

FILE NO. 201415

ORDINANCE NO.

[Waiver of Business Registration Fees and Certain License Fees]

Ordinance waiving business registration fees for the fiscal year commencing July 1, 2020, and certain license fees originally due on March 31, 2020, for businesses with \$25,000,000 or less in San Francisco gross receipts that received more than 50% of such receipts from business activities precluded during all or a portion of the period from March 17~~6~~, 2020, through March 1, 2021, due to a Local Health Officer's order to mitigate the spread of COVID-19 and/or from the activities of a facility that prepares and serves food for delivery or carry out or a restaurant, and refunding any waived amounts paid to the City.

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

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

Section 1. Background and Purpose.

(a) On February 25, 2020, Mayor London Breed proclaimed a state of emergency in response to the COVID-19 pandemic. On March 3, 2020, the Board of Supervisors concurred in the February 25 Proclamation.

(b) On March 16, 2020, to mitigate the spread of COVID-19, the Local Health Officer issued Order No. C19-07, which has been amended and replaced by subsequent orders, directing San Franciscans to "shelter in place" beginning on March 17, 2020. These orders,

1 which are now known as “stay-safer-at-home” orders, generally require individuals to stay in
2 their homes to the extent possible, and require businesses to cease all non-essential
3 operations at physical locations in the City, with some limited exceptions.

4 (c) In response to the COVID-19 emergency, on March 11, 2020, the Mayor extended
5 the due date for certain license fees otherwise due on March 31, 2020 under Section 76.1 of
6 the Business and Tax Regulations Code to June 30, 2020. On April 23, 2020, to lessen the
7 economic impact of the COVID-19 emergency, the Mayor further extended the payment
8 deadline for those fees and certain deadlines for the payment of business registration fees for
9 fiscal year 2020/2021 to September 30, 2020. On August 4, 2020, the Mayor further
10 extended those deadlines to March 1, 2021. On January 22, 2021, the Board of Supervisors,
11 by ordinance, further extended the deadline to pay these license fees and business
12 registration fees to November 1, 2021 and April 30, 2021, respectively. That legislation also
13 waived these license fees and business registration fees, among others, for certain qualified
14 entertainment businesses and certain qualified restaurant businesses.

15 (d) Due to the public health emergency related to COVID-19 and the actions required
16 to respond to the emergency, businesses engaged in non-essential operations have closed.
17 The adverse economic impacts of the COVID-19 emergency have therefore been particularly
18 severe on businesses engaged in non-essential operations. Even as some businesses
19 previously closed have been or may be permitted to partially reopen on a limited basis, they
20 are suffering and will continue to suffer severe economic harm due to the COVID-19
21 emergency and the actions required to respond to it.

22 (e) The COVID-19 outbreak has caused significant negative impacts on businesses in
23 the City, including the closure or partial closure of many of those businesses. While the exact
24 course of the pandemic cannot be predicted, it is expected to continue to pose serious public
25 health concerns in San Francisco for months to come, and will continue to have a serious

1 negative impact on businesses during that time. This ordinance is intended to mitigate the
2 economic harm and other hardships inflicted on businesses in San Francisco due to the public
3 health emergency.

4 Section 2. Definitions.

5 For purposes of this ordinance, the following terms shall have the following meanings:

6 “Business Registration Certificate” means a “registration certificate,” as defined in
7 Section 852.2 of Article 12 of the Business and Tax Regulations Code.

8 “Business Registration Fee” means the tax imposed under Article 12 of the Business
9 and Tax Regulations Code.

10 “City” means the City and County of San Francisco.

11 “Combined Group” has the meaning described in Section 956.3 of Article 12-A-1 of the
12 Business and Tax Regulations Code.

13 “License Fees” means the fees payable to the Tax Collector under Section 76.1 of
14 Article 2 of the Business and Tax Regulations Code.

15 “Newly Established Business” has the meaning set forth in Section 852.1 of Article 12
16 of the Business and Tax Regulations Code.

17 “Person” has the meaning set forth in Section 6.2-15 of Article 6 of the Business and
18 Tax Regulations Code.

