

BOARD of SUPERVISORS



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MEMORANDUM

TO: Jose Cisneros, Treasurer, Office of the Treasurer and Tax Collector
Dr. Grant Colfax, Director, Department of Public Health

FROM: Brent Jalipa, Assistant Clerk, Budget and Finance Committee

DATE: September 30, 2022

SUBJECT: PROPOSED ORDINANCE INTRODUCED

The Board of Supervisors' Budget and Finance Committee has received the following proposed Ordinance, introduced by Supervisor Rafael Mandelman on September 27, 2022:

File No. 221022

Ordinance amending the Business and Tax Regulations Code to permit the Tax Collector to enter into payment plans on or before April 30, 2023, for the collection of delinquent Department of Public Health license fees collected on the uniform license bill that were due or payable before March 31, 2023.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Amanda Kahn Fried, Office of the Treasurer and Tax Collector
Greg Wagner, Department of Public Health
Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Ana Validzic, Department of Public Health

[Business and Tax Regulations Code - Installment Payments for Delinquent License Fees]

Ordinance amending the Business and Tax Regulations Code to permit the Tax Collector to enter into payment plans on or before April 30, 2023, for the collection of delinquent Department of Public Health license fees collected on the uniform license bill that were due or payable before March 31, 2023.

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. The Business and Tax Regulations Code is hereby amended by revising Section 76.1 of Article 2, to read as follows:

SEC. 76.1. LICENSES PAYABLE ON MARCH 31, WHERE PAYABLE, PENALTY FOR NONPAYMENT, ANNUAL ADJUSTMENT.

(a) Commencing March 31, 2012, the following Unified License Bill provisions shall apply to licenses that are renewable annually and are due and payable in full to the Treasurer and Tax Collector on March 31 of each year. The Tax Collector shall prorate fees for new licenses issued prior to March 31, or after March 31 to the end of the license period, on a monthly basis. Except as provided in subsection (d), t~~t~~^{he} Tax Collector may not accept partial

1 payments and may not refund fees paid by a licensee, if the licensee ceases operating the
2 business prior to the end of the license period.

3 (b) Whenever a City ordinance imposes a license fee, it shall be unlawful to do or
4 perform the act or to carry on the business, trade, profession, or calling for which City law
5 requires the license without obtaining and maintaining the required license.

6 All license fees are payable, when due, ~~at~~to the Office of the Treasurer and Tax
7 Collector, ~~and shall be delinquent if not paid when due, in City Hall, and~~ Except as provided in
8 subsection (d), if the license fees are not paid within 30 days after they become due, the license
9 shall expire by operation of law and the licensee must obtain a new license and pay all
10 applicable penalties specified below and fees incurred under the previously expired license;
11 provided, however, that the licensee shall not be subject to the penalties unless the Tax
12 Collector sent notice to the licensee prior to February 28, of the same year, informing the
13 licensee that the permit is about to expire. The notice that the license is about to expire may
14 be a part of the annual billing statement.

15 If a licensee does not pay the fee within 30 days after it becomes due, but the licensee
16 continues to operate the business, the Tax Collector shall add ~~10% percent~~ to the amount of
17 the license fee as a penalty for nonpayment. If the licensee does not pay the fee within
18 60 days after it becomes due, but the licensee continues to operate the business, the Tax
19 Collector shall add an additional 15% percent to the amount of the license fee as a penalty for
20 nonpayment, for a total penalty of 15%. If the licensee does not pay the fee within 90 days after
21 it becomes due, but the licensee continues to operate the business, the Tax Collector shall
22 add an additional 25% percent to the amount of the license fee, as a penalty for nonpayment,
23 for a total penalty of 25%. If the licensee has failed for a period of six months or more to pay a
24 license fee, but has continued to operate the business, the Tax Collector shall ~~add~~impose an
25 additional ~~penalty of 25% percent to~~ on the amount of the ~~delinquent~~ license fee as a penalty for

1 nonpayment, for a total penalty of 50%, and shall refer the delinquent licensee to the department
2 charged with administering the permit for administrative action on the permit. These penalties
3 are mandatory and City officers and employees may not waive them in whole or in part. *These*
4 *penalties are in addition to any collection costs that the Tax Collector may collect from the delinquent*
5 *licensee.*

6 (c) Each department shall maintain on its website an up-to-date schedule of all fees
7 that it collects. The Municipal Code shall include an editor's statement informing the public
8 that the fees administered pursuant to this Section 76.1 are subject to annual review and
9 adjustment to reflect the City's cost increases or decreases, which may include adjustments
10 based upon the Consumer Price Index that most accurately tracks increases and decreases
11 in the City's cost for the function, service, or undertaking that the fee will pay for, and that
12 each department maintains on its website an up-to-date list of the fees charged subject to
13 adjustment. This subsection (c) is not intended to change the processes for adjustment of
14 fees as provided in the Municipal Code.

15 (d) Notwithstanding subsections (a) and (b) of this Section 76.1, the Tax Collector, in the Tax
16 Collector's sole discretion, may enter into an installment payment plan on or before April 30, 2023, for
17 a delinquent licensee to pay any delinquent license fees and penalties collected by the Tax Collector
18 under this Section 76.1 on behalf of the Department of Public Health, or its successor department, that
19 were originally due before March 31, 2023. The Tax Collector may not enter into an installment
20 payment plan with a delinquent licensee that is delinquent on license fees collected by the Tax
21 Collector under this Section 76.1 on behalf of any City department or agency other than the
22 Department of Public Health, or its successor department.

