Qualified Business With New Location. The waiver in this
16 Section 3(b) shall apply to applications for a permit or initial license filed by the Qualified
17 Business With New Location on or after November 1, 2021 and on or before
18 October 31, 2022, and shall apply only to Permit Fees and initial License Fees with respect to
19 the new business location that is for ground floor Commercial Use opened by that Qualified
20 Business With New Location on or after November 1, 2021 and on or before
21 October 31, 2022. The waiver in this Section 3(b) shall not apply to (1) any fees for the
22 renewal of a license, and (2) any fees collected by the City on behalf of any federal, state, or
23 other local government or agency.”

24 Subsection (b) of Section 3 is hereby replaced in its entirety to provide: “All Permit
25 Fees and initial License Fees shall be waived for each Qualified Business With New Location.

1 The waiver in this Section 3(b) shall apply to applications for a permit or initial license filed by
2 the Qualified Business With New Location on or after November 1, 2021 and on or before
3 June 30, 2023, and shall apply only to Permit Fees and initial License Fees with respect to the
4 new business location that is for Commercial Use opened by that Qualified Business With
5 New Location on or after November 1, 2021 and on or before June 30, 2023. The waiver in
6 this Section 3(b) shall not apply to (1) any fees for the renewal of a license, and (2) any fees
7 collected by the City on behalf of any federal, state, or other local government or agency.”

8 (i) Subsection (c)(3) of Section 3 currently provides: “All Tax Collector determinations
9 under this Section 3(c) shall be final and are immediately due and payable to the Office of the
10 Treasurer and Tax Collector. Any Person that wishes to challenge a Tax Collector
11 determination under this Section 3(c) must pay the taxes, penalties, and interest due and file a
12 claim for refund with the Controller under Government Code Section 900 *et seq.*”

13 Subsection (c)(3) of Section 3 is hereby replaced in its entirety to provide: “All Tax
14 Collector determinations under this Section 3(c) shall be final and are immediately due and
15 payable to the Office of the Treasurer and Tax Collector. Any Person that wishes to challenge
16 a Tax Collector determination under this Section 3(c) must pay the Permit Fees, License
17 Fees, Business Registration Fees, penalties, and interest due, and file a claim for refund with
18 the Controller under California Government Code Sections 900 *et seq.*”

19 (j) Subsection (d)(1) of Section 3 currently provides: “If a Qualified Business has more
20 than \$10,000,000 in San Francisco Gross Receipts in the calendar year of, or in any Tax Year
21 during the three full-year Tax Years following, the date the Qualified Business commenced
22 business within San Francisco or opened a new business location for ground floor
23 Commercial Use, as applicable, any waiver under Section 3(a) or Section 3(b) of this
24 ordinance shall be revoked retroactively for that Qualified Business.”

1 Subsection (d)(1) of Section 3 is hereby replaced in its entirety to provide: "If a
2 Qualified Business has more than \$15,000,000 in San Francisco Gross Receipts in the
3 calendar year of, or in any Tax Year during the three full-year Tax Years following, the date
4 the Qualified Business commenced business within San Francisco or opened a new business
5 location for Commercial Use, as applicable, any waiver under Section 3(a) or Section 3(b) of
6 this ordinance shall be revoked retroactively for that Qualified Business."

7 (k) Subsection (d)(2) of Section 3 currently provides: "The Tax Collector shall issue a
8 determination that the Qualified Business exceeded the \$10,000,000 threshold in
9 Section (3)(d)(1) of this ordinance, which determination may be based on the Qualified
10 Business's Gross Receipts Tax Return or any other information in the Tax Collector's
11 possession or that may come into the Tax Collector's possession. Such notice shall be
12 issued under the rules in Section 6.11-2(b) and (c) of the Business and Tax Regulations
13 Code."

14 Subsection (d)(2) of Section 3 is hereby replaced in its entirety to provide: "The Tax
15 Collector shall issue a determination that the Qualified Business exceeded the \$15,000,000
16 threshold in Section (3)(d)(1) of this ordinance, which determination may be based on the
17 Qualified Business's Gross Receipts Tax Return or any other information in the Tax
18 Collector's possession or that may come into the Tax Collector's possession. Such notice
19 shall be issued under the rules in Section 6.11-2(b) and (c) of the Business and Tax
20 Regulations Code."

