

1 [Waiver of Permit, License, and Business Registration Fees for Certain New Small  
2 Businesses Locations]

3 **Ordinance waiving certain first-year permit, license, and business registration fees for**  
4 **businesses that either (1) commence engaging in business within the City from**  
5 **November 1, 2021, through October 31, 2022, have estimated first-year San Francisco**  
6 **gross receipts of \$2,000,000 or less, and have a registered business location that is for**  
7 **storefrontground floor commercial use and not formula retail uses, and have gross**  
8 **receipts in the next three tax years of \$10,000,000 or less, or (2) open a new business**  
9 **location for ground floor commercial use and not formula retail use, reported**  
10 **San Francisco gross receipts of \$2,000,000 or less on its most recent return, and have**  
11 **gross receipts in the next three tax years of \$10,000,000 or less;** and refunding any  
12 waived fees paid to the City.

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

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

22 Section 1. Background, Purpose, and Findings.

23 (a) San Francisco is home to thousands of small businesses, employing hundreds of  
24 thousands of workers. Small businesses are the lifeblood of our neighborhoods and our  
25 communities. While many have managed to stay afloat during the COVID-19 pandemic and

1 economic downturn, adjust to quickly shifting guidelines and practices, and creatively promote  
2 new ways of doing business, many have not, and have not survived.

3 (b) The City seeks a robust and equitable recovery that revives the small business  
4 sector, gets service and retail workers back to work, reassures San Franciscans that  
5 neighborhood corridors are still there for them to gather, shop, and dine, and attracts visitors  
6 to enjoy all that is special and unique about our City.

7 (c) In March 2021, the San Francisco Budget and Legislative Analyst issued a report  
8 estimating unpaid commercial rent in San Francisco through December 2020 due to the  
9 COVID-19 pandemic and related public health orders. The report estimated that, while  
10 non-payment of rent from retail chains had recovered slightly from spikes early in the  
11 pandemic, between 52% and 63% of small local businesses had not been able to pay rent in  
12 full and that unpaid commercial rent ranged from \$172 million to \$404 million, with almost all  
13 of that – 89% to 98% – owed by storefront retail, services, restaurants, and bars. Commercial  
14 eviction protections, lease renegotiations, and other strategies will allow some, but not all, of  
15 these small businesses to continue to operate.

16 (d) Prior to the pandemic, neighborhoods across the City were already seeing a  
17 proliferation of vacant storefronts. To ensure vibrant commercial corridors, the City must  
18 focus not only on sustaining existing businesses but also on addressing vacancies. In order  
19 to lower the barriers that new businesses face before they open their doors, San Francisco  
20 voters passed Proposition H in November 2020, a package of commercial permit streamlining  
21 changes, and pending legislation would expand those streamlining changes. To further lower  
22 those barriers, complement the permit process changes, remove the financial barrier that City  
23 fees create for prospective small business owners, and support a full and fast recovery of the  
24 City's commercial corridors and small businesses, this ordinance will waive ~~City~~ certain City  
25 first-year permit, initial license, and initial business registration fees for many new small

1 businesses and certain first-year permit and initial license fees for many small businesses that  
2 open a new ground floor location.

3 (e) Small businesses are an effective economic development pathway for communities  
4 of color and an alternative to minimum wage jobs for working class San Franciscans.  
5 According to a 2015 paper published by the Brookings Institution, “Business ownership can  
6 catalyze social mobility. . . . African American entrepreneurs are both more likely to move into  
7 higher income groups than are African American nonentrepreneurs, . . [and] successful  
8 entrepreneurship is correlated with wealth, savings, job satisfaction, and economic mobility.”  
9 A recent article by What Works Cities stated, “[S]mall business entrepreneurship has long  
10 served as an important vehicle of economic mobility for families. In many immigrant  
11 communities and communities of color, owning a business and hiring neighbors and  
12 community members is a way to build wealth for their families and create vibrant  
13 communities.” Among its benefits, this ordinance will encourage and support small business  
14 entrepreneurship in immigrant communities and communities of color, though its reach will be  
15 broader and its impact will be across-the-board and citywide.

