

1 [Emergency Ordinance - Temporary Waiver of Business Registration and License Fees for
2 Certain Small Businesses Due to COVID-19 Pandemic]

3 **Emergency ordinance to waive business registration renewal fees for the fiscal year**
4 **commencing July 1, 2020, and certain license fees due on March 31, 2020, for**
5 **1) businesses engaged in business within the City in 2019 with \$1,000,000 or less in**
6 **San Francisco gross receipts in 2019, that generated the majority of those receipts**
7 **from business activities precluded by any one or more of the Local Health Officer’s**
8 **shelter in place orders during the COVID-19 pandemic or from the activities of a**
9 **restaurant or other facility that prepares and serves food for delivery or carry out**
10 **(“Qualifying Business Activities”), and that operated out of a commercial location, and**
11 **2) newly established businesses commencing business within the City between**
12 **January 1, 2020, and June 30, 2020, that are primarily engaged in Qualifying Business**
13 **Activities and operate out of a commercial location; and to refund any waived fees paid**
14 **to the City.**

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

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

24 Section 1. Declaration of Emergency under Charter Section 2.107.

25 (a) Section 2.107 of the Charter authorizes passage of an emergency ordinance in cases of public emergency affecting life, health, or property, or for the uninterrupted operation

1 of any City or County department or office required to comply with time limitations established
2 by law. The Board of Supervisors hereby finds and declares that an actual emergency exists
3 that requires the passage of this emergency ordinance.

4 (b) On February 25, 2020, Mayor London Breed proclaimed a state of emergency in
5 response to the COVID-19 pandemic. On March 3, 2020, the Board of Supervisors concurred
6 in the February 25 Proclamation.

7 (c) On March 16, 2020, to mitigate the spread of COVID-19, the Local Health Officer
8 issued Order No. C19-07, as amended and replaced by subsequent orders, directing San
9 Franciscans to “shelter in place.” These orders generally require individuals to stay in their
10 homes, and require businesses to cease all non-essential operations at physical locations in
11 the City, with some limited exceptions. On July 13, 2020, the Local Health Officer issued
12 Order No. C19-07f, extending shelter in place, with modifications but with no expiration date.

13 (d) In response to the COVID-19 emergency, on March 11, 2020, the Mayor extended
14 the due date for certain license fees otherwise due on March 31, 2020 under the Business
15 and Tax Regulations Code to June 30, 2020. On April 23, 2020, to lessen the economic
16 impact of the COVID-19 emergency, the Mayor further extended the payment deadline for
17 those fees to September 30, 2020, and also extended certain deadlines for the payment of
18 business registration fees to September 30, 2020.

19 (e) Due to the public health emergency related to COVID-19 and the actions required
20 to respond to the emergency, businesses engaged in non-essential operations have closed.
21 The adverse economic impacts of the COVID-19 emergency have been particularly severe on
22 local small businesses engaged in non-essential operations. Even as some businesses
23 previously closed have been or may be permitted to partially reopen on a limited basis, they
24 are suffering and will continue to suffer severe economic harm due to the COVID-19
25 emergency and the actions required to respond to it.

1 (f) This emergency ordinance is necessary to mitigate the severe economic harm for
2 small businesses in San Francisco unable to operate, or unable to operate at full capacity,
3 due to the public health emergency.
4

5 Section 2. Definitions.

6 For purposes of this emergency ordinance, the following terms shall have the following
7 meanings:

8 "Business Registration Certificate" means a "registration certificate," as defined in
9 Section 852.2 of Article 12 of the Business and Tax Regulations Code.

10 "Business Registration Fee" means the fee imposed under Article 12 of the Business
11 and Tax Regulations Code.

12 "City" means the City and County of San Francisco.

13 "Combined Group" has the meaning set forth in Section 956.3 of Article 12-A-1 of the
14 Business and Tax Regulations Code.

15 "Commercial Space" means any building or structure, or portion of a building or
16 structure, that is not "residential real estate," as that term is defined in Section 954.1(c) of
17 Article 12-A-1 of the Business and Tax Regulations Code.

18 "License Fees" means the fees payable to the Tax Collector under Section 76.1 of
19 Article 2 of the Business and Tax Regulations Code.

