

File No. 200786

Committee Item No. 10

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date September 16, 2020

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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Completed by: Linda Wong

Date September 9, 2020

Completed by: Linda Wong

Date _____

1 [Temporary Waivers of Permit Fees for Café Tables and Chairs and Display Merchandise in
2 the Public Right-of-Way, and Use Fees for Parklets]

3 **Ordinance waiving, for a two-year period, permit and renewal fees in the Public Works**
4 **Code for café tables and chairs in public sidewalks and roadway areas, and for display**
5 **of fruits and vegetables or nonfood merchandise on public sidewalks; and waiving fees**
6 **for use of parklets.**

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

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

15 Section 1. **Findings.**

16 (a) The COVID-19 shutdown has had a major adverse impact on the variety of
17 small businesses that contribute to San Francisco's economic vitality, and experts are
18 predicting that a third of the businesses shuttered during this time will never re-open.
19 Whatever the precise number, it will be very large.

20 (b) Even when restaurants, cafes, and retail establishments are allowed to operate
21 in some capacity, the space available to conduct their business activities and the number of
22 customers who may be served are greatly curtailed due to social distancing requirements.

23 (c) Application and renewal fees present barriers to entry and unnecessary burdens
24 to businesses seeking to avail themselves of permitted uses of public rights of way. The
25 revenue to the City generated by those fees is low relative to the barriers to entry that they
present to small businesses, in particular.

1 (d) The urgency of the COVID-19 response demonstrates that businesses are
2 capable of implementing sidewalk and street encroachments pursuant to clear City guidelines
3 designed to allow for safe pedestrian and disability access to public rights of way. The ability
4 of businesses to self-implement has also alleviated some of the City's burden to oversee
5 implementation, and to instead focus the City's resources on compliance with and
6 enforcement of those guidelines.

7 (e) This ordinance will temporarily waive the fees for businesses to use sidewalk
8 and other public spaces for dining and display of merchandise in order to support the
9 continued operation of these businesses, most of which are suffering severe economic losses
10 due to the COVID-19 pandemic.

11
12 **Section 2. Fee Waivers.**

13 Notwithstanding the provisions of Public Works Code Section 2.1.1 or any other permit
14 fee provisions of the Public Works Code, permit fees and annual renewal fees for the
15 following are waived for the period set forth in Section 3:

- 16 (a) Tables and Chairs Permit pursuant to Article 5.2 (Sections 176 et seq.);
- 17 (b) Display Merchandise Permit pursuant to Article 5.3 (Sections 183 et seq.); and
- 18 (c) Fees for use of parklets.

19
20 **Section 3. Duration of Fee Waiver Authorization.**

21 The fee waivers authorized in Section 2 shall expire on August 1, 2022 unless revised
22 or extended by ordinance. As provided in Section 4, the Board of Supervisors intends that the
23 fee waivers commence on August 1, 2020.

24 ///

25 ///

1 Section 4. **Effective Date; Retroactivity.**

2 (a) This ordinance shall become effective 30 days after enactment. Enactment
3 occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or
4 does not sign the ordinance within ten days of receiving it, or the Board of Supervisors
5 overrides the Mayor’s veto of the ordinance.

6 (b) Upon its effective date, this ordinance shall be retroactive to August 1, 2020.
7 Any fees waived in this ordinance that are collected between August 1, 2020 and the
8 effective date of this ordinance shall be promptly reimbursed by the City.

9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: /s/ JUDITH BOYAJIAN
13 JUDITH BOYAJIAN
14 Deputy City Attorney

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LEGISLATIVE DIGEST

[Temporary Waivers of Permit Fees for Café Tables and Chairs and Display Merchandise in the Public Right-of-Way, and Use Fees for Parklets]

Ordinance waiving, for a two-year period, permit and renewal fees in the Public Works Code for café tables and chairs in public sidewalks and roadway areas and for display of fruits and vegetables or nonfood merchandise on public sidewalks; and waiving fees for use of parklets.

Existing Law

Section 2.1.1 establishes fees for the use of the public right-of-way, sidewalk and roadway areas for café tables and chairs and the display of merchandise.

Amendments to Current Law

This ordinance will waive for a two-year period the fees described above.

Background Information

The COVID-19 shutdown has had a major adverse impact on the variety of small businesses that contribute to San Francisco's economic vitality, and experts are predicting that a third of the businesses shuttered during this time will never re-open. Whatever the precise number, it will be very large. Even when restaurants, cafes, and retail establishments are allowed to operate in some capacity, the space available to conduct their business activities and the number of customers who may be served are greatly curtailed due to social distancing requirements.

Application and renewal fees present barriers to entry and unnecessary burdens to businesses seeking to avail themselves of permitted uses of public rights-of-way. The revenue to the City generated by those fees is low relative to the barriers to entry that they present to small businesses, in particular.

The urgency of the COVID-19 response demonstrates that businesses are capable of implementing sidewalk and street encroachments pursuant to clear City guidelines designed to allow for safe pedestrian and disability access to public rights-of-way.