16 (f) The Board of Supervisors finds that it is reasonable to waive first-year permit,  
17 license, and business registration fees for certain ~~new~~ small businesses whose business  
18 location is for ~~storefront~~ ground floor commercial use and not Formula Retail uses. The Board  
19 of Supervisors further finds that while small businesses with one or few locations have been  
20 especially impacted by the economic downturn, Formula Retail businesses, in general, are  
21 better positioned to navigate the economic downturn due to the fact that Formula Retail  
22 establishments have multiple locations.

23  
24 Section 2. Definitions.

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

1 "Business Registration Certificate" means a "registration certificate," as defined in  
2 Section 852.2 of Article 12 of the Business and Tax Regulations Code.

3 "Business Registration Fee" means the tax imposed under Article 12 of the Business  
4 and Tax Regulations Code.

5 "City" means the City and County of San Francisco.

6 "City Departments" means the departments and agencies that issue any permit,  
7 license, or Business Registration Certificate, the fees for which are subject to waiver under  
8 Sections 3(a) and 3(b) of this ordinance, including but not limited to the Planning Department,  
9 Department of Building Inspection, Fire Department, Department of Public Works, Department  
10 of Public Health, Police Department, Public Utilities Commission, Entertainment Commission,  
11 Office of Cannabis, and Office of the Treasurer and Tax Collector.

12 "Commercial Use" means any of the following uses: Sales and Services, Retail;  
13 Entertainment, Arts and Recreation Use; or Social Service or Philanthropic Facility, as those  
14 terms are defined in Section 102 of the Planning Code; or COVID-19 Relief and Recovery use  
15 as defined in Section 205.7(b) of the Planning Code. "Commercial Use" shall not include any  
16 Formula Retail use as defined in Section 303.1(b) of the Planning Code. For purposes of this  
17 Section 2, references to the Planning Code are to that Code as of November 1, 2021.

18 "Gross Receipts Tax Return" means the return reporting taxes imposed by  
19 Article 12-A-1 of the Business and Tax Regulations Code and filed in accordance with  
20 Article 6 of that Code.

21 "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  
24 Storefront ground floor Commercial Use, and not including fees for licenses under  
25 Chapter 94A of the Administrative Code, as may be amended from time to time.

1           “Permit Fees” means the fees payable to the City upon application for and issuance of  
2 any permit, including but not limited to permits subject to Article 1 of the Business and Tax  
3 Regulations Code, for the establishment, modification, and/or operation of a ~~Storefront~~ground  
4 floor Commercial Use, and not including fees for permits under Chapter 94A of the  
5 Administrative Code, as may be amended from time to time.

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

8           ~~“Public Right of Way” means the dedicated public alleys, boulevards, courts, lanes,  
9 roads, sidewalks, spaces, streets, and ways within the City, which are under the permitting  
10 jurisdiction of the Department of Public Works.~~

11           “Qualified Business” means either a Qualified New Business or a Qualified Business  
12 With New Location.

13           “Qualified Business With New Location” means a Person that (a) commenced business  
14 within the City before November 1, 2021 and holds a valid Business Registration Certificate,  
15 (b) commences business at a new business location that is for ground floor Commercial Use  
16 on or after November 1, 2021 and on or before October 31, 2022, as reported to the Tax  
17 Collector, and (c) reported \$2,000,000 or less in annual San Francisco Gross Receipts or  
18 estimated San Francisco Gross Receipts on its most recently filed Gross Receipts Tax  
19 Return, application for a Registration Certificate, or renewal of a Registration Certificate.

20           “Qualified New Business” means a Person that (1) applies for a Business Registration  
21 Certificate in accordance with Section 856 of Article 12 of the Business and Tax Regulations  
22 Code indicating its date of commencing business within the City on or after November 1, 2021  
23 and on or before October 31, 2022, (2) has \$2,000,000 or less in estimated San Francisco  
24 Gross Receipts for the calendar year in which the Person commences business within the  
25

1 City, and (3) has a registered business location that is for ~~Storefront~~ground floor Commercial  
2 Use as reported on the Person's application for a Business Registration Certificate.

3 "San Francisco Gross Receipts" has the same meaning as used in Section 855 of  
4 Article 12 of the Business and Tax Regulations Code.

5 "~~Storefront Commercial Use~~" means the commercial use of the ground floor of any  
6 portion of a building or structure, where such ground floor is adjacent or tangent to a Public  
7 Right of Way, other than Formula Retail uses as defined in Section 303.1(b) of the Planning  
8 Code.

