



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: May 5, 2020
TO: Christine Daniel, City Manager
FROM: Charles S. Bryant, Community Development Director
SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Approving Revision Of The Business License Tax And Fire Inspection Fee Rebate Program To Expand The Program To Cabaret License Fees And Sidewalk Sign Permit Fees And To Add Bars/Nightclubs/Lounges With 12 Or Fewer Locations As Eligible Businesses To Receive Rebates**

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution approving revision of the Business License Tax and Fire Inspection Fee Program, to expand the program to provide rebates of Cabaret License Fees and Sidewalk Sign Permit Fees, and to add bars/nightclubs/lounges with 12 or fewer locations as eligible businesses to receive rebates.

BACKGROUND

In October 2017, the City Council adopted the Economic Development Strategy ("Strategy"), which includes an Action Item to "Provide cost relief for targeted industries/sites". The Strategy suggests rebates for permit fees as a cost relief measure to implement this Action Item.

The City's current Business License Tax and Fire Inspection Fee Rebate Program was reviewed by the Economic Development Advisory Committee (EDAC) on January 18, 2017 and the EDAC recommended that the City Council approve the program and appropriate funds for rebates. On February 21, 2017 the City Council passed Resolution No. 17-27 approving the Business License Tax and Fire Inspection Fee Rebate Program and appropriating \$43,500 from the Economic Development Fund (Fund 202) for the rebates.

Since that time, over \$31,000 has been rebated to eligible businesses, as detailed in the table below.

Year	2017	2018	2019
# Applications	8	7	14
Rebates Issued	\$7,207.95	\$7,713.06	\$16,220.64

The Business License Tax and Fire Inspection Fee Rebate Program has been well received by participants, with over 85% of applicants indicating the program is either “very helpful” or “critical” to their businesses.

On January 15, 2020, the EDAC reviewed a Business Incentives Framework which included a prioritized list of business incentive programs (Attachment 1). At the same meeting, the EDAC voted to report to the City Council an annual workplan that included the high-priority incentive programs identified in the framework. The top priority identified was expansion of the Business License Tax and Fire Inspection Fee Rebate Program to include Cabaret License fees and Sidewalk Sign Permit fees, in an effort to enhance the program’s objective of providing cost relief to small businesses. This was transmitted to the City Council on March 3, 2020 as part of the EDAC’s annual report on its accomplishments in 2019 and proposed priorities for 2020.

Staff has drafted modifications to the adopted program guidelines for the Business License Tax and Fire Inspection Rebate Program, which are included in the attached redline document (Exhibit A of attached Resolution). These program modifications were scheduled to be reviewed by the EDAC at their March 18, 2020 meeting; however, due to public health orders issued in response to the COVID-19 pandemic, the March 18, 2020 meeting of the EDAC was cancelled. In light of the extraordinary stresses being placed on businesses due to the pandemic, and because the EDAC has already signaled general support for expansion of the rebate program through approval of the business incentives framework, staff has advanced the proposed program modifications to the City Council as originally scheduled rather than waiting for the next EDAC meeting scheduled for May 20, 2020.

DISCUSSION

The attached draft modifies the existing Business License Tax and Fire Inspection Fee Rebate Program to include other annual permit fees commonly encountered by small businesses, specifically, Cabaret License fees and Sidewalk Sign Permit fees. Accordingly, staff is proposing to change the name of the program to the “Business License Tax & Permit Fee Rebate Program”. The following sections discuss the specifics of the rebates proposed to be added in the draft modified program:

Cabaret License Fee

Emeryville Municipal Code (“EMC”) Section 5-4.02 defines a “Cabaret” as any event or place where live entertainment is provided, including singing, playing music, dancing, acting, holding a fashion show, performing pantomime, performing comedy or other act or performance. EMC Section 5-4.03 provides that a license is required to operate a Cabaret in the City of Emeryville. The Cabaret License process is administered by the Police Department, which conducts a background investigation of the applicant and the proposed Cabaret operation. The Chief of Police then submits a report and recommendation to the City Council on whether the Cabaret License should be granted, and whether any conditions should be imposed, and the City Council conducts a public hearing to consider issuance of the Cabaret License. Annual Cabaret Licenses expire on

December 31 of each year, and an applicant is then required to apply for a new annual license.

The process required to obtain a Cabaret License is specified by the EMC and requires a significant amount of staff time due to the requirement for a background investigation by the Police Department, as well as a public hearing before the City Council. Accordingly, application fees for Cabaret Licenses are considerable. The application fee for an Annual Cabaret License is currently \$1,527, and is proposed to increase to \$1,565 per the Master Fee Schedule to be considered for adoption on April 21, 2020, and which will take effect on July 1, 2020; this fee is typically increased annually by the Consumer Price Index ("CPI").

In 2019, a total of five Cabaret Licenses were issued, and six are expected to be issued for 2020, as follows: (1) Bank Club, (2) Bay Street, (3) Public Market, (4) Rob Ben's, (5) Rudy's Can't Fail Café, and (6) Trader Vic's.

Of those six applicant businesses, two fit the definition of "small independent restaurant or retailers" as that term is defined in the existing rebate program (Rob Ben's and Rudy's Can't Fail Café). If the rebate program is expanded to include bars/nightclubs/lounges with 12 or fewer locations, as is proposed in the attached revised Program Guidelines, one additional business would be eligible (Bank Club). Additionally, staff has had conversations with other businesses that have elected not to pursue Cabaret Licenses due to the permit cost, and these businesses may revisit the process if a rebate is provided.

