

BOARD of SUPERVISORS



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MEMORANDUM

TO: Katy Tang
Small Business Commission, City Hall, Room 448

FROM: Brent Jalipa, Assistant Clerk
Budget and Finance Committee

DATE: February 29, 2024

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Budget and Finance Committee

The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, introduced by Mayor London Breed, which is being referred to the Small Business Commission for comment and recommendation.

File No. 240126

Ordinance amending the Business and Tax Regulations Code to extend through June 30, 2025, the waiver of certain first-year permit, license, and business registration fees for specified small businesses that newly form or that open a new location.

Please return this cover sheet with the Commission's response to Brent Jalipa, Budget and Finance Clerk, by email to: brent.jalipa@sfgov.org.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

_____ **No Comment**

_____ **Recommendation Attached**

Chairperson, Small Business Commission

[Business and Tax Regulations Code - Extending Waiver of Permit, License, and Business Registration Fees for Certain Small Businesses]

Ordinance amending the Business and Tax Regulations Code to extend through June 30, 2025, the waiver of certain first-year permit, license, and business registration fees for specified small businesses that newly form or that open a new location.

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. Article 2 of the Business Regulations and Tax Code is hereby amended by revising Section 76.3, to read as follows:

SEC. 76.3. WAIVER OF FIRST-YEAR PERMIT, LICENSE, AND BUSINESS REGISTRATION FEES.

(a) **Definitions.** Unless otherwise defined in this Section 76.3, the terms used in this Section shall have the meanings given to them in Article 6 of the Business and Tax Regulations Code, as amended from time to time. For purposes of this Section 76.3, the following definitions shall apply:

“Business Registration Certificate” means a “registration certificate,” as defined in Section 852.2 of Article 12 of the Business and Tax Regulations Code, as may be amended from time to time.

1 “Business Registration Fee” means the tax imposed under Article 12 of the Business
2 and Tax Regulations Code, as may be amended from time to time.

3 “City Departments” means the departments and agencies that issue any permit,
4 license, or Business Registration Certificate, including but not limited to the Planning
5 Department, Department of Building Inspection, Fire Department, Department of Public
6 Works, Department of Public Health, Police Department, Entertainment Commission, Office of
7 Cannabis, and Office of the Treasurer and Tax Collector.

8 “Commercial Use” means any non-residential use, other than a use at a business
9 location operated from a home or other residential location or for a short-term residential
10 rental use, as that term is defined in Section 41A.4 of Chapter 41A of the Administrative Code,
11 as may be amended from time to time.

12 “Gross Receipts Tax Return” means the return reporting taxes imposed by
13 Article 12-A-1 of the Business and Tax Regulations Code and filed in accordance with
14 Article 6 of that Code.

15 “License Fees” means all license fees payable to the City, including but not limited to
16 fees payable to the City under Sections 76.1 and 76.2 of this Article 2, relating to the
17 operation of a business at a location that is for Commercial Use, but not including fees for
18 licenses under Chapter 94A of the Administrative Code, as may be amended from time to
19 time.

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

1 “Qualified Business” means either a Qualified New Business or a Qualified Business
2 With New Location.

3 “Qualified Business With New Location” means a person that (1) commences business
4 at a new business location that is for Commercial Use, as reported to the Tax Collector, after
5 commencing business within the City at a different location, and (2) reported \$5,000,000 or
6 less in annual San Francisco Gross Receipts or estimated San Francisco Gross Receipts on
7 its most recently filed Gross Receipts Tax Return, application for a Business Registration
8 Certificate, or renewal of a Business Registration Certificate.

9 “Qualified New Business” means a person that (1) applies for an initial Business
10 Registration Certificate in accordance with Section 856 of Article 12 of the Business and Tax
11 Regulations Code, (2) has \$5,000,000 or less in estimated San Francisco Gross Receipts for
12 the calendar year in which the person commences business within the City, and (3) has a
13 registered business location that is for Commercial Use as reported on the person’s
14 application for a Business Registration Certificate or any update to that registration
15 information provided to the Tax Collector. A “Qualified New Business” shall not include a
16 continuing business that applies for a new Business Registration Certificate as a result of a
17 change in its ownership or the form of how the business is held.

18 “San Francisco Gross Receipts” has the same meaning as used in Section 855 of
19 Article 12 of the Business and Tax Regulations Code, as may be amended from time-to-time.