<p>Item 10 File 20-0786</p>	<p>Department: General Services Agency - Department of Public Works (DPW)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed ordinance would retroactively waive Department of Public Works (Public Works) permit and renewal fees for café tables and chairs in public sidewalks and roadway areas, for display of fruits and vegetables or nonfood merchandise on public sidewalks, and for use of parklets, for a period of two years, from August 2020 through July 2022. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • The COVID-19 pandemic and Shelter-in-Place Order have created significant adverse impacts on small businesses in San Francisco. Under San Francisco’s current health orders, indoor restaurant dining is not permitted. Other service businesses, such as retail, may not be operating at full capacity indoors due to social distancing requirements. • The public right-of-way presents an opportunity to businesses that may not operate at full capacity indoors. The proposed ordinance would retroactively waive Public Works permit and renewal fees for tables and chairs in public sidewalk and roadway areas, merchandise display on public sidewalks, and use of parklets, for a period of two years, from August 2020 through July 2022. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The fiscal impact of the proposed ordinance is difficult to estimate due to uncertainty about the future of the COVID-19 pandemic. In FY 2018-19, the last fiscal year before the COVID-19 pandemic, Public Works received \$662,496 in permit and renewal fees that would be waived by the proposed ordinance. If fee revenues were to continue at the FY 2018-19 level, the estimated fees waived over the two-year period of the proposed ordinance would be approximately \$1,324,992. However, due to the impact of the COVID-19 pandemic on small business, and the number of businesses that have already permanently closed, the actual amount of fees waived by the proposed ordinance would likely be less than this amount. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approval of the proposed ordinance is a policy matter for the Board of Supervisors. 	

MANDATE STATEMENT

According to City Charter Section 2.105, all legislative acts shall be by ordinance and require the affirmative vote of at least a majority of the members of the Board of Supervisors.

BACKGROUND

The COVID-19 pandemic and Shelter-in-Place Order have created significant adverse impacts on small businesses in San Francisco.

On June 11, 2020, San Francisco Health Officer Tomas Aragon issued an order allowing outdoor dining to reopen, after nearly three months of closure. On July 13, 2020, Governor Gavin Newsom ordered that indoor dining was prohibited statewide. On August 28, 2020, Governor Newsom unveiled a new tiered system that allowed certain businesses to open based on the case rate in each county and local health orders. As of the writing of this report, San Francisco is in the “red” State tier, which allows indoor dining at 25 percent of a restaurant’s capacity. However, City health officials have not permitted indoor dining to commence. Other service businesses, such as retail, may operate indoors but with limited capacity due to social distancing requirements.

The Public Works Code allows businesses to set up café tables and chairs on sidewalks and other public right-of-way but requires businesses to obtain permits and conform to guidelines issued by the Director of Public Works. According to the proposed ordinance, permit application and renewal fees are barriers to entry and unnecessary burdens to businesses that seek to use public rights-of-way.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would retroactively waive Department of Public Works (Public Works) permit and renewal fees for café tables and chairs in public sidewalks and roadway areas, for display of fruits and vegetables or nonfood merchandise on public sidewalks, and for use of parklets, for a period of two years, from August 2020 through July 2022.

The proposed ordinance would waive the Public Works fees shown in Table 1 below.

Table 1: Public Works Fees Waived by Proposed Ordinance

Category	Fee	Fee Amount (FY 2020-21)
Café Tables and Chairs (Annual)	New	\$148 + \$8/square foot
	Renewal	\$74 + \$7/square foot
	With prior departmental enforcement action ¹	\$148 + \$10/square foot
Merchandise Display	Annual	\$160 + \$11/square foot
Use of Parklets ²	New Application	\$306
	Inspection Fee	\$244
	Renewal	\$306

Source: Public Works

Note: The proposed ordinance only waives fees charged by Public Works for the People Place, and does not include fees that may be charged by the San Francisco Municipal Transportation Agency or other City agencies pursuant to Administrative Code Section 94A.11.

According to Mr. Bernie Tse, Public Works Senior Engineer, Public Works will request amending the proposed ordinance to make it retroactive to April 1, 2020. Public Works has not sent permit renewal letters to businesses that were due on April 15, 2020 and beyond. If the proposed ordinance were approved with the August 1, 2020 effective date, Public Works would have to invoice businesses with renewals due in April, May, June, and July 2020.

FISCAL IMPACT

According to Mr. Devin Macaulay, Public Works Budget Manager, Public Works received \$662,496 in fees for café tables and chairs, sidewalk merchandise display, and use of parklets in FY 2018-19, the last fiscal year before the COVID-19 pandemic. Fee revenue is shown in Table 2 below.

Table 2: Permit Fee Revenues, FY 2018-19

Category	Fees Received
Café Tables and Chairs	\$505,145
Sidewalk Display	140,240
Use of Parklets	17,111
Total	\$662,496

Source: Public Works

The fiscal impact of the proposed ordinance is difficult to estimate due to uncertainty about the future of the COVID-19 pandemic. If fee revenues were to continue at the FY 2018-19 level, the

¹ According to Public Works Code Section 176, both the Department of Public Works and Department of Public Health may enforce compliance with permit requirements. Public Works Code Section 2.1.1 provides for a higher fee to be charged to businesses that have had a prior departmental enforcement action.

