

File No. 210741

Committee Item No. 16

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date July 14, 2021

Board of Supervisors Meeting

Date _____

Cmte Board

- Motion
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- Legislative Digest
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- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
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- Grant Budget
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- Contract/Agreement
- Form 126 – Ethics Commission
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- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

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Completed by: Linda Wong Date July 8, 2021

Completed by: Linda Wong Date _____

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

2

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.**

9

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.

17

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

19

20 Section 1. Background, Purpose, and Findings.

21

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

26

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

29

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.

18

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.

12
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.

3
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.

9
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.

9
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.

5
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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LEGISLATIVE DIGEST

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

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

Existing Law

Persons commencing business within the City must obtain a registration certificate from the Tax Collector and pay an initial registration fee covering the period from the commencement date through the next June 30th. They must annually renew their registrations and pay a registration renewal fee for the upcoming fiscal year beginning July 1. They pay fees for the application and/or issuance of various City permits, including, for example, building permits and permits that are required to operate their business. They also pay initial license fees to operate their business and pay license renewal fees that generally are due and payable to the Tax Collector on March 31 of each year.

Amendments to Current Law

This ordinance would waive initial registration fees for each qualified new business. It would also generally waive all permit fees and all initial license fees of the qualified new business relating to the business's storefront commercial use.

A qualified new business is a business that: (1) applies for a registration certificate in accordance with Section 856 of Article 12 of the Business and Tax Regulations Code indicating its date of commencing business within the City on or after November 1, 2021 and on or before October 31, 2022 (2) has \$2,000,000 or less in estimated San Francisco gross receipts for the calendar year in which business commences within the City, and (3) has a registered business location that is for storefront commercial use as reported on its business registration application.

A storefront commercial use means the commercial use of the ground floor of any portion of a building or structure, where such ground floor is adjacent or tangent to a street, sidewalk, or other public right-of-way, other than formula retail uses.

The waiver would apply to registration certificate, permit, and license applications filed by the qualified new business on or after November 1, 2021 and on or before October 31, 2022. The waiver would not apply to (1) any permit issued under the Places for People Program or, if

adopted, the Shared Spaces Program, under Chapter 94A of the Administrative Code, (2) the renewal of any license or registration certificate, and (3) any fees collected on behalf of any federal, state, or other local government agency. This ordinance would refund any waived fees paid to the City, upon written request of the qualified new business filed within one year of payment of the fee.

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<p>Item 16 File 21-0741</p>	<p>Department: Treasurer-Tax Collector</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed ordinance would waive new business registration, new licenses fees, and all permit fees for qualified businesses for a one-year period between November 2021 and October 2022. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • Qualified businesses are defined as businesses that (a) obtain a new business registration certificate between November 2021 and October 2022, (b) have \$2 million or less in gross receipts in San Francisco, and (c) have a registered business location that is ground floor on a public right of way. The proposed waivers would not apply to renewals of licenses or business registrations or fees collected by the City for other governments. Formula retail businesses, which are defined as business that have eleven or more establishments with standardized features, do not count as qualified businesses. • The Treasurer-Tax Collector plans to administer the proposed waiver program. The Department will create a database of qualifying new businesses that will enable other City departments that collect license and permit fees to validate eligibility for the proposed waivers. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The value of the fees waived by the proposed ordinance is estimated by the Controller and Treasurer-Tax Collector to be between \$12 million and \$17.4 million in FY 2021-22 and between \$7.5 million and \$12.5 million in FY 2022-23. The range of the estimate is a function of the number of assumed qualifying businesses, which is estimated to be between 968 and 1,613, based on 2019 business activity. • The FY 2021-22 – FY 2022-23 Budget and Appropriation Ordinance pending at the Board of Supervisors (File 21-0643) includes a \$12 million General Fund account for this program in FY 2021-22, which would cover the low-end estimated cost of the program in that year. The funding will be used to credit departments that waive the proposed fees. <p style="text-align: center;">Recommendation</p> <p>Because funding for the program is included in the budget approved by the Budget & Appropriations Committee, we recommend approval of the proposed ordinance.</p>	

MANDATE STATEMENT

City Charter Section 2.105 states that all legislative acts shall be by ordinance, approved by a majority of the members of the Board of Supervisors.