23 (1) Any installment payment plan under this subsection (d) shall have a term of no
24 longer than 24 months, and shall require the payment of all delinquent license fees collected by the Tax
25 Collector under this Section 76.1 on behalf of the Department of Public Health, plus all penalties

1 accrued on such delinquent license fees through the date the installment payment plan is executed by
2 both the Tax Collector and the delinquent licensee.

3 (2) If a delinquent licensee enters into an installment payment plan under this
4 subsection (d):

5 (A) The delinquent licensee's Department of Public Health licenses subject to
6 expiration for non-payment under subsection (a) shall be tentatively reinstated for the duration of the
7 installment payment plan and the delinquent licensee shall not be treated as delinquent by the City as a
8 result of that non-payment as long as the delinquent licensee remains current on its payments under the
9 installment payment plan, is not delinquent on any tax liabilities owed to the Tax Collector under the
10 Business and Tax Regulations Code, and is not delinquent on any license fees collected by the Tax
11 Collector under this Section 76.1 that are not included in the installment payment plan; and

12 (B) Any penalties under subsection (b) on the delinquent license fees that had
13 not yet accrued under subsection (d)(1) shall not be imposed.

14 (3) Once the delinquent licensee has made all payments under the installment payment
15 plan, the tentatively reinstated license or licenses, as applicable, shall be fully reinstated.

16 (4) The Tax Collector may terminate the installment payment plan if the delinquent
17 licensee fails to make a timely payment under the installment payment plan, or if during the term of the
18 installment payment plan the delinquent licensee becomes delinquent on any tax liabilities owed to the
19 Tax Collector under the Business and Tax Regulations Code or becomes delinquent on any license fees
20 collected by the Tax Collector under this Section 76.1 that are not included in the installment payment
21 plan. Upon the Tax Collector's termination of the installment payment plan:

22 (A) Any penalties under subsection (b) on the delinquent license fees that had
23 not yet accrued under subsection (d)(1) shall accrue immediately based on the original due date of
24 license fees;

1 (B) The tentatively reinstated license or licenses, as applicable, shall expire
2 immediately by operation of law and the delinquent licensee must obtain a new license or licenses, as
3 applicable, and pay to the Tax Collector immediately all payments remaining under the installment
4 payment plan plus the additional penalties accrued under subsection (d)(4)(A); and

5 (C) The Tax Collector shall refer the delinquent licensee to the Department of
6 Public Health for administrative action on the permit.

7 (e) If any subsection, sentence, clause, phrase, or word of this Section 76.1, or any application
8 thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court
9 of competent jurisdiction, such decision shall not affect the validity of the remaining portions or
10 applications of this Section. The Board of Supervisors hereby declares that it would have enacted this
11 Section and each and every subsection, sentence, clause, phrase, and word not declared invalid or
12 unconstitutional without regard to whether any other portion of this Section or application thereof
13 would be subsequently declared invalid or unconstitutional.

14
15 Section 2. Effective Date. This ordinance shall become effective 30 days after
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
18 of Supervisors overrides the Mayor's veto of the ordinance.

19
20 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
21 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
22 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
23
24
25

Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

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

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LEGISLATIVE DIGEST

[Business and Tax Regulations Code - Installment Payments for Delinquent License Fees]

Ordinance amending the Business and Tax Regulations Code to permit the Tax Collector to enter into payment plans on or before April 30, 2023, for the collection of delinquent Department of Public Health license fees collected on the uniform license bill that were due or payable before March 31, 2023.

Existing Law

The Office of the Treasurer and Tax Collector ("Tax Collector") collects license fees for various City departments on the Unified License Bill. Under current law, the Tax Collector cannot accept partial payments of such license fees, and if the license fees are not paid in full within 30 days of their March 31 due date the license expires by operation of law.

Amendments to Current Law

This ordinance would permit the Tax Collector to enter into installment payment plans of up to 24 months for license fees it collects on the Uniform License Bill for the Department of Public Health that were delinquent prior to March 31, 2023. The agreements would have to be executed on or before April 30, 2023. This authority is limited to agreements with delinquent licensees who are not delinquent on license fees the Tax Collector collects on the Unified License Bill on behalf of any department other than the Department of Public Health.

The installment payment plans under this authorization must require the payment of all delinquent license fees collected by the Tax Collector on behalf of the Department of Public Health, plus all accrued penalties.

Delinquent licensees that enter into an installment payment plan would have their Department of Public Health licenses tentatively reinstated for the duration of the installment payment plan as long as the licensee remains current on its payments under the plan, is not delinquent on any tax liabilities owed to the Tax Collector under the Business and Tax Regulations Code, and is not delinquent on any license fees collected on the Unified License Bill that are not included in the plan. But if the delinquent licensee fails to satisfy these conditions, this ordinance would permit the Tax Collector to terminate the plan, at which time the full amount remaining under the plan would become due immediately, the licensee's licenses would expire immediately by operation of law, and additional penalties may accrue.

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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):

Mandelman

Subject:

Business and Tax Regulations Code - Installment Payments for Delinquent License Fees

The text is listed:

Ordinance amending the Business and Tax Regulations Code to permit the Tax Collector to enter into payment plans on or before April 30, 2023, for the collection of delinquent Department of Public Health license fees collected on the uniform license bill that were due or payable before March 31, 2023.

Signature of Sponsoring Supervisor:

For Clerk's Use Only