20 **(b) Waiver for Qualified New Businesses.** All Permit Fees, initial License Fees, and
21 the initial Business Registration Fee shall be waived for each Qualified New Business as
22 follows:

23 (1) Permit Fees and initial License Fees shall be waived, provided the Qualified
24 New Business has filed the application for the permit or initial license on or after July 1, 2023
25 and during the one-year period beginning on the date the Qualified New Business

1 commenced business within the City, and the Qualified New Business has a Business
2 Registration Certificate at the time it files the application for the permit or initial license. The
3 waiver in this Section 76.3(b)(1) shall not apply to (A) any fees for the renewal of a license or
4 (B) any fees collected by the City on behalf of any federal, state, or other local government
5 agency.

6 (2) The initial Business Registration Fee shall be waived, provided the Qualified
7 New Business has filed the application for an initial Business Registration Certificate in
8 accordance with Section 856 of Article 12 of the Business and Tax Regulations Code, and
9 that application was filed on or after July 1, 2023. The waiver in this Section 76.3(b)(2) shall
10 not apply to any fees for the renewal of a Business Registration Certificate.

11 (c) **Waiver for Qualified Businesses With New Location.** All Permit Fees and initial
12 License Fees shall be waived for each Qualified Business With New Location. The waiver in
13 this Section 76.3(c) shall apply to applications for a permit or initial license filed by the
14 Qualified Business With New Location on or after July 1, 2023, provided the Qualified
15 Business With New Location files the application during the one-year period beginning on the
16 date the Qualified New Business With New Location commenced business at the new
17 business location and has registered the new business location with the Tax Collector no later
18 than the time it files the application for the permit or initial license, and shall apply only to
19 Permit Fees and initial License Fees with respect to that new business location. The waiver in
20 this Section 76.3(c) shall not apply to (1) any fees for the renewal of a license, and (2) any
21 fees collected by the City on behalf of any federal, state, or other local government agency.

22 * * * *

23 (j) The waiver of fees provided by this Section 76.3 shall expire by operation of law at
24 the end of the day on June 30, 2024⁵. No Permit Fees, initial License Fees, or Business
25 Registration Fees shall be waived for applications for permits, licenses, or Business

1 Registration Certificates filed on or after July 1, 2024⁵. ~~By~~As of December 31, 2025⁶, the City
2 Attorney ~~shall~~is authorized to cause th~~is~~ese Section 76.3 to be removed from the Business and
3 Tax Regulations Code.

4
5 Section 2. Effective Date; Retroactivity.

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

10 (b) If the effective date of this ordinance is on or after July 2, 2024, this ordinance shall
11 be retroactive to July 1, 2024.

12
13 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, letters, punctuation marks, charts, diagrams, and any other constituent parts of the
16 Business and Tax Regulations Code that are explicitly shown in this ordinance as additions,
17 deletions, Board amendment additions, and Board amendment deletions in accordance with
18 the "Note" that appears under the official title of the ordinance.

19
20 APPROVED AS TO FORM:
21 DAVID CHIU, City Attorney

22 By: /s/ Scott M. Reiber
23 SCOTT M. REIBER
Chief Tax Attorney

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25

LEGISLATIVE DIGEST

[Business and Tax Regulations Code - Extending Waiver of Permit, License, and Business Registration Fees for Certain Small Businesses]

Ordinance amending the Business and Tax Regulations Code to extend through June 30, 2025, the waiver of certain first-year permit, license, and business registration fees for specified small businesses that newly form or that open a new location.

Existing Law

The “First Year Free” program currently waives permit, initial license, and initial business registration fees for businesses that have estimated first-year San Francisco gross receipts of \$5,000,000 or less, have a registered business location that is for commercial use other than for a home-based business or short-term residential rental use, and have actual San Francisco gross receipts of \$15,000,000 or less in the calendar year of, or in any calendar year during the three full calendar years following, the date the business commenced business within San Francisco. It also waives permit and initial license fees for businesses that opened a location in the City for commercial use other than for a home-based business or short-term residential rental use, reported San Francisco gross receipts of \$5,000,000 or less on their most recent return, and have actual San Francisco gross receipts of \$15,000,000 or less in the calendar year of, or in any calendar year during the three full calendar years following, the date the businesses opened the new location. The “First Year Free” program expires on June 30, 2024.

Amendments to Current Law

This ordinance would extend the “First Year Free” program through June 30, 2025. It would not apply to permits, licenses, or business registration certificates filed on or after July 1, 2025.

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