

RESOLUTION NO. 20-41

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

WHEREAS, on February 21, 2017 the City Council passed Resolution No. 17-27 approving the Business License Tax and Fire Inspection Fee Rebate Program (“Rebate Program”) and appropriating funds from the Economic Development Fund (Fund 202) for the rebates; and

WHEREAS, on October 17, 2017 the City Council passed Resolution No. 17-166 approving the Economic Development Strategy for the City; and

WHEREAS, the Economic Development Strategy includes an Action Item to “Provide cost relief for targeted industries/sites” and suggests rebates for permit fees as a potential implementing measure for this Action Item; and

WHEREAS, on January 15, 2020 the Economic Development Advisory Committee (“EDAC”) reviewed a Business Incentives Framework which included expansion of the Rebate Program to include rebates for Cabaret License and Sidewalk Sign Permit fees as a high priority action, and this was included in the EDAC’s annual report on its accomplishments in 2019 and proposed priorities for 2020 that was presented to the City Council on March 3, 2020; and

WHEREAS, staff has drafted modifications to the Rebate Program Guidelines to expand the Rebate Program to include rebates for Cabaret License and Sidewalk Sign Permit Fees and to add bars/nightclubs/lounges with 12 or fewer locations as eligible businesses; and

WHEREAS, the City’s Operating Budget for Fiscal Years 2019-20 and 2020-21 includes sufficient funding for the Rebate Program in each year from the Economic Development Fund (Fund #202); now, therefore, be it

RESOLVED, the the City Council of the City of Emeryville hereby approves the modifications to the Rebate Program as outlined in the draft guidelines attached to this Resolution as Exhibit A; and be it further

RESOLVED, that the City Council of the City of Emeryville hereby authorizes the City Manager to make minor modifications to the Rebate Program from time to time as may be necessary to ensure its efficient operation.

Resolution No. 20-41
Business Rebate Program Expansion
City Council Meeting | May 5, 2020
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ADOPTED by the City Council of the City of Emeryville at a regular meeting held Tuesday, May 5, 2020 by the following vote:

AYES:	5	Mayor Patz, Vice Mayor Martinez, and Council Members Bauters, Donahue, and Medina
NOES:	0	
ABSTAIN:	0	
ABSENT:	0	

DocuSigned by:

Christian R. Patz

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MAYOR

ATTEST:

DocuSigned by:

