

File No. 220970

Committee Item No. 1

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

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Committee: Budget and Finance Committee Date October 19, 2022

Board of Supervisors Meeting Date \_\_\_\_\_

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Completed by: Brent Jalipa Date October 13, 2022

Completed by: Brent Jalipa Date \_\_\_\_\_

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:

26

27

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  
Chief Tax Attorney

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**LEGISLATIVE DIGEST**

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

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

Existing Law

In 2021, the Board of Supervisors passed Ordinance 143-21, commonly referred to as “First Year Free” program, which waived initial registration fees, initial license fees, and permit fees for qualified new businesses where the applications for the business registration certificate, initial license, or permit were filed by the qualified new business on or after November 1, 2021, and on or before October 31, 2022. The ordinance defined qualified new businesses as those that: (1) applied for a business registration certificate with a date of commencing business in the City of on or after November 1, 2021, and on or before October 31, 2022; (2) had \$2,000,000 or less in estimated San Francisco gross receipts for the calendar year in which the business commenced within the City; and (3) had a registered business location that is for one of the following ground floor commercial uses (excluding formula retail uses): retail sales and services; entertainment, arts, and recreation; or a social service or philanthropic facility.

The “First Year Free” program also waived the initial license fees and permit fees for qualified businesses with a new location where the applications for the initial license or permit were related to the new location and were filed by the qualified business with the new location on or after November 1, 2021, and on or before October 31, 2022. The ordinance defined qualified businesses with a new location as those that: (1) commenced business within the City before November 1, 2021, and held a valid business registration certificate; (2) commenced business at a new location on or after November 1, 2021, and on or before October 31, 2022, that was for one of the following ground floor commercial uses (excluding formula retail uses): retail sales and services; entertainment, arts, and recreation; or a social service or philanthropic facility; and (3) reported \$2,000,000 or less in annual San Francisco gross receipts or estimated San Francisco gross receipts on their most recently filed gross

receipts tax return, application for a registration certificate, or renewal of a registration certificate.

Certain permits, licenses and fees were excluded from the waiver. And if a business originally subject to waiver had more than \$10,000,000 in San Francisco gross receipts in the calendar year of, or in any calendar year during the three full-year calendar years following, the date the business commenced business in San Francisco or opened a new qualified business location in San Francisco, the waiver was subject to retroactive revocation and the business was required to remit to the City all waived amounts.

#### Amendments to Current Law

This ordinance would extend the “First Year Free” program through June 30, 2023, including extending the period within which a business that paid waived fees could request a refund to the extent that such a period would have expired prior to June 30, 2023.

This ordinance would also expand the “First Year Free” program retroactively to November 1, 2021, by: (1) increasing from \$2,000,000 to \$5,000,000 the maximum San Francisco gross receipts permissible for a business to qualify for the tax and fee waiver; (2) removing the requirement that the business be located on the ground floor; and (3) increasing from \$10,000,000 to \$15,000,000 the San Francisco gross receipts above which the waiver would be retroactively revoked in the calendar year of, or in any calendar year during the three full-year calendar years following, the date the business commenced business within San Francisco or opened a new business location for commercial use.

Finally, this ordinance would revise the procedures for challenging Tax Collector determinations that a business improperly claimed a waiver under the “First Year Free” program, and would make other administrative and reporting changes.

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**Item 1**  
**File 22-0970**

**Department:**  
Treasurer-Tax Collector

## EXECUTIVE SUMMARY

### Legislative Objectives

- The proposed ordinance would extend the First Year Free Program through June 2023 and expand the program retroactively to November 1, 2021 by: (a) increasing the maximum amount of gross receipts in San Francisco for a business to qualify for the program from \$2 million to \$5 million; (b) removing the requirement that a qualifying business is located on the ground floor; and (c) increasing the amount of gross receipts above which the waiver would be retroactively revoked from \$10 million to \$15 million in the calendar year of, or in any of the three calendar years, following the date the business commenced business or opened a new location.

### Key Points

- In July 2021, the Board of Supervisors approved legislation waiving first-year permit, license, and business registration fees for certain small businesses for a one-year period between November 2021 and October 2022 (File 21-0741). The goal of the waiver program, referred to as the “First Year Free Program,” is to provide relief to small businesses during the City’s recovery from the COVID-19 pandemic. The Treasurer-Tax Collector administers the First Year Free Program, which had enrolled 1,758 businesses as of October 10, 2022. The City has waived a total of \$441,423 from November 2021 through August 2022 under the existing First Year Free Program.
- Under the current program, qualifying 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. Formula retail does not qualify for the program.
- The Treasurer-Tax Collector estimates that expanding eligibility to include businesses earning between \$2 million and \$5 million and extending the program through June 2023 would result in an additional 2,622 eligible businesses by the end of FY 2022-23.

