

## Legacy Business Registry Rules and Regulations

### 1. Scope from the Administrative Code

A) These rules and regulations apply to a registry of Legacy Businesses in San Francisco (the “Legacy Business Registry” or “Registry”) as set forth in Administrative Code Section 2A.242.

B) The Office of Small Business (OSB) shall establish and maintain the Legacy Business Registry.

C) Per Administrative Code Section 2A.242, "Legacy Business" means a business that has been nominated by a member of the Board of Supervisors or the Mayor, and that the Small Business Commission, after a noticed hearing, determines meets each of the following criteria:

(1) The business has operated in San Francisco for 30 or more years, with no break in San Francisco operations exceeding two years. The business may have operated in more than one location. If the business has operated in San Francisco for more than 20 years but less than 30 years it may still satisfy this subsection if the Small Business Commission finds that the business has significantly contributed to the history or identity of a particular neighborhood or community and, if not included in the Registry, the business would face a significant risk of displacement.

(2) The business has contributed to the neighborhood's history and/or the identity of a particular neighborhood or community. Prior to the hearing, the Small Business Commission and/or Office of Small Business shall request an advisory recommendation from the Historic Preservation Commission as to whether the business meets the requirement in this subsection. If the Historic Preservation Commission does not provide an advisory recommendation within 30 days of receipt of the request, the Small Business Commission shall treat such nonresponse as an advisory recommendation that the business meets the requirement in this subsection.

(3) The business is committed to maintaining the physical features or traditions that define the business, including craft, culinary, or art forms.

If the Small Business Commission makes all three findings, it shall include the business in the Registry as a Legacy Business.

- D) The “physical features or traditions that define the business” include the business model.
- E) The “physical features or traditions that define the business” include the name of the business. The business must maintain a consistent core business name to be eligible for, and remain on, the Registry (e.g., World’s Best Bakery converting to World’s Finest Bakery is consistent; World’s Best Bakery converting to San Francisco’s Best Bakery is consistent; World’s Best Bakery converting to San Francisco’s Finest Bakery is not consistent). Any exceptions shall be made on a case-by-case basis by the Small Business Commission.
- F) Nominations for the Registry shall be limited to a total of 300 businesses per fiscal year (July 1 through June 30). A nomination is deemed to have been made on the date the Small Business Commission receives the nomination in writing from a member of the Board of Supervisors or the Mayor. Nominations received after the close of business on June 30 shall be considered received in the following fiscal year. The nominations for any fiscal year shall be the first 300 received in that fiscal year.
- G) There is no limit on the number of nominations that may be made by the Mayor or a Member of the Board of Supervisors.
- H) There shall be a one-time non-refundable administrative fee of \$50 to be paid by businesses that are nominated for inclusion in the Registry and wish to be included in the Registry.

## **2. Definitions of Key Words and Phrases**

### **A) “Business”**

(1) “Business” shall be a for-profit or nonprofit entity, including Sole Proprietorships, General Partnerships, Limited Partnerships, Limited Liability Companies (LLCs), B-Corporations, C-Corporations, S-Corporations, Limited Liability Partnerships and Joint Ventures.

(2) If a business includes multiple corporate entities, or is otherwise divided into multiple entities (e.g., departments; sections; divisions; agencies; etc.), they shall all be included on the Registry as long as they fall under the same Employer Identification Number. The Employer

Identification Number, also known as the Federal Employer Identification Number or the Federal Tax Identification Number, is a unique nine-digit number assigned by the Internal Revenue Service (IRS) to business entities operating in the United States for the purposes of identification.

(3) If there are multiple locations, all of the San Francisco locations shall be included on the Registry as long as they have the same name, same ownership and same business model for all of the locations.

- “Same name” shall mean having the same core business name (e.g., World’s Best Bakery; World’s Best Bakery Noe Valley; World’s Best Bakery West Portal).
- “Same ownership” shall mean having identical owner(s) and identical percentage of ownership if there are multiple owners.
- “Same business model” shall mean having identical core physical feature(s) or tradition(s) required to maintain the business on the Legacy Business Registry (e.g., art gallery; bookstore; restaurant; etc.).