Sheri Hartz

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CITY CLERK

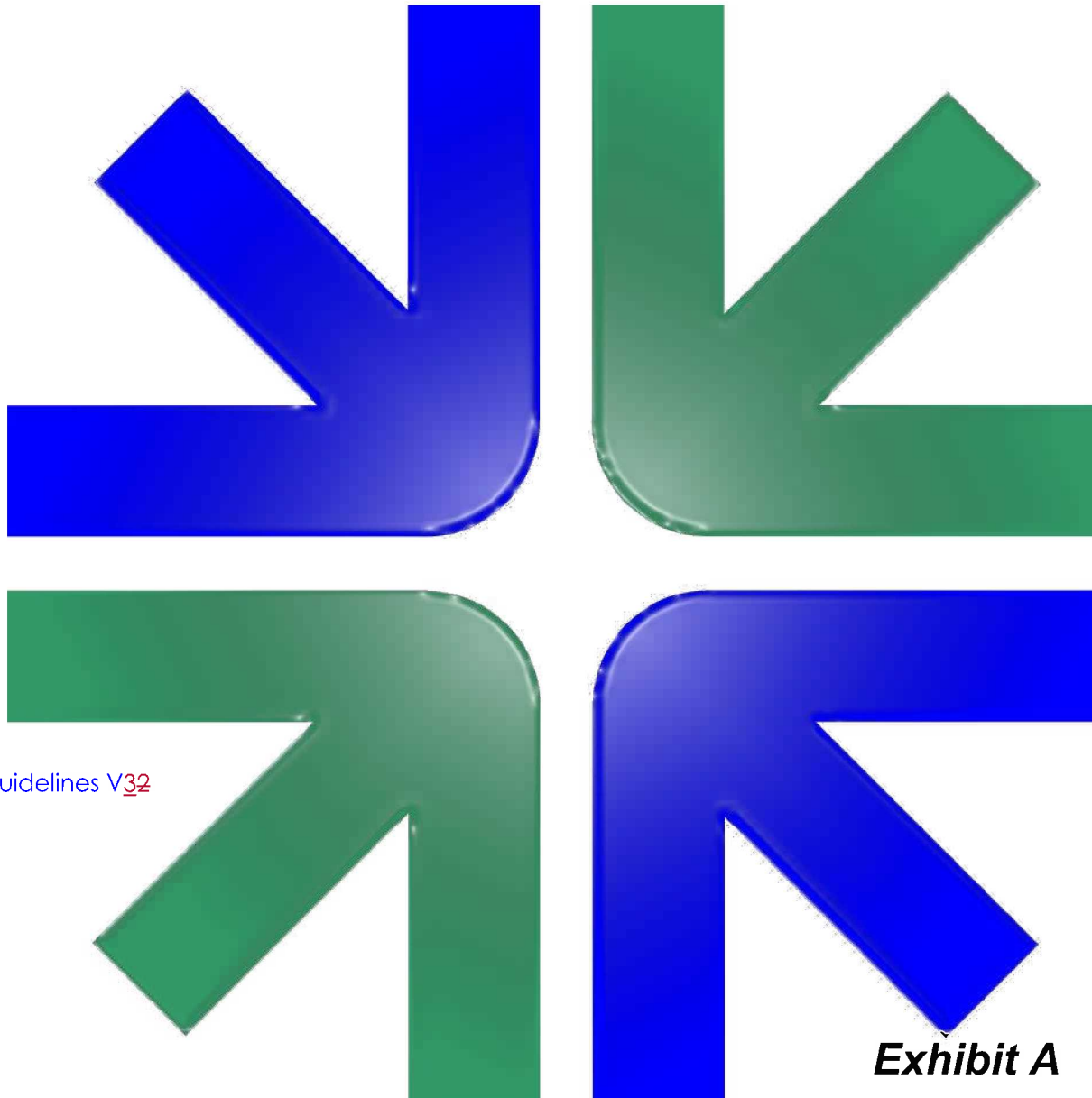
APPROVED AS TO FORM:

Michael Guindon

CITY ATTORNEY

City of Emeryville

Business License Tax & Permit Fee Rebate Program



DRAFT Program Guidelines V32

January 202016

Exhibit A

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Introduction

Small restaurant and retail businesses are an important part of cities' identities, and these types of businesses contribute to a city's culture and sense of community. In recognition of this fact, the City of Emeryville has adopted policies that call for the support of small, independent businesses that provide unique shopping and dining options for local residents.



The City's Economic Development Strategy adopted in 2017 for Fiscal Years 2014-2015 and 2015-2016 includes an Action Item Strategic Goal to "Provide cost relief for targeted industries/sites Support small and local businesses" and specifically suggests rebates for permit fees for independent retail

and restaurant businesses as a cost relief measure calls for the City to "Explore establishment of a small business incentive program" as an action item.

This policy was affirmed in January 2016 when the City Council established its Priorities, Goals and Strategies for the period Fiscal Years 2016-2018. One of the Goals was to "Support and adopt policies to support worker owned businesses and small businesses."

On November 15, 2016 the City Council held a study session to discuss the establishment of a Business License Tax Rebate Program ("Rebate Program") as an initial step toward accomplishing the aforementioned policy goals. The City Council directed staff to develop a program that provides a rebate of business license taxes and fire inspection fees for small, independent restaurant and retail businesses.

On January 18, 2017 draft Program Guidelines for the Rebate Program were reviewed by the City's Economic Development Advisory Committee ("EDAC"). The EDAC

recommended forwarding the Rebate Program to the City Council for approval, with minor administrative changes.

