

[Building, Planning Codes - Existing Awning, Sign, and Gate Amnesty Program; Design Standards for Gates, Railings, and Grillwork]

Ordinance amending the Building and Planning Codes to extend the Awning Amnesty Program to apply to existing unpermitted Signs and Gates; amending the Planning Code to remove design standards for gates, railings, and grillwork on ground floor street frontages of non-historic buildings in Neighborhood Commercial, Residential-Commercial, Commercial, and Mixed-Use Districts; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

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

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

Section 1. Environmental and General Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this determination.

(b) On _____, the Planning Commission, in Resolution No. _____, adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
3 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

4 (c) Pursuant to Planning Code Section 302, the Board finds that this Planning Code
5 amendment will serve the public necessity, convenience, and welfare for the reasons set forth
6 in Planning Commission Resolution No. _____, and the Board incorporates such reasons
7 herein by reference. A copy of said resolution is on file with the Clerk of the Board of
8 Supervisors in File No. _____.

9 (d) On _____, at a duly noticed public hearing, the Building Inspection Commission
10 considered this ordinance in accordance with Charter Section 4.121 and Building Code
11 Section 104A.2.11.1.1. A copy of a letter from the Secretary of the Building Inspection
12 Commission regarding the Commission's recommendation is on file with the Clerk of the
13 Board of Supervisors in File No. _____.

14 (e) No local findings are required under California Health and Safety Code Section
15 17958.7 because the amendments to the Building Code contained in this ordinance do not
16 regulate materials or manner of construction or repair, and instead relate in their entirety to
17 administrative procedures for implementing the Code, which are expressly excluded from the
18 definition of a "building standard" by California Health and Safety Code Section 18909(c).

19
20 Section 2. Chapter 1A of the Building Code is hereby amended by revising Sections
21 106A.5, and 106A.5.1 through 106A.5.4, to read as follows:

22 **106A.5 Awning, Sign, and Gate Amnesty Program.** The Department shall implement
23 the amnesty program outlined in this Section 106A.5 to incentivize and expedite the
24 legalization of Awnings, Signs, and Gates as defined and regulated in Sections 1703, 3107, and
25 1010 of the Building Code, that were physically existing on and installed without a building

1 permit, or for which the Department has no record of a building permit on file, as of August 20,
2 2023. All property owners that have existing Awnings, Signs that are under 250 pounds and 25
3 square feet or less, and Gates installed on or before August 20, 2023 without a building permit on file
4 are eligible for the amnesty program, including property owners with active Notices of
5 Violation for installing or having an Awning, Sign, or Gate without a building permit.

6 **106A.5.1 Certification of Existing Installation: No New Construction, Repairs, or**
7 **Corrective Work.** The amnesty program shall provide a streamlined process to verify that an
8 existing Awning, Sign, or Gate complies with applicable provisions of the Building Code as well
9 as Planning Code Section 187.3, and will result in a building permit authorizing the existing
10 Awning, Sign, or Gate. The amnesty program shall not authorize new construction or corrective
11 work to bring an existing Awning, Sign, or Gate into compliance. Any alterations, modifications,
12 or construction required to bring the Awning, Sign, or Gate into compliance with the Building
13 Code will require a standard building permit and is not subject to the provisions of this Section
14 106A.5, except that the fees for any such permit shall be waived pursuant to Section
15 106A.5.2.

16 **106A.5.2 Waiving of Fees.** Notwithstanding any other provisions of the Building Code,
17 the Department shall continue until July 1, 2025 to waive all fees for applications eligible for
18 the amnesty program and for any permits required to repair or replace an Awning that the
19 Department determined was not in compliance with the Building Code, including the
20 application fee for plan review, permit issuance fee for inspections, and any enforcement fees,
21 including inspection fees required under Section 107A.5 for work without a permit.

22 **106A.5.3 Streamlined Application Process.** The Department shall develop a
23 streamlined application process to facilitate and expedite review of Awning, Sign, or Gate
24 permits during the amnesty program. The application shall require only information essential
25 to determining whether an existing Awning, Sign, or Gate complies with the applicable Building

1 and Planning Code provisions, including the Planning Code's amnesty program in Planning
2 Code Section 187.3.

3 **106A.5.4 No Relaxation of Building Standards.** The amnesty program governs the
4 certification of existing Awnings', Signs', or Gates' compliance with applicable Building Code
5 provisions. Any Awning, Sign, or Gate that is not in compliance with the Building Code will
6 require a separate building permit to repair, replace, or remove the Awning, Sign, or Gate.

7
8 Section 3. Articles 1.2 and 1.7 of the Planning Code are hereby amended by revising
9 Sections 145.1 and 187.3, to read as follows:

10 **SEC. 145.1. STREET FRONTAGES IN NEIGHBORHOOD COMMERCIAL,**
11 **RESIDENTIAL-COMMERCIAL, COMMERCIAL, AND MIXED USE DISTRICTS.**

12 * * * *

13 (c) **Controls.** The following requirements shall generally apply, except for those
14 controls listed in subsections (c)(1) Above Grade Parking Setback and (c)(4) Ground Floor
15 Ceiling Height, which only apply to a "development lot" as defined above and except as
16 specified in subsection (d).