B) “Nomination”

(1) “Nomination” shall be a letter on nominator letterhead. The nominator shall submit a letter that includes the name of the business, a paragraph that notes the businesses eligibility criteria, the business address and contact information.

(2) The nominator shall be a Member of the Board of Supervisors or the Mayor at the time of nomination. The nominator need not still be a Member of the Board of Supervisors or the Mayor when the Small Business Commission makes the final determination to add the business to the Legacy Business Registry.

C) “The business has operated in San Francisco for 30 or more years, with no break in San Francisco operations exceeding two years”

(1) “The business has operated in San Francisco for 30 or more years” shall mean the business’s start date in San Francisco shall be 30 or more years in the past.

(2) For Nonprofit Corporations, the start date shall be the date the organization was incorporated as indicated in their Articles of Incorporation.

(3) The founding location(s) of the business shall be used to determine the number of years the business has operated, even if the business has moved from its founding location.

(4) The business need not be headquartered in San Francisco.

(5) “No break in San Francisco operations exceeding two years” shall mean no break exceeding two years in the existence of the business as evidenced through the business registration, and no break in physical operations exceeding four years. Exceptions may be made for exceptional circumstances (e.g., the 1906 San Francisco earthquake and fire, or the internment of Japanese Americans), as determined by the Small Business Commission.

(6) A business shall be in existence and in operation in San Francisco and not in a period of a break in operations when the business is added to the Registry, as evidenced through the business registration.

D) “More than 20 years”

(1) “More than 20 years” shall mean at least 20 years and 1 day. The starting year, as well as the specific starting month and/or starting day, if known, shall be considered in determining the age of the business being more than 20 years.

E) “Significant risk of displacement”

The businesses rents their building and/or space, and one or more of the following must apply:

- The existence of the building is at risk; OR
- There is a month-to-month lease or there is no lease; OR
- The lease expires prior to or shortly after the business would become 30 years old, and the business certifies and/or demonstrates that the lease may not be renewed by the landlord and/or the rent will increase significantly; OR
- There has been some other significant risk of displacement demonstrated by the business owner to the satisfaction of the Office of Small Business.

F) “Maintaining the physical features or traditions that define the business”

(1) “Maintaining the physical features or traditions that define the business” shall mean the business must maintain the craft, culinary, art forms or business model as identified by the Office of Small Business and approved by the Small Business Commission.

### 3. Status Categories

Status Categories for nominees, applicants and Legacy Businesses are as follows:

#### 1. LEGACY BUSINESS: ACTIVE

- The business' business registration is active; and
- The business is physically open.

##### Nature of Registry listing:

- The business is listed on the Registry.
- The business is included on the Registry website.

#### 2. LEGACY BUSINESS: ACTIVE, IN TRANSITION

- The business' business registration is active; and
- The business has been physically closed for no more than four years; and
- The business intends to reopen. (The business may be seeking a new space, is closed for construction, etc.).

##### Nature of Registry listing:

- The business remains on the Registry.
- The business is included in a separate section on the Registry website.

#### 3. LEGACY BUSINESS: INACTIVE

- The business' business registration is either active or has been inactive for no more than two years; and
- The business has been physically closed for no more than four years; and
- The business intends to remain closed. (However, the possibility exists that the business reopens, finds a new space, is bought by a new owner, etc.).

##### Nature of Registry listing:

- The business remains on the Registry.
- The business is included in a separate section on the Registry website.

#### 4. LEGACY BUSINESS: REMOVED FROM REGISTRY

- The Small Business Commission determines, after a noticed hearing, that the business misrepresented its qualifications for the Registry; or
- The Small Business Commission determines, after a noticed hearing, that the business has ceased operations in San Francisco, meaning the business' business registration has been inactive for two or more years or the business has been physically closed for four or more years; or
- The Small Business Commission determines, after a noticed hearing, that the business is no longer committed to maintaining the features or traditions that led the business to be listed on the Registry.

Nature of Registry listing:

- The business is removed from the Registry.
- The business is removed from the Registry website.