9 "Tax Collector" has the meaning set forth in Section 6.2-19 of Article 6 of the Business  
10 and Tax Regulations Code.

11 "Tax Year" has the meaning set forth in Section 6.2-20 of Article 6 of the Business and  
12 Tax Regulations Code.

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

15 (a) All Permit Fees, initial License Fees, and the initial Business Registration Fee shall  
16 be waived for each Qualified New Business. The waiver in this Section 3(a) shall apply to  
17 applications for a permit, initial license, or initial Business Registration Certificate filed by the  
18 Qualified New Business on or after November 1, 2021 and on or before October 31, 2022.  
19 The waiver in this Section 3(a) shall not apply to (1) any fees for the renewal of a license or  
20 Business Registration Certificate, and (2) any fees collected by the City on behalf of any  
21 federal, state, or other local government or agency.

22 (b) All Permit Fees and initial License Fees shall be waived for each Qualified  
23 Business With New Location. The waiver in this Section 3(b) shall apply to applications for a  
24 permit or initial license filed by the Qualified Business With New Location on or after  
25 November 1, 2021 and on or before October 31, 2022, and shall apply only to Permit Fees

1 and initial License Fees with respect to the new business location that is for ground floor  
2 Commercial Use opened by that Qualified Business With New Location on or after  
3 November 1, 2021 and on or before October 31, 2022. The waiver in this Section 3(b) shall  
4 not apply to (1) any fees for the renewal of a license, and (2) any fees collected by the City on  
5 behalf of any federal, state, or other local government or agency.

6 (c) (1) If the Tax Collector determines, based on any information in the Tax  
7 Collector's possession or that may come into the Tax Collector's possession, that a Person  
8 claiming a waiver under Section 3(a) or (3)(b) of this ordinance was not entitled to that waiver,  
9 the Tax Collector shall issue a determination to such Person voiding the waiver, and  
10 demanding payment of the unpaid Permit Fees, License Fees, and/or Business Registration  
11 Fee, plus penalties and interest accruing on such fees under Business and Tax Regulations  
12 Code Section 6.17-1.1, calculated based on the original due date of the applicable fee. Such  
13 notice shall be issued under the rules in Section 6.11-2(b) and (c) of the Business and Tax  
14 Regulations Code.

15 (2) Except in the case of fraud, or in the case of an intent to evade this  
16 ordinance, the Business and Tax Regulations Code, or rules and regulations issued or  
17 promulgated by the Tax Collector, in all of which cases there is no statute of limitations, every  
18 Tax Collector determination under Section 3(c)(1) shall be served within three years after the  
19 date that the Person claimed the waiver under Section 3(a) or (3)(b). The Person may agree  
20 in writing to extend this three-year period for service of a notice of a determination.

21 (3) All Tax Collector determinations under this Section 3(c) shall be final and  
22 are immediately due and payable to the Office of the Treasurer and Tax Collector. Any  
23 Person that wishes to challenge a Tax Collector determination under this Section 3(c) must  
24 pay the taxes, penalties, and interest due and file a claim for refund with the Controller under  
25 Government Code Sections 900 et seq.

1           (d) (1) If a Qualified Business has more than \$10,000,000 in San Francisco Gross  
2 Receipts in the calendar year of, or in any Tax Year during the three full-year Tax Years  
3 following, the date the Qualified Business commenced business within San Francisco or  
4 opened a new business location for ground floor Commercial Use, as applicable, any waiver  
5 under Section 3(a) or Section 3(b) of this ordinance shall be revoked retroactively for that  
6 Qualified Business.

7           (2) The Tax Collector shall issue a determination that the Qualified Business  
8 exceeded the \$10,000,000 threshold in Section (3)(d)(1) of this ordinance, which  
9 determination may be based on the Qualified Business's Gross Receipts Tax Return or any  
10 other information in the Tax Collector's possession or that may come into the Tax Collector's  
11 possession. Such notice shall be issued under the rules in Section 6.11-2(b) and (c) of the  
12 Business and Tax Regulations Code.

