

FILE NO. 141038

ORDINANCE NO.

1 [Administrative Code - Establishing Legacy Business Registry, ~~Rebate Program, and~~
2 ~~Establishing Fees~~]

3 **Ordinance amending the Administrative Code to direct the Small Business**
4 **Commission to establish a Legacy Business Registry, and authorize an administrative**
5 **fee for the Registry not to exceed \$50, ~~and, for the next five years, provide a rebate to~~**
6 **~~Qualified Legacy Businesses that purchase the real property from which they operate~~**
7 **~~and to Qualified Landlords that purchase the real property from which Legacy~~**
8 **~~Businesses operate if the purchaser extends the term of the Legacy Business's lease~~**
9 **~~by at least ten years, in an amount equal to the transfer tax levied on the purchase.~~**

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

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

19 Section 1. The Administrative Code is hereby amended by adding Sections 2A.242
20 and 2A.243, to read as follows:

21 **SEC. 2A.242. LEGACY BUSINESS REGISTRY.**

22 *(a) The Small Business Commission shall establish and maintain a registry of Legacy*
23 *Businesses in San Francisco (the "Registry"). The purpose of the Registry is to recognize that*
24 *longstanding, community-serving businesses can be valuable cultural assets of the City. In addition,*
25

1 the City intends that the Registry be a tool for providing educational and promotional assistance to
2 Legacy Businesses to encourage their continued viability and success.

3 (b) For purposes of this Section 2A.242, "Legacy Business" means a business that the Small
4 Business Commission, after a noticed hearing, determines ~~meets~~ing the following criteria:

5 (1) The business is a bar, restaurant, retail store, arts space, performance venue, non-
6 profit entity directly serving the community, or a business primarily engaged in Production,
7 Distribution, and Repair activities, as described in Article 2 of the Planning Code.

8 (2) The business has operated in San Francisco for 30 or more years, with no break in
9 San Francisco operations exceeding two years. The business may have operated in more than one
10 location or jurisdiction, but must have been ~~founded or~~established and ~~currently be~~
11 headquartered~~based~~ in San Francisco.

12 (3) The business has contributed to the neighborhood's history and/or the identity of a
13 particular neighborhood or community.

14 (4) The business is committed to maintaining the physical features or traditions that
15 define the business, including craft, culinary or art forms.

16 (c) The Small Business Commission, in consultation with the Controller, shall establish an
17 administrative fee, to offset the costs of administering the program but not to exceed \$50, for businesses
18 applying for inclusion in the Registry.

19 (d) The Small Business Commission may, after a noticed hearing, adopt such rules, regulations
20 and forms necessary to implement this Section 2A.242.

21 (e) The Small Business Commission shall survey San Francisco's Legacy Businesses and, no
22 later than ~~June~~September 30, 2015, make substantive recommendations to the Board of Supervisors
23 for programs for Legacy Businesses. Such programs may include business and technical assistance,
24 lease renewal and acquisition assistance, public education and commendation initiatives to recognize
25 and honor the contributions of Legacy Businesses to San Francisco, financial incentives to encourage

1 the stability of Legacy Businesses, and additional business stabilization and neighborhood continuity
2 initiatives.

3
4 **SEC. 2A.243. LEGACY BUSINESS REBATE PROGRAM.**

5 (a) **Findings and Purpose.** The Board of Supervisors finds that:

6 (1) According to a September 2014 report by San Francisco Architectural
7 Heritage (San Francisco Heritage) entitled “Sustaining San Francisco’s Living History:
8 Strategies for Conserving Cultural Heritage Assets,” long-operating businesses foster civic
9 engagement and pride as neighborhood gathering spots, and contribute to San Francisco’s
10 cultural identity.

11 (2) In San Francisco’s current economic climate, many otherwise successful,
12 long-operating businesses are at risk of displacement, despite continued value and a record
13 of success.

14 (3) In recent years, San Francisco has witnessed the loss of many long-
15 operating businesses because of increased rents or lease terminations.

16 (4) To the extent that property owners have little incentive to retain longstanding
17 tenants, a long-operating business that does not own its commercial space or have a long-
18 term lease is particularly vulnerable to displacement. A viable strategy for securing the future
19 stability of San Francisco’s long-operating businesses is to provide incentives to them to
20 purchase the buildings from which they operate and to provide incentives to landlords to enter
21 into long-term leases with the long-operating businesses.

22 (5) The purpose of the Legacy Business Rebate Program is therefore to
23 maintain San Francisco’s cultural identity and to foster civic engagement and pride by
24 assisting long-operating businesses to remain in the City.

1 **(b) Rebate for Legacy Businesses.** A Legacy Business, as defined in Section
2 2A.242, that, on or after January 1, 2015, purchases the real property from which it operates
3 its business, shall be entitled to a rebate, as calculated in subsection (d) of this Section
4 2A.243, provided that the Legacy Business meets all requirements for the rebate established
5 by this Section 2A.243 and by rules and regulations the Executive Director of the Office of
6 Small Business establishes under subsection (f) of this Section 2A.243. A Legacy Businesses
7 qualifying under this subsection (b) shall be referred to as a “Qualified Legacy Business” for
8 purposes of this Section 2A.243.

9 **(c) Rebate for Landlords.** A person, as that term is defined in Business and Tax
10 Regulations Code Section 6.2-15, that, on or after January 1, 2015, purchases the real
11 property from which a Legacy Business operates its business, and that extends the term of
12 the Legacy Business’s lease by at least an additional ten years (for example, the purchaser
13 extends an existing ten-year lease to a twenty-year lease), shall be entitled to a rebate, as
14 calculated in subsection (d) of this Section 2A.243, provided that the person meets all
15 requirements for the rebate established by this Section 2A.243 and by rules and regulations
16 the Executive Director of the Office of Small Business establishes under subsection (f) of this
17 Section 2A.243. A person qualifying under this subsection (c) shall be referred to as a
18 “Qualified Landlord” for purposes of this Section 2A.243.