### Fiscal Impact

- We estimate the City could waive \$3.5 million permit, license, and business registration fees in FY 2022-23 under the proposed expansion of the First-Year Free program.

### Recommendation

- Because funding for the program is included in the Treasurer-Tax Collector budget, we recommend approval of the proposed ordinance.

## 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

### First Year Free Program

In July 2021, the Board of Supervisors approved legislation waiving first-year permit, license, and business registration fees for certain small businesses for a one-year period between November 2021 and October 2022 (File 21-0741). The goal of the waiver program, referred to as the “First Year Free Program,” is to provide relief to small businesses during the City’s recovery from the COVID-19 pandemic. The Treasurer-Tax Collector administers the First Year Free Program, which had enrolled 1,758 businesses as of October 10, 2022.

### Program Eligibility

Both new small businesses and existing small businesses with new locations are eligible for fee waivers. According to the legislation, qualifying 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. Formula retail businesses, which are defined in Section 303.1 of the Planning Code as business that have eleven or more establishments with standardized features, do not count as qualified businesses.

The program does not apply to certain permits, licenses, and fees, such as state fees for police fingerprinting and hazardous materials. In addition, fee waivers may be revoked if a business that originally qualified for a fee waiver had more than \$10 million in gross receipts in San Francisco in the calendar year of or in any of the three calendar years following the date the business commenced business or opened a new location.

### Implementation

Businesses that meet program criteria are automatically prompted to opt-in to the program during the New Business Registration and Account Update application processes. New businesses complete the New Business Registration application and existing businesses opening a new location complete the Account Update application with the Treasurer Tax Collector. The Treasurer Tax Collector waives business registration fees for eligible businesses that opt-in to the program and created a lookup tool that enables other City departments that collect license and permit fees to validate eligibility for fee waivers. According to the First Year Free Program Report, departments submit monthly invoices detailing all fees waived due to the First Year Free Program to the Treasurer Tax Collector accounting team, which transfers the amount waived from the General Fund to the permitting department.

**DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance would extend the First Year Free Program through June 2023 and expand the program retroactively to November 1, 2021 by: (a) increasing the maximum amount of gross receipts in San Francisco for a business to qualify for the program from \$2 million to \$5 million; (b) removing the requirement that a qualifying business is located on the ground floor; and (c) increasing the amount of gross receipts above which the waiver would be retroactively revoked from \$10 million to \$15 million in the calendar year of, or in any of the three calendar years, following the date the business commenced business or opened a new location. In addition, the ordinance would revise the procedures for challenging Tax Collector determinations that a business improperly claimed a waiver and would make other administrative and reporting changes.

**Reporting**

The proposed ordinance would require the Treasurer Tax Collector to report on the program, including information on the number of qualified businesses by supervisorial district that received fee waivers, the types of businesses that received fee waivers, and the fees and total amounts waived through March 2023, by May 1, 2023. According to the Treasurer-Tax Collector's First Year Free Program Report, issued in April 2022, two-thirds of all fees waived for 504 enrolled businesses through February 2022 were for food services businesses, indicating that the program is particularly helpful to new restaurants.

**FISCAL IMPACT****Actual Fees Waived Under Existing Program**

The City has waived a total of \$441,423 from November 2021 through August 2022 under the existing First Year Free Program. From November 2021 through June 2022, 1,085 businesses were enrolled in the First Year Free and the City waived \$288,715. According to Amanda Fried, Chief of Policy and Communication at the Office of the Treasurer & Tax Collector, actual fees waived were less than the budgeted amount of \$4 million in FY 2021-22 because the criteria was limiting, many businesses are able to open without seeking permits, and some building permits do not become payable until several months to a year after application. In July and August 2022, the City waived an additional \$152,708. Exhibit 1 below shows the actual fees waived by department and fiscal year.

**Exhibit 1: Actual Value of Fees Waived by Department**

<b>Department</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>	<b>Total</b>	<b>Percent of Total</b>
	8 Months Nov-Jun	2 Months Jul-Aug		
Treasurer	\$103,498	\$65,477	\$168,976	38%
Building Inspection	88,160	52,025	140,185	32%
Public Health	79,434	25,739	105,173	24%
Entertainment	9,670	5,246	14,916	3%
Public Works	2,569	3,224	5,793	1%
Planning	4,568	996	5,564	1%
Police	816	0	816	0%
Fire	0	0	0	0%
<b>Totals</b>	<b>\$288,715</b>	<b>\$152,708</b>	<b>\$441,423</b>	<b>100%</b>

Source: Treasurer-Tax Collector

As shown above the top three departments with the highest amounts waived under the existing program, are the Treasurer Tax Collector (38 percent of total fees waived), the Department of Building Inspection (32 percent of total fees waived), and the Department of Public Health (24 percent of total fees waived).

