

BOARD of SUPERVISORS



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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: April 29, 2024

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 Mayor London Breed on April 23, 2024, which is being referred to the Small Business Commission for comment and recommendation.

File No. 240406

Ordinance amending the Health and Business and Tax Regulations Codes to create a new annual retail food permit for food operators participating in special events and set the fees for the new permit.

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

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

_____ **No Comment**

_____ **Recommendation Attached**

Chairperson, Small Business Commission

1 [Health, Business and Tax Regulations Codes - Annual Retail Food Special Event Permit]

2

3 **Ordinance amending the Health and Business and Tax Regulations Codes to create a**
 4 **new annual retail food permit for food operators participating in special events and set**
 5 **the fees for the new permit.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 7 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 9 **Board amendment additions** are in double-underlined Arial font.
 10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 11 **Asterisks (* * * *)** indicate the omission of unchanged Code
 12 subsections or parts of tables.

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

14 Section 1. The Health Code is hereby amended by revising Section 452 of Article 8, to
 15 read as follows:

16 **SEC. 452. PERMIT REQUIRED.**

17 * * * *

18 (g) Applications for temporary permits to operate special events shall be submitted
 19 no later than *fourteen (14)* calendar days prior to the commencement of the event along with
 20 the applicable filing fees listed in Section 249.11(c) of the Business and Tax Regulations
 21 Code *of the City and County of San Francisco*. If the application and/or filing fees are submitted
 22 less than *fourteen (14)* calendar days prior to the commencement of the event, the applicant
 23 shall pay an additional *fifty percent (50%)* of the filing fee as a late charge before the
 24 application can be processed or approved. Applications and/or fees (including any late
 25 charges) *that which* are submitted seven (*7*) calendar days or less prior to the commencement
 of the event *may, at the Department's discretion, not* be processed. *This subsection (g) shall*

1 not apply to annual permits to operate special events when the applicant pays the annual permit fee
2 provided in Section 249.11(d) of the Business and Tax Regulations Code.

3
4 Section 2. The Business and Tax Regulations Code is hereby amended by revising
5 Section 249.11 of Article 2, to read as follows:

6 **SEC. 249.11. TEMPORARY AND ANNUAL PERMITS FOR~~AND~~ SPECIAL EVENTS**
7 **PERMITS; FEES.**

8 (a) Temporary permits, effective for a period of one to 90 days, and annual permits will be
9 granted by the Department of Public Health ("Department") to operate establishments under
10 Section 248 – Food Product and Marketing Establishments and Section 249.1 – Food
11 Preparation and Service Establishments ~~for a fee equivalent to the hourly rate of an Environmental~~
12 ~~Health Inspector, which will be effective for a period of one to 45 days.~~

13 (b) Business concerns whose regular sales activities concern products or
14 commodities other than food, but sell or give away food periodically for sales promotion
15 purposes shall obtain either a temporary or annual permit prescribed by this Section 249.11.

16 (c) Temporary Special Event permits will be granted by the Department ~~of Public~~
17 ~~Health~~ to operate special events referred to in Section 451(~~i~~) and 452(~~g~~) of the ~~San Francisco~~
18 Health Code upon payment of fees listed as follows:

19 (1) Application fees ~~for fiscal year 2008-09~~, per event:

20 (A) Event sponsor: \$1820;

21 (B) Food operator, \$24, where all food sold or distributed and the method of
22 processing the food is considered to be low in potential hazard by the Department: \$50 ~~of~~
23 ~~Public Health~~;

1 (C) Food operator, ~~\$83~~, where any food sold or distributed or the method of
2 processing the food is considered to be high in potential hazard by the Department: ~~\$130~~ of
3 ~~Public Health~~;

4 (2) Permit fees ~~for fiscal year 2008-2009~~, per location:

5 (A) ~~\$7442~~ for up to two days, and ~~\$5012~~ for each additional day, where all food
6 sold or distributed and the method of processing the food is considered to be low in potential
7 hazard by the Department ~~of Public Health~~;

8 (B) ~~\$11472~~ for up to two days, and ~~\$5024~~ for each additional day, where any
9 food sold or distributed or the method of processing the food is considered to be high in
10 potential hazard by the Department ~~of Public Health~~.