On February 21, 2017, the City Council adopted Resolution 17-27, establishing the Rebate Program and appropriating funds from the Economic Development Fund for the rebates.

On January 15, 2020, the EDAC [reviewed and approved] a "Business Incentives Framework" that prioritized expansion of the Rebate Program to Cabaret License and "Sidewalk Sign" (i.e. sandwich board sign) Permit fees.

On March 18, 2020, the EDAC reviewed and [approved, pending action] draft revised Program Guidelines for the Rebate Program, which expanded the program to Cabaret License and Sidewalk Sign Permit fees.

[On {date} the City Council adopted Resolution 20-{XX} approving the revised Program Guideines]

The following Program Guidelines outline the Rebate Program, including eligibility criteria and application requirements.

Business License Tax and Permit Fee Rebate Program



Business License Taxes

Emeryville Municipal Code Section 3-1.101 requires every business in the city to obtain a "Business Tax Certificate", commonly referred to as a Business License. In order to obtain a Business License, the business must pay a Business Tax to the City annually. The amount of the tax varies depending on the type of business, but for most businesses the tax due is the greater of \$25.00 or 0.10% of the business's annual gross receipts.

Fire Inspection Fees

Since 2012, the City has contracted with the Alameda County Fire Department to provide fire services, including fire prevention services. As part of its fire prevention scope, the Fire Department operates the Business Inspection Program, which provides

for regular inspection of all commercial buildings in Emeryville. The goal is the prevention of fires and removal of safety risks to Emeryville businesses. This program increases the safety of businesses as well as ensures a high degree of code compliance. In order to deliver this service, the City collects a fee for each inspection. Per the Master Fee Schedule proposed for adoption on April 21, 2020, the fee is equal to \$18506 for each hour required to inspect the business, with a half-hour (\$92.5053) minimum. Over 95% of small businesses are charged the minimum fee. This fee, as with most fees charged by the City, is typically increased annually by the increase in the Consumer Price Index for the San Francisco Bay Area (CPI).

Cabaret License Fees

Emeryville Municipal Code 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. Section 5-4.03 provides that a license is required to operate a cabaret in the City of Emeryville. To obtain a Cabaret License, an application is submitted to the Police Department, which conducts a background investigation of the applicant and the proposed cabaret operation. At the conclusion of the investigation, the Chief of Police submits a report and recommendation to the City Council on whether the requested license should be granted, and whether any conditions should be imposed. Thereafter, the City Council is required to conduct a public hearing to consider issuance of the 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 application fee for an Annual Cabaret License is \$1,565 per the Master Fee Schedule proposed for adoption on April 21, 2020, and this fee is typically increased annually by the CPI.

Sidewalk Sign Permit Fees

The City's guidelines for signs in the right-of-way provide that temporary signs not exceeding four feet in width and three feet in height may be placed on or near the sidewalk, provided a four-foot wide path of travel is maintained. In order to ensure these requirements are met, Emeryville Municipal Code Section 5-34.03 requires businesses to obtain a permit before placing a sign in the public right-of-way. The 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 \$207 and for a renewal is \$138 per the Master Fee Schedule proposed for adoption on April 21, 2020. These fees are typically increased annually by the CPI.

The Business License Tax, Fire Inspection Fee, Cabaret License Fee and Sidewalk Sign Permit Fee are all costs routinely encountered by small, independent restaurant and retail businesses. The Rebate Program is designed to rebate the aforementioned taxes and license and permit fees. ~~Business Tax and the Fire Inspection Fees~~ to ~~independent~~ small retail and restaurant businesses in an effort to promote and support these types of businesses.

Eligible Businesses

To be eligible for the Rebate Program, businesses must have the following characteristics:

Be a "restaurant", "bar/nightclub/lounge", or "retailer"...