BACKGROUND

A Budget & Legislative Analyst's March 2021 report estimated that San Francisco businesses had between \$174.1 million to \$404.5 million in unpaid commercial rent during April 2020 to December 2020 related to COVID-19. The Controller's June 2021 Report on the Status of the Re-opening of the San Francisco Economy estimated that more than 45% of the small businesses remained closed. In response to the pandemic, the Board of Supervisors has approved legislation waiving or deferring payroll taxes, business registration, and license fees for certain existing businesses during FY 2019-20 through FY 2021-22 (Files 20-1260 and 20-1415). According to the proposed ordinance, waiving registration, permit, and license fees for new small businesses will support the City's equitable economic recovery from COVID.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would waive new business registration, new license fees, and all permit fees for qualified businesses for a one-year period between November 2021 and October 2022. Qualified businesses are defined as businesses that (a) obtain a new business registration certificate between November 2021 and October 2022, (b) have \$2 million or less in gross receipts in San Francisco, and (c) have a registered business location that is ground floor on a public right of way. The proposed waivers would not apply to renewals of licenses or business registration or fees collected by the City for other governments. Formula retail businesses, which are defined in Section 303.1 of the Planning Code as businesses that have eleven or more establishments with standardized features, do not count as qualified businesses.

Implementation

According to Ms. Amanda Fried, Chief of Policy & Communications at Treasurer-Tax Collector, the Treasurer-Tax Collector plans to administer the proposed waiver program. The Department will create a database of qualifying new businesses that will enable other City departments that collect license and permit fees to validate eligibility for the proposed waivers. As noted below, a General Fund account has been established to credit departments for waived fees.

Potential Amendment

According to the sponsor's office, amendments may be proposed in the July 14, 2021 Budget & Finance Committee meeting that include a revision to the definition of qualified businesses to exclude businesses that generate more than \$10 million in gross receipts in any of the three preceding tax years.

FISCAL IMPACT

Exhibit 1 below summarizes the fiscal impact of the proposed ordinance. As noted above, qualified businesses are defined as those having a new business registration issued between November 2021 and October 2022 so that the waived fees would occur in FY 2021-22 and in FY 2022-23. Exhibit 1 below shows the estimated value of business registration, license, and permit fees waived by the proposed ordinance in each department.

Exhibit 1: Value of Fees Waived by Proposed Ordinance (\$ million)

	FY 2021-22			FY 2022-23		
	Low	Mid	High	Low	Mid	High
Planning	3.61	4.21	5.26	2.25	3.01	3.76
Building Inspection	4.42	5.15	6.44	2.76	3.68	4.60
Public Health	1.50	1.75	2.19	0.94	1.25	1.56
Fire	0.48	0.56	0.71	0.30	0.40	0.50
Police	0.52	0.61	0.76	0.33	0.44	0.55
Entertainment	0.44	0.52	0.65	0.28	0.37	0.46
Public Works	0.55	0.64	0.80	0.34	0.46	0.57
Public Utilities	0.03	0.04	0.05	0.02	0.03	0.04
Treasurer	0.27	0.32	0.40	0.17	0.23	0.28
Subtotal, Fees Waived	11.83	13.81	17.26	7.40	9.86	12.33
Treasurer-Tax Collector Administrative Costs	0.17	0.17	0.17	0.12	0.12	0.12
Total Cost	12.00	13.97	17.42	7.52	9.98	12.45

Source: Controller and Treasurer-Tax Collector

As shown above, the value of the fees waived by the proposed ordinance is estimated by the Controller and Treasurer-Tax Collector to be between \$12 million and \$17.4 million in FY 2021-22 and between \$7.5 million and \$12.5 million in FY 2022-23. The range of the estimate is a function of the number of assumed qualifying businesses, which is estimated to be between 968 and 1,613, based on 2019 business activity.

The FY 2021-22 – FY 2022-23 Budget and Appropriation Ordinance pending at the Board of Supervisors (File 21-0643) includes a \$12 million General Fund account for this program in FY 2021-22, which would cover the low-end estimated cost of the program in that year. The funding will be used to credit departments that waive the proposed fees. To the extent that actual waived revenues exceed this appropriation, revenue shortfalls may result, which may impact current and future fiscal year budgetary planning if other revenue forecasts do not perform above budgeted levels by a like amount. Because funding for the program is included in the budget approved by the Budget & Appropriations Committee, we recommend approval of the proposed ordinance.

RECOMMENDATION

Approve the proposed ordinance.

President, District 10
BOARD of SUPERVISORS



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Tel. No. 554-6516
Fax No. 554-7674
TDD/TTY No. 544-6546

Shamann Walton

PRESIDENTIAL ACTION

Date: 6/30/2021

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. 210741 Ronen

(Primary Sponsor)

Title. Waiver of Permit, License, and Business Registration Fees for New Small Businesses

Transferring (Board Rule No 3.3)

File No. 210741 Ronen

(Primary Sponsor)

Title. Waiver of Permit, License, and Business Registration Fees for New Small Businesses

From: Government Audit & Oversight Committee

To: Budget & Finance Committee


Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor: _____ Replacing Supervisor: _____

For: _____ Meeting
(Date) (Committee)

Start Time: _____ End Time: _____

Temporary Assignment: Partial Full Meeting



Shamann Walton, President
Board of Supervisors

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only