11 (d) Annual Special Event permits will be granted by the Department to operate at special
12 events referred to in Sections 451 and 452(g) of the Health Code upon payment of the fees listed as
13 follows:

14 (1) Application fees:

15 (A) Food operator, where all food sold or distributed and the method of
16 processing the food is considered to be low in potential hazard by the Department: \$401;

17 (B) Food operator, where any food sold or distributed or the method of
18 processing the food is considered to be high in potential hazard by the Department: \$401.

19 (2) Permit fees:

20 (A) Food operator, where all food sold or distributed and the method of
21 processing the food is considered to be low in potential hazard by the Department: \$353;

22 (B) Food operator, where any food sold or distributed or the method of
23 processing the food is considered to be high in potential hazard by the Department: \$588.

24 The annual fees set forth in this subsection (d) shall be paid annually on or before March 31, in
25 accordance with Section 76.1 of the Business and Tax Regulations Code.

1 (e) Beginning with fiscal year 2025-2026 and annually thereafter, the fees set forth in this
2 Section 249.11 may be adjusted each year, without further action by the Board of Supervisors, as set
3 forth in this subsection (e). Not later than April 1, the Department shall report to the Controller the
4 revenues generated by the fees for the prior fiscal year and the prior fiscal year's costs of operation, as
5 well as any other information that the Controller determines appropriate to the performance of the
6 duties set forth in this Section. Not later than May 15, the Controller shall determine whether the
7 current fees have produced or are projected to produce revenues sufficient to support the costs of
8 providing the services for which the fee is assessed and that the fees will not produce revenue that is
9 significantly more than the costs of providing the services for which the fee is assessed. The Controller
10 shall, if necessary, adjust the fees upward or downward for the upcoming fiscal year as appropriate to
11 ensure that the program recovers the costs of operation without producing revenue that is significantly
12 more than such costs. The adjusted rates shall become operative on July 1.

13
14 Section 3. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 of Supervisors overrides the Mayor's veto of the ordinance.

18
19 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
20 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
21 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
22 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
23 additions, and Board amendment deletions in accordance with the "Note" that appears under
24 the official title of the ordinance.

1 APPROVED AS TO FORM:
2 DAVID CHIU, City Attorney

3 By: /s/ Henry L. Lifton
4 HENRY L. LIFTON
Deputy City Attorney

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LEGISLATIVE DIGEST

[Health, Business and Tax Regulations Codes - Annual Retail Food Special Event Permit]

Ordinance amending the Health and Business and Tax Regulations Codes to create a new annual retail food permit for food operators participating in special events and set the fees for the new permit.

Existing Law

Currently, the Department of Public Health (“DPH”) issues temporary permits for various types of food establishments to operate special events, such as festivals and other community events. A temporary special event permit (also known as a temporary food facility permit) allows an event sponsor and food operators to operate food establishments for no more than 25 days within every 90-day period.

Amendments to Current Law

The proposed ordinance would create an annual special event permit that would allow food operators to operate for no more than 25 days within each 90-day period over the course of a year, *i.e.*, four 90-day periods. The proposed ordinance would establish application and permit fees for the new annual special event permit and allow the Controller, with input from DPH, to annually adjust the fees for both the existing temporary special event permit and the new annual special event permit. The proposed ordinance would exempt the new annual special event permits from the late fees for temporary special event permit applications.

Background Information

State law allows temporary food facilities to operate for community events where the event is conducted for not more than 25 days in a 90-day period and where the event is of a civic, political, public, or educational nature (such as county fairs, festivals, and other public gather events).

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