**5. NOMINEE/APPLICANT: ACTIVE**

**6. NOMINEE/APPLICANT: INACTIVE**

**4. Removal of a Legacy Business from the Legacy Business Registry**

A) Rescinding a nomination of a Legacy Business before placement on the Registry

A member of the Board of Supervisors or the Mayor may rescind her or his nomination of a business for inclusion on the Legacy Business Registry before the City has already taken all the steps to place the business on the Registry. Such a rescission would preclude the listing of the business on the Registry until such time the business is nominated by another nominator, if applicable.

B) Rescinding a nomination of a Legacy Business after placement on the Registry

If a member of the Board of Supervisors or the Mayor seeks to rescind her or his nomination of a business for inclusion on the Legacy Business Registry after the City has already taken all the steps to place the business on the Registry, this shall have no effect on the listing of the business on the Registry, but the public Registry posting for the business shall identify the nominator of the business as “Rescinded, formerly [nominator’s name]” until such time the business is nominated by another nominator, if applicable.

C) Requesting removal of a Legacy Business from the Legacy Business Registry

The Mayor, a Member of the Board of the Supervisors, a Commissioner of the Small Business Commission, a Commissioner of the Historic Preservation Commission or any member of the public may request the removal of a Legacy Business from the Legacy Business Registry. Any such request shall be referred to the Office of Small Business. The requestor bears the burden of alleging specific facts and adducing specific evidence sufficient to support the request for removal.

If, after review of such a request for removal, the Office of Small Business determines that the request for removal may warrant further action, the Office of Small Business shall refer the matter to the Small Business Commission for a noticed hearing to determine whether cause exists to remove the business from the Registry, as set forth in Section 4(D) of these Rules and Regulations.

If the Office of Small Business determines that the request for removal does not warrant further action, the Office of Small Business shall so notify the requestor, and the requestor may appeal that determination to the Small Business Commission, as set forth in Section 4(E) of these Rules and Regulations.

#### D) Cause for removal from the Registry

Any of the following shall be cause to remove a business from the Legacy Business Registry:

- (1) The Small Business Commission determines, after a noticed hearing, that the business misrepresented its qualifications for the Registry; or
- (2) The Small Business Commission determines, after a noticed hearing, that the business has ceased operations in San Francisco; or
- (3) The Small Business Commission determines, after a noticed hearing, that the business is no longer committed to maintaining the features or traditions that led the business to be listed on the Registry.

#### E) Appeals process

Anyone aggrieved by a determination made by the Office of Small Business under these Rules and Regulations may appeal that determination to the Small Business Commission. Any request for such an appeal must be submitted, in writing, to the Office of Small Business.

The request for appeal must be received by the Office of Small Business by 5 p.m. on the seventh calendar day after the relevant Office of Small Business determination. The Office of Small Business may, for good cause shown, extend the time in which to submit a request for appeal.

Requests for appeal should be transmitted by a means that will objectively establish the date the Office of Small Business received the request within the required timeframe. If the request is mailed, the party submitting the request bears the risk of non-delivery within the deadlines specified herein. Requests for appeal made orally (e.g., by telephone) will not be considered.

The request for appeal must include a written statement specifying, in detail, each and every ground on which the appellant seeks to disturb the Office of Small Business's determination. The appellant bears the burden of proof, by a preponderance of the evidence. The request for appeal must be signed by the requestor or an individual authorized to represent the requestor or the Legacy Business.

The Small Business Commission shall hold a noticed hearing (e.g., as an agenda item at a regular meeting of the Small Business Commission) to consider an appeal made under this subsection 4(E).

## **5. Revisions to These Rules and Regulations**

Per Administrative Code Section 2A.242, the Small Business Commission may, after a noticed hearing, revise these Rules and Regulations subject to disapproval of the Board of Supervisors by ordinance. The Small Business Commission shall provide written notice to the Clerk of the Board of Supervisors of its adoption of any rule or regulation, along with a copy of said rule or regulation. If a Member of the Board of Supervisors does not introduce an ordinance to disapprove the rule or regulation within 30 days of the date of delivery of such notice to the Clerk of the Board of Supervisors, or if such an ordinance is introduced within the 30-day period but the ordinance is not enacted by the Board of Supervisors within 90 days of the date of the Commission's delivery of notice to the Clerk of the Board of Supervisors, the rule or regulation shall go into effect.