² Public Works Code Section 793 established the “Places for People” program, which provides for parklets in the public right of way. Administrative Code Section 94A defines the permitting process and fees. According to Administrative Code Section 94A, the fees charged to the People Place Permit are one-half the fees otherwise charged by Public Works for use of the public right-of-way.

estimated fees waived over the two-year period of the proposed ordinance would be approximately \$1,324,992. However, due to the impact of the COVID-19 pandemic on small business, and the number of businesses that have already permanently closed, the actual amount of fees waived by the proposed ordinance would likely be less than this amount.

RECOMMENDATION

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.



CITY AND COUNTY OF SAN FRANCISCO
LONDON BREED, MAYOR

OFFICE OF SMALL BUSINESS
REGINA DICK-ENDRIZZI, DIRECTOR

August 12, 2020

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. 200786 – Temporary Waivers of Permit Fees for Café Tables and Chairs and Display Merchandise in the Public Right-of-Way, and Use Fees for Parklets

Small Business Commission Recommendation to the Board of Supervisors: **Support with modifications.**

Dear Ms. Calvillo,

On August 10, 2020 the Small Business Commission (SBC or Commission) heard BOS File No. 200786 – Temporary Waivers of Permit Fees for Café Tables and Chairs and Display Merchandise in the Public Right-of-Way, and Use Fees for Parklets. Lee Hepner, Legislative Aide to Supervisor Aaron Peskin provided the SBC with an overview of the legislation. After discussion, the SBC voted (7-0) to recommend that the Board of Supervisors support the legislation with modifications.

The Commission applauded this legislation and extended their appreciation to the sponsor's office. They observed that although the genesis of the legislation predates the current emergency, this proposal is responsive to specific recommendations for small business support that the [Commission made to the Economic Recovery Task Force](#) to waive fees collected by regulatory agencies. The Commission emphasized that the ability for small businesses to utilize the public right of way for tables and chairs, display merchandise, and parklets helps to generate sales tax revenue, supports local jobs, and contributes to the beautification of the City. They discussed whether the legislative sponsor's office would be amenable to an amendment to extend the fee waivers in question in perpetuity. Mr. Hepner affirmed that they would consider the SBC's recommendations.

Responsive to a significant number of public commenters, the Commission discussed fees that have been assessed to small businesses for the use of park space by the Recreation and Parks Department during the pandemic, specifically fitness studios. Where \$15 per hour is currently being assessed to these businesses for the use of City park space, the Commission also discussed whether the legislative sponsor's would be amenable to including a waiver of this fee in the proposed legislation. Mr. Hepner affirmed that he would research this and contemplate it further.

Ultimately, the Commission voted unanimously to support the legislation with the following modifications:

- Amend Section 3 of the legislation and waive the fee for tables and chairs, display merchandise, and parklets in perpetuity;
- Amend Section 2 to include a waiver of Recreation and Park fees for assessed to outdoor fitness providers for the use of park space.

Thank you for considering the Commission's recommendations. Please feel free to contact me should you have any questions.

Sincerely,



Regina Dick-Endrizzi
Director, Office of Small Business

cc: Aaron Peskin, Member, Board of Supervisors
Sophia Kittler, Mayor's Liaison to the Board of Supervisors
Patrick O'Riordan, Interim Director, Department of Building Inspection
Phil Ginsberg, General Manager, Recreation and Parks
Lisa Pagan, Office of Economic and Workforce Development
Linda Wong, Clerk, Budget and Finance Committee

BOARD of SUPERVISORS



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

MEMORANDUM

TO: Regina Dick-Endrizzi
Small Business Commission, City Hall, Room 448

FROM: Linda Wong, Assistant Clerk
Budget and Finance Committee

DATE: August 5, 2020

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Budget and Finance Committee

The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 200786
Ordinance waiving, for a two-year period, permit and renewal fees in the Public Works Code for café tables and chairs in public sidewalks and roadway areas, and for display of fruits and vegetables or nonfood merchandise on public sidewalks; and waiving fees for use of parklets.

Please return this cover sheet with the Commission's response to Linda Wong at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

- No Comment**
- Recommendation Attached**

Chairperson, Small Business Commission

BOARD of SUPERVISORS



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

MEMORANDUM

TO: Alaric Degrafinried, Interim Director, Public Works

FROM: Linda Wong, Assistant Clerk
Budget and Finance Committee

DATE: August 5, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, introduced by Supervisor Peskin on July 21, 2020:

File No. 200786

Ordinance waiving, for a two-year period, permit and renewal fees in the Public Works Code for café tables and chairs in public sidewalks and roadway areas, and for display of fruits and vegetables or nonfood merchandise on public sidewalks; and waiving fees for use of parklets.

If you have 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 or by email at: linda.wong@sfgov.org.

c: David Steinberg, Public Works
Jeremy Spitz, Public Works
Lena Liu, Public Works

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):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only