20 "Person" has the meaning set forth in Section 6.2-15 of Article 6 of the Business and
21 Tax Regulations Code.

22 "Qualifying Business Activities" means (1) those business activities precluded by any
23 one or more of the Shelter In Place Orders and (2) the activities of a restaurant or other facility
24 that prepares and serves food for delivery or carry out.
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1 “Qualifying Small Business” means any Person or Combined Group that, in calendar
2 year 2019, satisfied all three of the following: (1) had \$1,000,000 or less in San Francisco
3 Gross Receipts; (2) generated the majority of those San Francisco Gross Receipts from
4 Qualifying Business Activities; and (3) operated out of a Commercial Space. For purposes of
5 this definition, any Person or Combined Group that was not engaged in business within the
6 City, as that phrase is defined in Section 6.2-12 of the Business and Tax Regulations Code, in
7 calendar year 2019 shall be a Qualifying Small Business if it is primarily engaged in Qualifying
8 Business Activities and operates out of a Commercial Space.

9 “San Francisco Gross Receipts” has the meaning set forth in Section 855 of Article 12
10 of the Business and Tax Regulations Code.

11 “Shelter In Place Orders” means the Order of the Health Officer No. C19-07, dated
12 March 16, 2020, Order of the Health Officer No. C19-07b, dated March 31, 2020, Order of the
13 Health Officer No. C19-07c, dated April 29, 2020, Order of the Health Officer No. C19-07d,
14 dated May 17, 2020, Order of the Health Officer No. C19-07e, dated May 22, 2020, Order of
15 the Health Officer No. C19-07f, dated July 13, 2020, and any subsequent order issued by the
16 Local Health Officer on or before the date that is 60 days from the date of enactment of this
17 emergency ordinance, directing residents to shelter in place and businesses to cease non-
18 essential operations during the COVID-19 pandemic.

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

1 Section 3. Waiver of Business Registration Fees.

2 (a) The Business Registration Fee imposed under Article 12 of the Business and Tax
3 Regulations Code to renew a Qualifying Small Business's Business Registration Certificate for
4 the fiscal year commencing July 1, 2020, shall be waived.

5 (b) Qualifying Small Businesses under subsection (a) must still apply for renewal of
6 their Business Registration Certificates by September 30, 2020, under the Eleventh
7 Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency, dated
8 April 23, 2020, and upon such renewal shall be treated as if they had paid the Business
9 Registration Fee for all purposes.

10 (c) Qualifying Small Businesses under subsection (a) that cease business between
11 July 1, 2020 and September 30, 2020, must still apply to renew their Business Registration
12 Certificates by September 30, 2020, for the period in which they were engaged in business
13 within the City.

14 (d) The Tax Collector may set the forms and procedures required for a Qualified Small
15 Business to apply for a waiver under subsection (a).

16 (e) Newly established businesses, as that term is defined in Section 852.1 of the
17 Business and Tax Regulations Code, commencing business in the City on or after
18 July 1, 2020, shall not qualify for the waiver under subsection (a).

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20 Section 4. Waiver of Certain License Fees.

21 (a) For each Qualifying Small Business, License Fees due on March 31, 2020 under
22 Section 76.1(a) of Article 2 of the Business and Tax Regulations Code, without regard to any
23 extensions by Mayoral declaration or otherwise, shall be waived.

24 (b) The Tax Collector may set the forms and procedures required for a Qualified Small
25 Business to apply for a waiver under subsection (a).

1 Section 5. Refund of Waived Fees Paid to City.

2 (a) If a Qualifying Small Business pays or has paid the City any fee waived under
3 Sections 3 or 4 of this emergency ordinance, the Tax Collector shall refund or cause to be
4 refunded the amount of that fee, without interest, upon request of the Qualifying Small
5 Business.

6 (b) Any refund request under subsection (a) must be filed in writing on a form
7 prescribed by the Tax Collector within one year of payment of the fee.

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9 Section 6. Severability.

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

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19 Section 7. Effective Date; Expiration.

20 Consistent with Charter Section 2.107, this emergency ordinance shall become
21 effective immediately upon enactment. Enactment occurs when the Mayor signs the
22 ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within
23 ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the
24 ordinance. Once enacted, this ordinance shall remain in effect for 60 days, unless reenacted
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