19 “Qualified Business” means a Person or Combined Group that both (a) received more
20 than 50% of its total combined San Francisco Gross Receipts for calendar year 2019 from
21 business activities in the City that were precluded during all or a portion of the period from
22 March 17, 2020 through March 1, 2021 by an order of the Local Health Officer to mitigate the
23 spread of COVID-19 and/or from the activities of a facility that prepares and serves food for
24 delivery or carry out or a restaurant; and (b) had \$25,000,000 or less in total combined
25 San Francisco Gross Receipts in calendar year 2019.

1 For purposes of determining whether it is a “Qualified Business,” a Person or
2 Combined Group that was a Newly Established Business commencing business in the City in
3 calendar year 2020 or 2021 shall use its estimated total combined San Francisco Gross
4 Receipts for the calendar year in which the Person or Combined Group first commenced
5 business in the City instead of its total combined San Francisco Gross Receipts in calendar
6 year 2019.

7 “Registration Year” has the meaning set forth in Section 852.4 of Article 6 of the
8 Business and Tax Regulations Code.

9 “San Francisco Gross Receipts” has the meaning used in Section 855 of Article 12 of
10 the Business and Tax Regulations Code.

11 “Tax Collector” has the meaning set forth in Section 6.2-19 of Article 6 of the Business
12 and Tax Regulations Code.

13
14 Section 3. Waiver of Business Registration Fees and Certain License Fees.

15 (a) The Business Registration Fee for the Registration Year beginning July 1, 2020,
16 and all License Fees originally due on March 31, 2020 without regard to any extensions by
17 Mayoral declaration or otherwise, shall be waived for each Qualified Business.

18 (b) No penalties shall be imposed on any Qualified Business with respect to the
19 Business Registration Fee for the Registration Year beginning July 1, 2020. No penalties
20 shall be imposed with respect to the payment of any License Fees waived under this
21 Section 3.

22 (c) The Tax Collector may set the forms and procedures required for a Person or
23 Combined Group to apply for a waiver under this Section 3.

1 Section 4. Refund of Waived Fees and Penalties Paid to City.

2 If a Person or Combined Group pays or has paid to the City any tax, fee, or penalty
3 waived under Section 3 of this ordinance, the Tax Collector shall refund or cause to be
4 refunded the amount of that tax, fee, or penalty, without interest, upon request of that Person
5 or Combined Group. Any refund request under this Section 4 must be filed in writing on a
6 form prescribed by the Tax Collector within the later of (1) one year of payment of the tax, fee,
7 or penalty, or (2) December 31, 2021.

8
9 Section 5. Effect of Fee Waiver.

10 (a) Notwithstanding Section 76.1(b) of Article 2 of the Business and Tax Regulations
11 Code, the failure of a Person to pay any License Fees waived under Section 3 of this
12 ordinance shall neither cause the license to expire by operation of law nor require the Person
13 to obtain a new license, and such failure shall not preclude the Person from continuing to do
14 or perform the act or carry on the business, trade, profession, or calling for which City law
15 requires the license.

16 (b) The waiver of a Person or Combined Group's Business Registration Fee under
17 Section 3 of this ordinance shall not relieve a Person or Combined Group from the registration
18 and other applicable requirements under Articles 6 and 12 of the Business and Tax
19 Regulations Code, except for the payment of that Person or Combined Group's waived
20 Business Registration Fee. If a Person or Combined Group satisfies the registration and
21 other applicable requirements under Articles 6 and 12 of the Business and Tax Regulations
22 Code for the Registration Year beginning July 1, 2020, except for the payment of any waived
23 Business Registration Fee, such Person or Combined Group shall be treated as if they had
24 paid the Business Registration Fee for all purposes.

1 Section 6. Severability.

2 If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any
3 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
4 decision of a court of competent jurisdiction, such decision shall not affect the validity of the
5 remaining portions or applications of this ordinance. The Board of Supervisors hereby
6 declares that it would have passed this ordinance and each and every section, subsection,
7 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to
8 whether any other portion of this ordinance or application thereof would be subsequently
9 declared invalid or unconstitutional.

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11 Section 7. Effective Date. This ordinance shall become effective 30 days after
12 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
13 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
14 of Supervisors overrides the Mayor’s veto of the ordinance.

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16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: /s/
19 KERNE H. O. MATSUBARA
Deputy City Attorney

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