- Restaurants are defined as "Establishments primarily engaged in the preparation of food and beverages for on- or off-premises consumption" [EMC 9-2.319(b)]
- Bars/nightclubs/lounges are defined as "establishments primarily engaged in the preparation and sale of alcoholic beverages, including beer, wine and mixed-drinks, for on-premises consumption.." [EMC 9-2.319(a)]
- Retail is defined as "... The sale or rental of merchandise not specifically listed under other use types [in the Planning Regulations]. Typical uses include department stores, secondhand stores, wholesale stores, clothing stores, furniture stores, electronic stores, bicycle shops, hardware stores and other specialty retailers and may include accessory repair services." (EMC 9-2.353)

...that is "independent"...

- For the purposes of this program, "Independent" businesses are those with 12 or fewer locations globally, including franchisees associated with a franchisor or a network of franchises with franchisees with 12 or fewer locations globally

...without active investigations...

- To be eligible for a rebate, applicants must have no active investigations pending for violations of City codes, including the Minimum Wage and Paid Sick Leave Ordinance or other City regulations.

...that has paid its fees.

- Rebates are only granted to businesses who have been verified to have paid the applicable Fees in full and on time

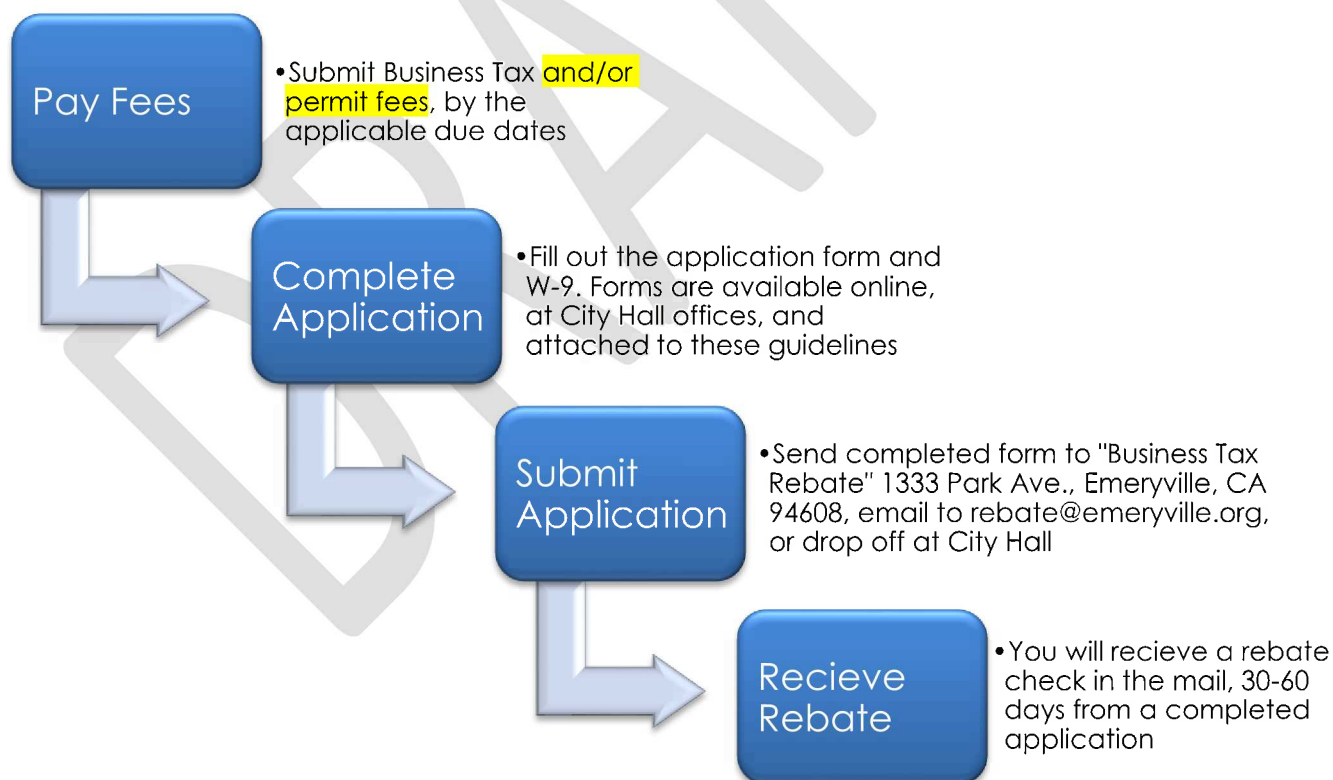
Note that the following types of businesses are *ineligible* for the program: gun stores, pawn shops, check cashing businesses, liquor stores, pornography stores, massage parlors, cigarette stores, video game and gambling establishments.