**Estimated Eligible Businesses Under Proposed Expanded Program**

As mentioned above, 1,758 businesses were enrolled in the existing program as of October 2022. According to Amanda Fried, Chief of Policy & Communications at Treasurer-Tax Collector expanding eligibility to include businesses earning between \$2 million and \$5 million and extending the program through June 2023 would result in an additional 2,622 eligible businesses by the end of FY 2022-23, including:

- 1,627 new businesses or existing businesses with new locations commencing operations in FY 2022-23 with gross receipts of \$2 million or less;
- 597 new businesses or existing businesses with new locations commencing operations in FY 2022-23 with gross receipts between \$2 million and \$5 million; and
- 398 new businesses or existing businesses with new locations commencing operations in FY 2021-22 with gross receipts between \$2 million and \$5 million that will be eligible for fee waivers retroactively.

However, the Treasurer-Tax Collector was unable to account for the expansion of eligibility beyond street facing establishments. Therefore, the actual increase in the number of eligible businesses could be more than 2,622.

**Projected Fees Waived Under Proposed Expanded Program**

Over the four-month period between March 2022 and June 2022, the City waived approximately \$50 per eligible business per month. We estimate the City could waive \$3.5 million in FY 2022-23, including the \$152,708 waived in July and August 2022 and \$50 per month per 4,380 eligible businesses (1,758 currently eligible and 2,622 newly eligible under the proposed ordinance) for

September through June 2022 and a 50 percent buffer to account for uncertainty. Even accounting for uncertainty in the number of eligible businesses and amount of fees waived, we determine that the FY 2022-23 program budget (\$3.7 million) will be sufficient to cover costs in FY 2022-23.

Because funding for the program is included in the Treasurer-Tax Collector budget, we recommend approval of the proposed ordinance.

**RECOMMENDATION**

Approve the proposed ordinance.



CITY AND COUNTY OF SAN FRANCISCO  
LONDON BREED, MAYOR

OFFICE OF SMALL BUSINESS  
DIRECTOR KATY TANG

October 13, 2022

Ms. Angela Calvillo, Clerk of the Board  
City Hall Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**RE: BOS File No. 220970 – Waiver of Permit, License, and Business Registration Fees for Certain Small Businesses - SUPPORT**

Dear Ms. Calvillo,

On October 11, 2022 the Small Business Commission (the Commission) heard BOS File No. 220970 – Waiver of Permit, License, and Business Registration Fees for Certain Small Businesses. Ana Herrera, Legislative Aide to Supervisor Ronen, presented the legislation. Ms. Herrera explained that this proposal would continue and expand the current First Year Free program which waives initial license, permit, and registration fees for new businesses. She clarified that First Year Free would be extended until June 30, 2023, would include businesses with gross receipts up to \$5 million (up from \$2 million), and would be available to all new businesses (not just those with ground floor commercial storefronts).

The Commission unanimously voted to support this legislation noting that the new guidelines would make it more accessible to a variety of new businesses, and that the extended timeline is necessary given the slow economic recovery from COVID-19. The Commission is committed to pursuing policies that support new business creation such as this.

The Commission commends Supervisor Ronen and her staff for their willingness to extend this valuable program for another year. Thank you for considering the Commission's recommendations. Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Katy Tang". The signature is written in a cursive, flowing style.

Katy Tang  
Director, Office of Small Business

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

## MEMORANDUM

TO: Jose Cisneros, Treasurer, Office of the Treasurer and Tax Collector

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

DATE: September 19, 2022

SUBJECT: PROPOSED ORDINANCE INTRODUCED

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The Board of Supervisors' Budget and Finance Committee has received the following proposed Ordinance, introduced by Supervisor Hillary Ronen on September 13, 2022:

**File No. 220970**

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

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

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

## MEMORANDUM

TO: Katy Tang, Director, Office of Small Business  
**Small Business Commission, City Hall, Room 448**

FROM: Brent Jalipa, Assistant Clerk  
Budget and Finance Committee

DATE: September 19, 2022

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Budget and Finance Committee

The Board of Supervisors' Budget and Finance Committee has received the following legislation, introduced by Supervisor Hillary Ronen on September 13, 2022 which is being referred to the Small Business Commission for comment and recommendation.

**File No. 220970**

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



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

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**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

**No Comment**

**Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

# 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):

Ronen

Subject:

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

The text is listed:

Ordinance amending the "First Year Free" program established in Ordinance No. 143-21 waiving certain first-year permit, license, and business registration fees for certain businesses, retroactive to November 1, 2021, to extend the program through June 30, 2023; increase the gross receipts permissible for a business to qualify for the tax and fee waiver from \$2,000,000 to \$5,000,000; remove the requirement that the business be located on the ground floor; and make other administrative and reporting changes.

Signature of Sponsoring Supervisor: /s/ Hillary Ronen

For Clerk's Use Only