21 (l) Subsection (d)(3) of Section 3 currently provides: "Except in the case of fraud, or in
22 the case of an intent to evade this ordinance, the Business and Tax Regulations Code, or
23 rules and regulations issued or promulgated by the Tax Collector, or in the case of failure to
24 file a Gross Receipts Tax Return for the Tax Year in which the Qualified Business exceeded
25 the \$10,000,000 threshold, in all of which cases there is no statute of limitations, every Tax

1 Collector determination under this Section 3(d) shall be served within three years after the
2 date that a Gross Receipts Tax Return was due for the Tax Year in which the Qualified
3 Business exceeded the \$10,000,000 threshold or three years after that return was filed for
4 that period, whichever is later. The Qualified Business may agree in writing to extend this
5 three-year period for service of a notice of determination.”

6 Subsection (d)(3) of Section 3 is hereby replaced in its entirety to provide: “Except in
7 the case of fraud, or in the case of an intent to evade this ordinance, the Business and Tax
8 Regulations Code, or rules and regulations issued or promulgated by the Tax Collector, or in
9 the case of failure to file a Gross Receipts Tax Return for the Tax Year in which the Qualified
10 Business exceeded the \$15,000,000 threshold, in all of which cases there is no statute of
11 limitations, every Tax Collector determination under this Section 3(d) shall be served within
12 three years after the date that a Gross Receipts Tax Return was due for the Tax Year in which
13 the Qualified Business exceeded the \$15,000,000 threshold or three years after that return
14 was filed for that period, whichever is later. The Qualified Business may agree in writing to
15 extend this three-year period for service of a notice of determination.”

16 (m) Section 4 currently provides: “Any fee waived under Section 3(a) or Section 3(b)
17 of this ordinance that has been collected by the City shall be refunded, without interest, upon
18 request of the payer of the fee. Any refund request under this Section 4 must be filed in
19 writing with the Tax Collector within one year of payment of the fee.”

20 Section 4 is hereby replaced in its entirety to provide: “Any fee waived under
21 Section 3(a) or Section 3(b) of this ordinance that has been collected by the City shall be
22 refunded, without interest, upon request of the payer of the fee. Any refund request under this
23 Section 4 must be filed in writing with the Tax Collector within the later of June 30, 2023, and
24 one year of payment of the fee.”

1 (n) Section 6 currently provides: “The Tax Collector shall collect information on the
2 number of Qualified Businesses by supervisorial district that received a waiver of one or more
3 fees under Section 3(a) and Section 3(b) of this ordinance, the business activity codes under
4 the North American Industry Classification System of those Qualified Businesses by
5 supervisorial district, and the fees and total amounts waived in the aggregate. The Tax
6 Collector shall submit a report to the Board of Supervisors no later than April 15, 2022 on the
7 information collected for the four month period, November 1, 2021 through
8 February 28, 2022.”

9 Section 6 is hereby replaced in its entirety to read: “The Tax Collector shall collect
10 information on the number of Qualified Businesses by supervisorial district that received a
11 waiver of one or more fees under Section 3(a) and Section 3(b) of this ordinance, the
12 business activity codes under the North American Industry Classification System of those
13 Qualified Businesses by supervisorial district, and the fees and total amounts waived in the
14 aggregate. The Tax Collector shall submit reports to the Board of Supervisors no later than
15 April 15, 2022 on the information collected for the four-month period, November 1, 2021
16 through February 28, 2022, and no later than May 1, 2023 on the information collected for the
17 17-month period, November 1, 2021 through March 31, 2023.”

18
19 Section 3. Severability.

20 If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any
21 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
22 decision of a court of competent jurisdiction, such decision shall not affect the validity of the
23 remaining portions or applications of this ordinance. The Board of Supervisors hereby
24 declares that it would have passed this ordinance and each and every section, subsection,
25 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to

1 whether any other portion of this ordinance or application thereof would be subsequently
2 declared invalid or unconstitutional.

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

8
9 Section 5. The Clerk of the Board of Supervisors shall place a copy of this ordinance in
10 File Number 210741. In addition, the Clerk shall make a notation on the entry for Ordinance
11 No. 143-21 on the Board of Supervisor's website designating legislation passed, to indicate
12 that Ordinance No. 143-21 has been amended by this ordinance.

13
14 APPROVED AS TO FORM:
15 DAVID CHIU, City Attorney

16 By: /s/ Scott M. Reiber
17 SCOTT M. REIBER
18 Chief Tax Attorney

19
20
21
22
23
24
25
n:\legana\as2022\2300020\01627519.docx