17 In NC-S Districts, the applicable frontage shall be the primary facade(s) that contains
18 customer entrances to commercial spaces.

19 * * * *

20 (7) **Gates, Railings, and Grillwork for Historic Buildings.** Except as specified
21 in subsection (d), any ~~gates, decorative~~ railings, or grillwork, other than wire mesh, with street
22 frontage at the ground level, which is placed in front of or behind ground floor windows, shall be at
23 least ~~75~~20% open to perpendicular view. ~~Rolling or sliding security gates shall consist of open~~
24 ~~grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are~~
25 ~~closed, and to permit light to pass through mostly unobstructed. To ensure sufficient visibility for fire~~

1 ~~safety, gates that are less than 75% open to perpendicular views shall include a transparent viewing~~
2 ~~window or grill at least 10 inches in height, which shall be located at least 50-60 inches above the~~
3 ~~nearest abutting sidewalk.~~ Gates, when both open and folded or rolled, shall be recessed within,
4 or laid flush with, the building facade. Gates and gate mechanisms shall be consistent with
5 any objective design standards that may be adopted by the Planning Commission.

6 (d) **Exceptions for Historic Buildings.**

7 ~~—(1) Exceptions for Historic Buildings.~~ Specific street frontage requirements in this
8 Section 145.1 may be modified or waived by the Planning Commission for structures
9 designated as landmarks, significant or contributory buildings within a historic district, or
10 buildings of merit when the Historic Preservation Commission advises that complying with
11 specific street frontage requirements would adversely affect the landmark, significant,
12 contributory, or meritorious character of the structure, or that modification or waiver would
13 enhance the economic feasibility of preservation of the landmark or structure.

14 ~~(2) Exception to Gates, Railings, and Grillwork Requirements for Cannabis Retail.~~

15 ~~—(A) A Cannabis Retail use, as defined in Section 890.125 or Section 102, as applicable, is~~
16 ~~exempt from the requirements of Section 145.1(c)(7) as provided herein, and may install gates, railings,~~
17 ~~or grillwork that are less than 20% open to perpendicular view, including features that are fully~~
18 ~~opaque, provided that such gates, railings, or grillwork are deployed only when the Cannabis Retail~~
19 ~~use is not open to the public for business.~~

20 ~~—(B) A Cannabis Retail use that has installed any gates, railings, or grillwork pursuant to~~
21 ~~subsection (d)(2)(A) shall remove such gates, railings, or grillwork within the earliest of the following:~~

22 ~~—(i) 90 days after its Cannabis Business Permit issued pursuant to Article 16 of the~~
23 ~~Police Code is revoked or otherwise rendered invalid;~~

24 ~~—(ii) 90 days after the Cannabis Retail use ceases regular operation at the premises; or~~
25

1 ~~—— (iii) 90 days after the Cannabis Retail use is abandoned or discontinued pursuant to~~
2 ~~either Section 178 or Section 183.~~

3 ~~—— (C) Any building permit application to install gates, railings, or grillwork pursuant to~~
4 ~~subsection (d)(2)(A) shall include a statement acknowledging the requirements of subsection (d)(2)(B).~~

5 ~~—— (D) Subsections (d)(2)(A) and (C) shall expire by operation of law three years after the~~
6 ~~effective date of the ordinance in Board File No. 220971 enacting this subsection (d)(2). In the event a~~
7 ~~Cannabis Retail use does not procure a building permit pursuant to subsection (d)(2)(A) prior to the~~
8 ~~expiration of subsection (d)(2)(A), the business shall comply with, and not be exempt from, the~~
9 ~~requirements of Section 145.1(e)(7). Subsection (d)(2)(B) shall continue to apply after the expiration of~~
10 ~~subsections (d)(2)(A) and (C).~~

11 ~~—— (E) To deter vandalism of surfaces visible from public sidewalks, any Cannabis Retail~~
12 ~~use that maintains gates, railings, or grillwork that do not qualify for the exception in subsection~~
13 ~~(d)(3)(A), and which are less than 20% open to perpendicular view, shall install a mural on the surface~~
14 ~~of the gate visible from the public sidewalk. The mural required under this subsection (d)(2)(E) shall~~
15 ~~not be a Sign as defined in Article 6 of this Code.~~

16 ~~(3) **Exception for Existing Gates, Railings, or Grillwork.**~~

17 ~~—— (A) Any Non-Residential use that has not been discontinued or abandoned as of the~~
18 ~~effective date of the ordinance enacting this subsection (d)(3) and that has gates, railings, or grillwork~~
19 ~~that are less than 20% open to perpendicular view, including features that are fully opaque, will be~~
20 ~~deemed in compliance with the requirements of Section 145.1(e)(7), provided that such gates, railings,~~
21 ~~or grillwork existed and were occupied by the use prior to September 06, 2022, and are deployed only~~
22 ~~when a business is not open to the public. This subsection (d)(3) does not otherwise exempt a use from~~
23 ~~any required building permit.~~