Sidewalk Sign Permit Fee

EMC Section 5-34.03 requires businesses to obtain a permit before placing a sign in the public right-of-way. This requirement applies to temporary "sandwich board" signs frequently used by small businesses. The City's guidelines for these signs allow temporary signs not exceeding four feet in width and three feet in height to be placed on or near the sidewalk, provided a four-foot wide path of travel is maintained.

In order to ensure that these requirements are met, a Sidewalk Sign Permit is required. Sidewalk Sign Permits expire on December 31 of each year, and an applicant is then required to apply for a new annual permit. The application fee for a new Sidewalk Sign Permit is \$202 and for a renewal is \$135 per the Master Fee Schedule; these fees are proposed to increase to \$207 and \$138, respectively, per the updated Master Fee Schedule to be considered for adoption on April 21, 2020. These fees are typically increased annually by the CPI.

According to Public Works records on Sidewalk Sign Permits, five businesses that meet the definition of small independent restaurants or retailers have received Sidewalk Sign Permits in the past or have current permits. There may also be sidewalk signs that are being placed without benefit of permit, and the proposed fee rebate may serve as an incentive to bring these signs into compliance with City requirements for eligible businesses.

FISCAL IMPACT

Currently, staff estimates that 64 businesses meet the existing program's definition of Small Independent Retail or Restaurant (see Attachment 2). These businesses remit approximately \$51,000 annually in business taxes to the City. Because the program limits Business License Tax rebates to a maximum of \$2,000, the maximum eligible for rebate if all businesses participated would be approximately \$39,100.

As noted above, expanding the existing rebate program to include Cabaret License Fees prompts consideration of adding independent bars/nightclubs/lounges to the eligibility criteria. Expanding the program in this way would add three businesses as eligible, which could result in approximately \$1,600 in additional rebates.

As outlined above, the existing program has seen steady increases since its inception three years ago; however not every eligible business has submitted for rebates in any year. The program saw its highest year of utilization in 2019, when just over \$16,000 in rebates were issued. Staff continues to encourage participation through mailings and direct follow-up with eligible businesses and expects utilization to continue to increase.

Utilization of the Fire Inspection Fee rebate has been limited, with less than \$1,000 in rebates issued in any year. Staff continues to promote this rebate as well.

Adding Cabaret License fees to the rebate program as proposed would result in approximately \$4,500 in additional rebates, reflecting a \$1,500 rebate amount for each of the three current eligible Cabaret License holders. If two additional businesses are induced to apply for Cabaret Licenses due to the availability of a rebate, this figure would be approximately \$7,500.

Adding Sidewalk Sign Permit fees to the rebate program as proposed would result in approximately \$750 in additional rebates, reflecting a \$150 rebate amount for each of the five eligible businesses who had Sidewalk Sign Permits in the past. If an additional four businesses are induced to apply for a Sidewalk Sign Permit, this figure would be \$1,350.

The table below outlines the range of estimated fiscal impacts given the assumptions outlined above.

Rebate Type:	Business Tax	Fire Inspection	Cabaret License	Sidewalk Sign Permit	Total Rebates
Current Scenario*	16,000	1,000	4,500	750	\$22,250
Increased Utilization**	24,000	1,500	7,500	1,350	\$34,350

*"Current Scenario" uses highest utilization year (2019) for business tax and fire inspection, and all existing permit holders for Cabaret License and Sidewalk Signs

**"Increased Utilization" assumes a 50% increase in utilization of business tax and fire inspection, two additional Cabaret Licenses and four additional sidewalk sign permits.

The City's Operating Budget for Fiscal Years 2019-20 and 2020-21 includes \$40,000 in each Fiscal Year from the Economic Development Fund (Fund 202) for Business Rebate Programs, which is sufficient to fund the proposed expanded program given the assumptions outlined above.

It should be noted that revenue from these various permits would still flow to the General Fund and could be expended as usual. The rebates would come from the Economic Development Fund, which is funded from the Residual Property Tax ("Boomerang Funds").

STAFF COMMUNICATION WITH THE PUBLIC

The proposed expansion of the Business License Tax and Fire Inspection Fee Rebate Program was preliminarily discussed by the EDAC as part of its review and approval of the Business Incentives Framework (Attachment 1), which informed the EDAC's priorities for Calendar Year 2020. Due to extenuating circumstances related to the COVID-19 pandemic, the EDAC has not reviewed the proposed revised program guidelines. After discussing the matter with the Chair of the EDAC, staff recommended proceeding to the City Council for review and adoption in advance of EDAC input. Staff intends to include the item on the next EDAC agenda for information purposes.

CONCLUSION

Staff recommends that the City Council adopt the attached resolution approving revision of the Business License Tax and Fire Inspection Fee Rebate Program to expand the program to include rebates for Cabaret License and Sidewalk Sign Permit fees.

PREPARED BY: Chadrick Smalley, Economic Development and Housing Manager

APPROVED AND FORWARDED TO THE CITY COUNCIL OF THE CITY OF EMERYVILLE:



Christine Daniel, City Manager

ATTACHMENTS

- 1. Business Incentives Framework
- 2. List of eligible businesses
- Draft Resolution, including Exhibit A to Resolution - Revised Program Guidelines (redline)