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

Section 1. Background, Purpose, and Findings.

(a) At an election on March 3, 2020, San Francisco voters approved the Vacancy Tax, an annual excise tax on persons keeping ground floor commercial space in certain neighborhood commercial districts and certain neighborhood commercial transit districts vacant, to fund assistance to small businesses. The Vacancy Tax is effective January 1, 2021.

(b) The Mayor issued a proclamation on February 25, 2020 declaring the existence of a local emergency in connection with the imminent spread within the City of a novel coronavirus (“COVID-19”). On March 3, 2020, the Board of Supervisors concurred in that proclamation and in the actions taken by the Mayor to meet the emergency. On March 4, 2020, the Governor proclaimed a state of emergency to exist within the State due to the threat posed by COVID-19. Further, on March 6, 2020, the Local Health Officer declared a local
health emergency under Section 101080 of the California Health and Safety Code, and the Board of Supervisors concurred in that declaration on March 10, 2020.

(c) On March 16, 2020, the Local Health Officer issued a stay safe at home order, requiring most people to remain in their homes subject to certain exceptions including obtaining essential goods such as food and necessary supplies, and requiring the closure of non-essential businesses, through April 7, 2020, as that order may be extended or modified.

On March 19, 2020, the Governor issued Executive Order N-33-20 and the California Public Health Officer issued a corresponding order requiring people to stay home except as needed subject to certain exceptions.

(d) On March 31, 2020, the Local Health Officer extended the stay safe at home order and tightened the stay safe at home restrictions through May 3, 2020, which date is subject to further change. The order, possibly with some modifications, will be extended through at least the end of May 2020.

(e) The COVID-19 outbreak has caused significant negative impact on businesses in the City, including the closure of many of those businesses. While the exact course of the pandemic cannot be predicted, it is expected to continue to pose serious public health concerns in San Francisco for months to come, and will continue to have a serious negative impact on businesses during that time. It is therefore in the City’s best interest to suspend temporarily the imposition of the Vacancy Tax, through December 31, 2021.

Section 2. The Business and Tax Regulations Code is hereby amended by revising Sections 2904 and 2907 of Article 29, to read as follows:
SEC. 2904. IMPOSITION OF TAX.

(a) Except as otherwise provided in this Article 29, for the purposes described in Section 2907, the City imposes an annual Vacancy Tax on keeping Taxable Commercial Space Vacant.

(b) The tax on keeping Taxable Commercial Space Vacant in a tax year shall be as follows:

(1) For the 2022 tax year, $250 per linear foot of Frontage.

(2) For the 2023 tax year, $250 per linear foot of Frontage for Taxable Commercial Space that has not been kept Vacant by any person in the 2022 tax year and $500 per linear foot of Frontage for Taxable Commercial Space that has been kept Vacant by any person in the 2022 tax year.

(3) For the 2024 tax year and subsequent tax years:

(A) $250 per linear foot of Frontage for Taxable Commercial Space that has not been kept Vacant by any person in the immediately preceding tax year;

(B) $500 per linear foot of Frontage for Taxable Commercial Space that has been kept Vacant by any person in the immediately preceding tax year but not kept Vacant by any person in the tax year immediately preceding that tax year; and

(C) $1,000 per linear foot of Frontage for all situations in which neither subsection (b)(3)(A) nor subsection (b)(3)(B) of this Section 2904 applies.

(c) The Vacancy Tax shall be payable by: (1) the owner or owners of the Taxable Commercial Space kept Vacant, provided that the Taxable Commercial Space is not leased; (2) the lessee or lessees, and not the owner, of the Taxable Commercial Space kept Vacant, if that Taxable Commercial Space is leased but not subleased; and (3) the sublessee or sublessees, and not the owner or sublessor, of the Taxable Commercial Space kept Vacant, if that Taxable Commercial Space is subleased. Not more than one tax shall be imposed under
this Section 2904 by reason of multiple liable owners, lessees, or sublessees. If there are multiple liable owners, lessees, or sublessees, each such person shall be jointly and severally liable for the Vacancy Tax.