13           (3) Except in the case of fraud, or in the case of an intent to evade this  
14 ordinance, the Business and Tax Regulations Code, or rules and regulations issued or  
15 promulgated by the Tax Collector, or in the case of failure to file a Gross Receipts Tax Return  
16 for the Tax Year in which the Qualified Business exceeded the \$10,000,000 threshold, in all of  
17 which cases there is no statute of limitations, every Tax Collector determination under this  
18 Section 3(d) shall be served within three years after the date that a Gross Receipts Tax  
19 Return was due for the Tax Year in which the Qualified Business exceeded the \$10,000,000  
20 threshold or three years after that return was filed for that period, whichever is later. The  
21 Qualified Business may agree in writing to extend this three-year period for service of a notice  
22 of a determination.

23           (4) A Qualified Business may petition the Tax Collector for a redetermination of  
24 the determination issued under this Section 3(d) under the rules in Business and Tax  
25 Regulations Code Sections 6.13-1 through 6.13-6. The full amount of any Permit Fees,



1 License Fees, and/or Business Registration Fee waived under Section 3(a) or Section 3(b)  
2 and revoked under this Section 3(d) shall be due and payable without interest by the Qualified  
3 Business to the Office of the Treasurer and Tax Collector upon the later of the expiration of  
4 the period for filing a petition for redetermination under Business and Tax Regulations Code  
5 Section 6.13-1, and the date the Tax Collector's decision on a timely filed petition for  
6 redetermination becomes final under Business and Tax Regulations Code Section 6.13-4.

7 (5) A Qualified Business that fails to pay the Permit Fees, License Fees, and/or  
8 Business Registration Fee due and payable by the due date under Section 3(d)(4) shall be  
9 treated as delinquent and subject to the penalties and interest in Business and Tax  
10 Regulations Code Section 6.17-1.1, calculated commencing on the payment due date under  
11 Section 3(d)(4).

12 ~~(b) No penalties shall be imposed on a Qualified New Business with respect to the~~  
13 ~~payment of any fees waived under Section 3(a). A misrepresentation or misstatement by any~~  
14 ~~Person regarding eligibility for the waiver authorized by Section 3(a) that results in the~~  
15 ~~underpayment of any Permit Fees, License Fees, and/or the Business Registration Fee shall~~  
16 ~~be subject to the penalties applicable to those fees.~~

17 ~~(ee)~~ City Departments and the Tax Collector shall implement the waiver of fees under  
18 Section 3(a) and Section 3(b) and the refunding of any fees under Section 4 of this ordinance.

19  
20 Section 4. Refund of Waived Fees Paid to City.

21 Any fee waived under Section 3(a) or Section 3(b) of this ordinance that has been  
22 collected by the City shall be refunded, without interest, upon request of the payer of the fee.  
23 Any refund request under this Section 4 must be filed in writing with the Tax Collector within  
24 one year of payment of the fee.

1 Section 5. Effect of Fee Waiver.

2 (a) Notwithstanding Article 1 and Article 2 of the Business and Tax Regulations Code,  
3 the failure of a Person to pay any Permit Fees and/or License Fees waived under Section 3(a)  
4 and Section 3(b) of this ordinance shall not preclude the Person from continuing to do or  
5 perform the act or carry on the business, trade, profession, or calling for which City law  
6 requires the permit or license.

7 (b) The waiver of a Person's Business Registration Fee under Section 3(a) of this  
8 ordinance shall not relieve a Person from the registration and other applicable requirements  
9 under Articles 6 and 12 of the Business and Tax Regulations Code, except for the payment of  
10 that Person's waived Business Registration Fee. If a Person satisfies the registration and  
11 other applicable requirements under Articles 6 and 12 of the Business and Tax Regulations  
12 Code, except for the payment of any waived Business Registration Fee, such Person shall be  
13 treated for all purposes as if they had paid the Business Registration Fee.

14  
15 Section 6. Information Collection and Reporting.

16 The Tax Collector shall collect information on the number of Qualified ~~New~~ Businesses  
17 by supervisorial district that received a waiver of one or more fees under Section 3(a) and  
18 Section 3(b) of this ordinance, the business activity codes under the North American Industry  
19 Classification System of those Qualified ~~New~~ Businesses by supervisorial district, and the  
20 fees and total amounts waived in the aggregate. The Tax Collector shall submit a report to  
21 the Board of Supervisors no later than April~~June~~ 15, 2022 on the information collected for the  
22 four~~six~~-month period, November 1, 2021 through February 28~~April 30~~, 2022.