Rebate Amounts

Eligible businesses will receive a rebate of the actual ~~taxes or fees~~Business Tax paid, up to the following maximums:

Business License Tax: \$2,000
~~, and the actual~~ Fire Inspection Fees: ~~paid, up to~~ \$100
Cabaret License Fees: \$1,500
Sidewalk Sign Permit Fees: \$150
~~, for a total maximum rebate amount of \$2,100.~~

Application Process



You may submit applications for rebate of Business Tax, ~~and~~ Fire Inspection Fees, Cabaret License Fees and Sidewalk Sign Permit Fees separately, or together in one

application. This program applies only to ~~Business Tax and Fire Inspection f~~ Fees paid for taxes and permits for in 2017-2020 and subsequent years, subject to available funding.

Applications for rebates must be received by April 1st of the year following the fee payment. For example, for Fire Inspection fees paid in 202017, a rebate application must be submitted by April 1, 202118.

The application form requests information necessary to verify compliance with the program requirements and collects information that is important to evaluate the impacts of the program. The City's accounting system requires a W-9 to be on file in order to generate the rebate payment. Accordingly, rebates will only be issued to applicants that fully complete the application form and W-9 form.

Business License Tax and Permit Fee Rebate Application Form**BUSINESS INFORMATION**

Business Name: _____ Business License #: _____

Business Address: _____ Emeryville, CA 94608 Type: ☐ Restaurant ☐ RetailNumber of locations worldwide: _____ Franchise? ☐ Yes ☐ No Gross Sales 20196:
\$ _____

Number of employees at Emeryville location: _____ Number of employees companywide _____

APPLICANT INFORMATION

Applicant Name: _____ Relationship to Business: _____

Mailing Address (if different from Business Address):

Street_____
City_____
State_____
Zip

Phone Number _____ Email: _____

REQUESTING REBATE OF ☐ Business License Tax ☐ Fire Inspection Fees ☐ Cabaret License Fees ☐ Sidewalk Sign Fees_____
Date Fee(s) paid: _____**PROGRAM QUESTIONS**(check one) My business is ☐ growing ☐ stable ☐ declining(check one) For my business, the Business License Rebate Program is
☐ unnecessary
☐ somewhat helpful
☐ very helpful
☐ critical

Please suggest any other incentives or assistance programs that the City could offer to help your business thrive:

_____**SIGNATURE/CERTIFICATION**

I, (print applicant name) _____ certify that (print business name) _____ is not subject to any active investigations for violations of City of Emeryville codes including but not limited to Planning, Building and Fire codes, the Minimum Wage and Paid Sick Leave Ordinance, or any other City code, ordinance or regulation. By signing below, I also certify that I am authorized to submit this application for rebate of Business License Tax and/or Fire Inspection Fees on behalf of the aforementioned business. (Applicant Signature): _____

PLEASE REMEMBER TO ATTACH COMPLETED W-9 FORM***** **FOR CITY USE ONLY** *****

Received Date: _____

EDH Approval (Initial): _____

Date: _____

Planning/Building Review (Initial): _____

Date: _____

Finance Department Approval (Initial): _____ Date: _____ Rebate Mailed Date: _____

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