19 **(d) Amount of Rebate.** The City shall pay to a Qualified Legacy Business or a
20 Qualified Landlord an amount equal to any taxes paid pursuant to Article 12-C of the Business
21 and Tax Regulations Code (“Real Property Transfer Tax”), as amended, with respect to the
22 purchase of the real property from which the Legacy Business operates its business, except
23 that the total combined rebates paid to all Qualified Legacy Businesses and Qualified
24 Landlords in a fiscal year shall not exceed \$400,000, and shall be subject to annual
25 appropriation. To the extent that the total rebates requested under this Section 2A.243

1 exceed \$400,000 in a fiscal year or exceed the amount of the annual appropriation for the
2 Legacy Business Rebate Program, the City shall pay rebates to Qualified Legacy Businesses
3 and Qualified Landlords in order of priority based on the date on which the Office of Small
4 Business received the Qualified Legacy Business's or the Qualified Landlord's rebate
5 application. The rebate shall be made to the Qualified Legacy Business or Qualified Landlord,
6 regardless of who paid the Real Property Transfer Tax. The City shall pay the rebate from a
7 project account in the General Fund that the Controller shall set aside for Legacy Business
8 Rebate Program funds (the "Legacy Business Rebate Program Account"). The City shall not
9 pay the rebate from funds dedicated under bond or other legal financing covenants.

10 (e) ~~**Determination of Real Property Transfer Taxes Subject to Rebate.**~~ The rebate
11 in this Section 2A.243 shall be limited to that portion of the Real Property Transfer Tax paid
12 that relates directly to the lands and improvements from which the Legacy Business operates
13 its business. If a Qualified Legacy Business or Qualified Landlord purchases real property
14 that includes improvements that the Legacy Business does not use to operate its business,
15 the portion of the Real Property Transfer Taxes that may be rebated under this Section
16 2A.243 shall be determined by multiplying the total Real Property Transfer Tax paid by a
17 fraction, the numerator of which is the square footage of the improvements on the real
18 property that the Legacy Business uses to operate its business, and the denominator of which
19 is the total square footage of the improvements on the real property that the Qualified Legacy
20 Business or Qualified Landlord purchased. For purposes of this subsection (e), the square
21 footage of the improvements on the real property that the Legacy Business uses to operate its
22 business, and the square footage of the improvements on the real property that the Qualified
23 Legacy Business or Qualified Landlord purchased, shall not include the square footage of any
24 common areas.

1 (f) **Implementation.** After holding a public hearing, the Executive Director of the
2 Office of Small Business, in consultation with the Controller, shall promulgate rules and
3 regulations to establish the procedures to implement the Legacy Business Rebate Program.
4 Such rules and regulations shall include provisions describing the application process, the
5 documentation that will be required to substantiate qualification for the rebate and the amount
6 of the rebate, an appeal process, and any other provisions deemed necessary and
7 appropriate to carry out the Legacy Business Rebate Program.

8 (g) **Annual Reports.**

9 (1) By May 1 of each year, the Executive Director of the Office of Small
10 Business shall report to the Board of Supervisors on the implementation of the Legacy
11 Business Rebate Program. The report shall include a list of (A) each Qualified Legacy
12 Business and the amount of the rebate paid to each Qualified Legacy Business, and (B) each
13 Qualified Landlord, the Legacy Business with which the Qualified Landlord entered into the
14 extended lease, the original term of the lease, the extended term of the lease, and the amount
15 of the rebate paid to each Qualified Landlord.

16 (2) By September 1 of each year, the Controller shall perform an assessment
17 and review of the effect of the Legacy Business Rebate Program for the prior fiscal year.
18 Based on such assessment and review, the Controller shall prepare and submit an analysis to
19 the Board of Supervisors. The analysis shall be based on criteria deemed relevant by the
20 Controller, and may include, but is not limited to, data contained in the annual reports that the
21 Office of Small Business submits to the Board of Supervisors.

22 (h) **Sunset Date.** This Section 2A.243 shall expire by operation of law at midnight on
23 December 31, 2019, unless extended by ordinance. Upon expiration of this Section 2A.243,
24 the City Attorney shall cause it to be removed from the Administrative Code.

1 Section 2. 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.

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6 ~~Section 3. Undertaking for the General Welfare. In enacting and implementing this~~
7 ~~ordinance, the City is assuming an undertaking only to promote the general welfare. It is not~~
8 ~~assuming, nor is it imposing on its officers and employees, an obligation for breach of which it~~
9 ~~is liable in money damages to any person who claims that such breach proximately caused~~
10 ~~injury.~~

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12 ~~Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word~~
13 ~~of this ordinance, or any application thereof to any person or circumstance, is held to be~~
14 ~~invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision~~
15 ~~shall not affect the validity of the remaining portions or applications of the ordinance. The~~
16 ~~Board of Supervisors hereby declares that it would have passed this ordinance and each and~~
17 ~~every section, subsection, sentence, clause, phrase, and word not declared invalid or~~
18 ~~unconstitutional without regard to whether any other portion of this ordinance or application~~
19 ~~thereof would be subsequently declared invalid or unconstitutional.~~

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21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: _____
24 SCOTT M. REIBER
25 Deputy City Attorney

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