24 ~~(B) Existing gates, railings, and grillwork permitted pursuant to this subsection (d)(3)~~
25 ~~shall be treated as noncomplying structures subject to the restrictions on intensification, expansion,~~

1 ~~and relocation under Section 188(a), and may undergo ordinary maintenance and minor repairs as~~
2 ~~described in Section 181(b). Cannabis Retail use with gates that qualify as noncomplying structures~~
3 ~~under this subsection (d)(3) shall not be subject to the requirement for murals under subsection~~
4 ~~(d)(2)(E).~~

5 ~~——(C) Any Non-Residential use that seeks to be exempt from the requirements of Section~~
6 ~~145.1(c)(7) shall procure a building permit within three years of the date of mailed notice to establish~~
7 ~~any existing gates, railings, or grillwork as a noncomplying structure pursuant to this subsection (d)(3).~~
8 ~~In the event a Non-Residential use does not procure a building permit pursuant to this subsection (d)(3)~~
9 ~~prior to the expiration of three years from the date of mailed notice, the business shall be subject to~~
10 ~~finer pursuant to Section 176 of this Code until a building permit establishing the existence of the gate~~
11 ~~prior to September 06, 2022, as specified in subsection (d)(3)(A), is procured. Any Non-Residential use~~
12 ~~with existing gates, railings, or grillwork that satisfy the criteria set forth in subsection (d)(3)(A) shall~~
13 ~~continue to be exempt from the requirements of Section 145.1(c)(7), but will be fined monetary~~
14 ~~penalties for failing to obtain a building permit as required in this subsection (d)(3)(C).~~

16 **SEC. 187.3. PRE-EXISTING AWNINGS, GATES, AND SIGNS; AMNESTY.**

17 (a) **Intent.** The purpose of this Section 187.3 is to recognize the impacts of the
18 COVID-19 pandemic on small businesses, to acknowledge the contribution of those
19 businesses' Awnings, Gates, and Signs, as defined in Sections 102 and 602 of this Code,
20 ~~respectively~~, to the diverse character of the City's commercial corridors, and to establish a
21 time-limited program whereby certain existing Awnings, Gates, and Signs that have been
22 erected, installed, or maintained without required permits may be allowed to remain.

23 (b) **Controls.** Notwithstanding any other provision of this Code, an Awning, Gate, or
24 Business Sign physically existing on or serving a non-Residential business on August 20,
25 2023 may be considered an existing noncomplying structure and/or nonconforming use

1 governed by this Article 1.7 so long as the Sign, Gate, or Awning is not affixed to a building
2 designated as significant or contributory under Article 11 of this Code. In addition to the
3 foregoing, Awnings, Gates, or Signs that have been required by the Department of Building
4 Inspection on or after January 1, 2023 to be replaced or altered, may be replaced or altered
5 consistent with such requirement and subsequently considered noncomplying structures
6 and/or nonconforming uses subject to this Section 187.3 so long as such replacement or
7 alteration does not increase the degree of nonconformity or noncompliance with other
8 Sections of this Code. All Signs must comply with the illumination provisions of Article 6 of this
9 Code.

10 (c) **Procedures.** The Planning Director or Zoning Administrator or their designee(s)
11 shall determine the degree of nonconformity or noncompliance for each Awning, Gate, or Sign
12 that is granted amnesty under this Section 187.3. Determinations of nonconformity and/or
13 noncompliance shall be based on (i) historical photographs to be provided by the applicant
14 and/or which are publicly available; (ii) current photographs provided by the applicant,
15 including photographs showing the Awning's points of attachment to the building; and (iii)
16 drawings provided by the applicant which need not be prepared by a state licensed contractor
17 or architect, or registered engineer so long as those drawings depict the width, depth, height,
18 projection, elevation, and other key characteristics of the Signs, Gates, or Awnings in question.
19 Such determination shall be memorialized either on a Building Permit, Sign Permit, or other
20 form developed by the Planning Department or other City agency.

21 (d) **Fees.** Notwithstanding any other provision of this Code or the Administrative
22 Code, no fee shall be charged by the Planning Department for a determination under this
23 Section and/or for review of Building Permit Applications, Sign Permit Applications, or other
24 approvals which relate exclusively to the implementation of this Section, including any
25

1 enforcement fees under Section 350(g)(1) of this Code, as long as the application is submitted
2 before July 1, 2025.

3
4 Section 4. Effective Date. This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

8
9 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
10 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
11 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
12 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
13 additions, and Board amendment deletions in accordance with the "Note" that appears under
14 the official title of the ordinance.

15
16
17 APPROVED AS TO FORM:
18 DAVID CHIU, City Attorney

19 By: /s/ Robb Kapla
20 ROBB KAPLA
Deputy City Attorney

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