(d) A person shall be liable for the Vacancy Tax only if that person has kept Taxable Commercial Space Vacant in a tax year. A person shall be deemed to have kept Taxable Commercial Space Vacant in a tax year if that person and all Related Persons and Affiliates of that person, individually or collectively, have kept that Taxable Commercial Space Vacant for more than 182 days in that tax year.

(e) The imposition of the Vacancy Tax under this Section 2904 shall be suspended for the 2021 tax year.

SEC. 2907. DEPOSIT OF PROCEEDS; EXPENDITURE OF PROCEEDS.

(a) All monies collected under the Vacancy Tax Ordinance shall be deposited to the credit of the Small Business Assistance Fund (“Fund”), established in Administrative Code Section 10.100-334. The Fund shall be maintained separate and apart from all other City funds and shall be subject to appropriation. Any balance remaining in the Fund at the close of any fiscal year shall be deemed to have been provided for a special purpose within the meaning of Charter Section 9.113(a) and shall be carried forward and accumulated in the Fund for the purposes described in subsection (b).

(b) Subject to the budgetary and fiscal provisions of the Charter, monies in the Small Business Assistance Fund shall be appropriated on an annual or supplemental basis and used exclusively for the following purposes:

(1) To the Tax Collector and other City Departments, for administration of the Vacancy Tax and administration of the Fund.
(2) Refunds of any overpayments of the Vacancy Tax, including any related penalties, interest, and fees.

(3) All remaining amounts to provide funding to assist the maintenance and operation of small businesses in the City.

(c) Commencing with a report filed no later than February 15, 2023, covering the fiscal year ending June 30, 2022, the Controller shall file annually with the Board of Supervisors, by February 15 of each year, a report containing the amount of monies collected in and expended from the Small Business Assistance Fund during the prior fiscal year, the status of any project required or authorized to be funded by this Section 2907, and such other information as the Controller, in the Controller's sole discretion, shall deem relevant to the operation of this Article 29.

Section 3. The Administrative Code is hereby amended by revising Section 10.100-334 of Article XIII, to read as follows:

SEC. 10.100-334. SMALL BUSINESS ASSISTANCE FUND.

(a) Establishment of Fund. The Small Business Assistance Fund ("Fund") is established as a category four fund as defined in Section 10.100-1 of the Administrative Code, and shall receive all taxes, penalties, interest, and fees collected from the Vacancy Tax imposed under Article 29 of the Business and Tax Regulations Code.

(b) Use of Fund. Subject to the budgetary and fiscal provisions of the Charter, monies in the Fund shall be used exclusively for the purposes described in Section 2907(b) of Article 29 of the Business and Tax Regulations Code.

(c) Administration of Fund. As stated in Section 2907(c) of Article 29 of the Business and Tax Regulations Code, commencing with a report filed no later than February 15,
2023, covering the fiscal year ending June 30, 2022, the Controller shall file annually with the Board of Supervisors, by February 15 of each year, a report containing the amount of monies collected in and expended from the Fund during the prior fiscal year, the status of any project required or authorized to be funded by Section 2907, and such other information as the Controller, in the Controller’s sole discretion, deems relevant to the operation of Article 29.

Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

Section 6. Supermajority Vote Required. In accordance with Section 2909 of Article 29 of the Business and Tax Regulations Code passed by the voters at the March 3, 2020 election, passage of this ordinance by the Board of Supervisors requires an affirmative vote of two-thirds of the Board of Supervisors.
APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: /s/ KERNE H. O. MATSUBARA
    Deputy City Attorney
Ordinance amending the Business and Tax Regulations Code and Administrative Code to temporarily suspend the imposition of the Vacancy Tax, through December 31, 2021.

June 01, 2020 Rules Committee - RECOMMENDED

June 09, 2020 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE
Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

June 09, 2020 Board of Supervisors - PASSED ON FIRST READING AS AMENDED
Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

June 16, 2020 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 200420

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 6/16/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor