

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
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MEMORANDUM

LAND USE AND TRANSPORTATION COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: July 18, 2023

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, July 18, 2023

The following file was forwarded as a **COMMITTEE REPORT** to the Board meeting, Tuesday, July 18, 2023. This item was acted upon at the Committee Meeting on Monday, July 17, 2023, at 1:30 p.m., by the votes indicated below.

Item No. 75 File No. 230745

Ordinance amending the Building and Planning Codes to create a temporary amnesty program for unpermitted awnings that streamlines the application process to legalize awnings, waives applicable fees, and confers legal nonconforming status for awnings and signs that do not comply with the Planning Code; 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.

RECOMMENDED AS A COMMITTEE REPORT

Vote:

Supervisor Myrna Melgar - Aye
Supervisor Dean Preston - Aye
Supervisor Aaron Peskin - Aye

cc: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy
Anne Pearson, Deputy City Attorney

1 [Building, Planning Codes - Existing Awning Amnesty Program]

2

3 **Ordinance amending the Building and Planning Codes to create a temporary amnesty**
4 **program for unpermitted awnings that streamlines the application process to legalize**
5 **awnings, waives applicable fees, and confers legal nonconforming status for awnings**
6 **and signs that do not comply with the Planning Code; affirming the Planning**
7 **Department’s determination under the California Environmental Quality Act; making**
8 **findings of consistency with the General Plan and the eight priority policies of Planning**
9 **Code Section 101.1; and making findings of public necessity, convenience, and welfare**
10 **pursuant to Planning Code Section 302.**

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

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

19

20 Section 1. Findings.

21 (a) The Planning Department has determined that the actions contemplated in this
22 ordinance comply with the California Environmental Quality Act (California Public Resources
23 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
24 Supervisors in File No. 230477 and is incorporated herein by reference. The Board affirms
25 this determination.

(b) On June 1, 2023, the Planning Commission, in Resolution No. 21328, adopted
findings [~~OR, the Planning Department determined~~] that the actions contemplated in this

1 ordinance are consistent, on balance, with the City’s General Plan and eight priority policies of
2 Planning Code Section 101.1. The Board adopts these findings ~~[OR, this determination]~~ as
3 its own. A copy of said Resolution ~~[OR determination]~~ is on file with the Clerk of the Board of
4 Supervisors in File No. 230477, and is incorporated herein by reference.

5 (c) Pursuant to Planning Code Section 302, the Board finds that this Planning Code
6 amendment will serve the public necessity, convenience, and welfare for the reasons set forth
7 in Planning Commission Resolution No. 21328, and the Board incorporates such reasons
8 herein by reference. A copy of said resolution is on file with the Clerk of the Board of
9 Supervisors in File No. 230477.

10 (d) On May 17, 2023, at a duly noticed public hearing, the Building Inspection
11 Commission considered this ordinance in accordance with Charter Section D3.750-5 and
12 Building Code Section 104A.2.11.1.1. A copy of a letter from the Secretary of the Building
13 Inspection Commission regarding the Commission’s recommendation is on file with the Clerk
14 of the Board of Supervisors in File No. 230477.

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

20
21 Section 2. The Building Code is hereby amended by adding Section 106A.5, to read
22 as follows:

23 **106A.5 Awning Amnesty Program.** The Department shall implement the temporary amnesty
24 program outlined in this Section 106A.5 to incentivize and expedite the legalization of Awnings, as
25 defined and regulated in Section 1703 of the Building Code, that were installed without a building

1 permit or for which the Department has no record of a building permit on file as of the effective date of
2 this ordinance in Board File No. 230477. All property owners that have Awnings without a building
3 permit on file are eligible for the amnesty program, including property owners with active Notices of
4 Violation for installing or having an Awning without a building permit.

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

13 **106A.5.2 Waiving of Fees.** Notwithstanding any other provisions of the Building Code, the
14 Department shall waive all fees for applications eligible for the amnesty program and for any permits
15 required to repair or replace an Awning that the Department determined was not in compliance with
16 the Building Code, including the application fee for plan review, permit issuance fee for inspections,
17 and any enforcement fees, including inspection fees required under Section 107A.5 for work without a
18 permit.

19 **106A.5.3 Streamlined Application Process.** The Department shall develop a streamlined
20 application process to facilitate and expedite review of Awning permits during the amnesty program.
21 The application shall require only information essential to determining whether an existing Awning
22 complies with the applicable Building and Planning Code provisions, including the Planning Code's
23 amnesty program in Planning Code Section 187.3.

24 **106A.5.4 No Relaxation of Building Standards.** The amnesty program governs the
25 certification of existing Awnings' compliance with applicable Building Code provisions. Any Awning

1 that is not in compliance with the Building Code will require a separate building permit to repair,
2 replace, or remove the Awning.

3 **106A.5.5 Sunset.** Unless the Board of Supervisors adopts an ordinance extending the term of
4 this Section 106A.5, it shall expire by operation of law on June 1, 2024. At such time, the City Attorney
5 shall cause it to be removed from the Building Code.

6
7 Section 3. The Planning Code is hereby amended by adding Section 187.3, to read as
8 follows:

9 **Sec. 187.3. PRE-EXISTING AWNINGS AND SIGNS; AMNESTY.**

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

16 (b) Controls. Notwithstanding any other provision of this Code, an Awning or Business Sign
17 physically existing on or serving a non-Residential business on the introduction effective date of
18 this ordinance in Board File No. 230745 may be considered an existing noncomplying structure and/or
19 nonconforming use governed by this Article 1.8 so long as the Sign or Awning is not affixed to a
20 building designated as significant or contributory subject to under Article 11 of this Code, has
21 existed at the same general location with the same general size, construction methodology,
22 and material for at least five years prior to the effective date. In the case of a Sign, the name
23 of the business and/or particular Sign copy need not have remained unchanged during that
24 five-year period so long as the general location of the Sign has remained constant. In addition
25 to the foregoing, Awnings or Signs that have been required by the Department of Building Inspection

1 on or after January 1, 2023 to be replaced or altered, along with any Signs affixed to such
2 Awnings, may be replaced or altered consistent with such requirement and subsequently considered
3 noncomplying structures and/or nonconforming uses subject to this Section 187.3 so long as such
4 replacement or alteration does not increase the degree of nonconformity or noncompliance with other
5 Sections of this Code. All Signs must comply with the illumination provisions of Article 6 of this
6 Code.

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

18 (d) Fees. Notwithstanding any other provision of this Code or the Administrative Code, no fee
19 shall be charged by the Planning Department for a determination under this Section and/or for review
20 of Building Permit Applications, Sign Permit Applications, or other approvals which relate exclusively
21 to the implementation of this Section, including any enforcement fees under Section 350(g)(1) of this
22 Code.

23 (e) Sunset. Unless the Board of Supervisors adopts an ordinance extending the term of this
24 Section 187.3, it shall expire by operation of law on June 1, 2024. At such time, the City Attorney shall
25

1 cause it to be removed from the Planning Code and no additional Signs or Awnings may be altered,
2 replaced, or reviewed for consideration as nonconforming or noncomplying under this Section.

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 ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor’s veto of the ordinance.

8
9 APPROVED AS TO FORM:
10 DAVID CHIU, City Attorney

11 By: /s/ Robb Kapla
12 ROBB KAPLA
13 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Amended in Committee, 6/12/2023)

[Building, Planning Codes - Existing Awning Amnesty Program]

Ordinance amending the Building and Planning Codes to create a temporary amnesty program for unpermitted awnings that streamlines the application process to legalize awnings, waives applicable fees, and confers legal nonconforming status for awnings and signs that do not comply with the Planning Code; 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.

Existing Law

Section 3105 of the Building Code regulates the installation of awnings as ancillary structures requiring a building permit and compliance with specific fastening standards and strength specifications. Building permits for installing or modifying awnings require review by the Planning Department for compliance with Planning Code Section 136.1 and various zoning controls in use districts across the City.

Amendments to Current Law

The Proposed Legislation would establish an amnesty program for existing awnings that were installed without a building permit or for which there is no specific building permit regarding the existing awning in the City's records. The Planning Code provisions in the legislation would also provide amnesty for existing signs from certain Planning Code requirements. Awnings and signs affixed to historic buildings subject to Article 11 of the Planning Code are not eligible for the amnesty program. The amnesty program would waive enforcement, application, and inspection fees under both the Planning and Building Codes for applicants that apply for a permit to legalize an existing awning during the program's duration. The amnesty program would also streamline the application process, as compared to standard building permits for new construction, by only requiring submission of information necessary to confirm the existing structure complies with the Building and Planning Codes or, if necessary, to document the degree of noncompliance nonconformity with the Planning Code. For an existing awning or sign that does not comply with the Planning Code, the amnesty program would grant them legal nonconforming status and document the degree of nonconformity such that any future modifications, repairs, or replacement of the awnings or sign shall not increase the nonconformity of the awning or sign.

The amnesty program would not waive compliance with any substantive building standards, nor does it allow any new work or construction to repair, remove, or replace a noncompliant awning. If an awning does not meet applicable Building Code provisions, the property owner must pull a standard building permit to perform any corrective work or to remove or replace the awning. The plan review, inspection and any enforcement fees would be waived for these permits to perform corrective work on, remove, or replace an existing awning. Where an owner is required by the Department of Building Inspection to pull a permit to repair or replace an existing awning or a business sign, the amnesty program would allow the owner to transfer legal nonconforming status under the Planning Code to the repaired or replaced awning or sign, provided that the degree of nonconformity of the repaired or replaced awning or sign would not exceed that of the original as determined by the Director of Planning or Zoning Administrator.

The amnesty program would automatically terminate, unless extended by the Board of Supervisors, on June 1st, 2024.

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MEMORANDUM

Date: April 26, 2023
To: Planning Department / Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 230447
Building, Planning Codes - Existing Awning Amnesty Program

- California Environmental Quality Act (CEQA) Determination Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.
(California Public Resources Code, Sections 21000 et seq.)
- Ordinance / Resolution
 Ballot Measure
- 6/7/2023 
- Amendment to the Planning Code, including the following Findings:
(Planning Code, Section 302(b): 90 days for Planning Commission review)
- General Plan Planning Code, Section 101.1 Planning Code, Section 302
- Amendment to the Administrative Code, involving Land Use/Planning
(Board Rule 3.23: 30 days for possible Planning Department review)
- General Plan Referral for Non-Planning Code Amendments
(Charter, Section 4.105, and Administrative Code, Section 2A.53)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- Historic Preservation Commission
- Landmark (Planning Code, Section 1004.3)
 Cultural Districts (Charter, Section 4.135 & Board Rule 3.23)
 Mills Act Contract (Government Code, Section 50280)
 Designation for Significant/Contributory Buildings (Planning Code, Article 11)

Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.

BOARD of SUPERVISORS

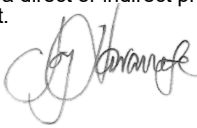


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MEMORANDUM

Date: May 30, 2023
To: Planning Department / Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 230596
Planning Code - Conditional Use for Residential Projects in RM, RC, and RTO Districts

- California Environmental Quality Act (CEQA) Determination *(California Public Resources Code, Sections 21000 et seq.)*
 - Ordinance / Resolution
 - Ballot Measure

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.
6/7/2023 
- Amendment to the Planning Code, including the following Findings:
(Planning Code, Section 302(b): 90 days for Planning Commission review)
 - General Plan
 - Planning Code, Section 101.1
 - Planning Code, Section 302
- Amendment to the Administrative Code, involving Land Use/Planning
(Board Rule 3.23: 30 days for possible Planning Department review)
- General Plan Referral for Non-Planning Code Amendments
(Charter, Section 4.105, and Administrative Code, Section 2A.53)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- Historic Preservation Commission
 - Landmark *(Planning Code, Section 1004.3)*
 - Cultural Districts *(Charter, Section 4.135 & Board Rule 3.23)*
 - Mills Act Contract *(Government Code, Section 50280)*
 - Designation for Significant/Contributory Buildings *(Planning Code, Article 11)*

Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.



BUILDING INSPECTION COMMISSION (BIC)

**Department of Building Inspection
49 South Van Ness Avenue, 5th Floor San Francisco, California 94103**

Voice (628) 652 -3510

May 18, 2023

London N. Breed
Mayor

COMMISSION

Raquel Bito
President

Jason Tam
Vice-President

Alysabeth
Alexander-Tut
Bianca Neumann
Earl Shaddix
Angie Sommer

Ms. Angela Calvillo
Clerk of the Board
Board of Supervisors, City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4694

Dear Ms. Calvillo:

RE: File No. 230447

Sonya Harris
Secretary

Monique Mustapha
Asst. Secretary

Patrick O’Riordan,
C.B.O., Director

Ordinance amending the Building and Planning Codes to create a temporary amnesty program for unpermitted awnings that streamlines the application process to legalize awnings, waives applicable fees, and confers legal nonconforming status for awnings that do not comply with the Planning Code; 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.

The Building Inspection Commission met and held a public hearing on May 17, 2023 regarding File No. 230447 on the proposed amendment to the Planning and Building Codes referenced above. The Commissioners voted unanimously to **recommend approval** of the proposed Ordinance.

President Bito	Yes
Vice-President Tam	Excused
Commissioner Neumann	Yes
Commissioner Alexander-Tut	Excused
Commissioner Shaddix	Yes
Commissioner Sommer	Yes

Should you have any questions, please do not hesitate to call me at (628) 652-3510.

Sincerely,

Sonya Harris
Commission Secretary

cc: Patrick O'Riordan, Director
Mayor London N. Breed
Supervisor Aaron Peskin
Supervisor Catherine Stefani
Board of Supervisors



CITY AND COUNTY OF SAN FRANCISCO
LONDON BREED, MAYOR

OFFICE OF SMALL BUSINESS
DIRECTOR KATY TANG

June 5, 2023

Ms. Angela Calvillo, Clerk of the Board
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

RE: BOS File No. 230447 – Existing Awning Amnesty Program - SUPPORT

Dear Ms. Calvillo,

On May 22, 2023 the Small Business Commission (the Commission) heard BOS File 230447 – Existing Awning Amnesty Program. The ordinance establishes a simplified permitting process for unpermitted commercial awnings and waives permitting fees associated with coming into compliance.

Over the past several months, the City has received almost 200 complaints regarding unpermitted commercial awnings. As a result, business and property owners have received complaints and Notices of Violation, and been instructed to get appropriate permits. This amnesty program facilitates that process without requiring businesses to get professional, costly drawings of their existing awnings. It also waives penalty fees and permit fees. The amnesty program will be available to businesses through June 1, 2024, giving businesses ample time to work with the City to address any safety concerns.

The Commission voted unanimously to support this legislation. The Commission supports policies that pursue proactive compliance as an alternative to punitive enforcement, and this proposal furthers that goal.

The Commission commends Mayor London Breed, Board of Supervisors President Aaron Peskin, the Department of Building Inspection and the Planning Department for their work to develop a reasonable path forward to help small businesses. Thank you for considering the Commission's recommendations. Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Katy Tang".

Katy Tang
Director, Office of Small Business



June 8, 2023

Ms. Angela Calvillo, Clerk
Honorable Mayor Breed
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Number 2023-003753PCA:
Planning, Building Codes - Existing Awning Amnesty Program
Board File No. 230447

Planning Commission Recommendation: Approval with Modifications

Dear Ms. Calvillo and Mayor Breed,

On June 1, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Mayor Breed that would amend the Planning Code the Planning Code to create a temporary amnesty program for unpermitted awnings that streamlines the application process to legalize awnings, waives applicable fees, and confers legal nonconforming status for awnings that do not comply with the Planning Code. At the hearing the Planning Commission recommended approval with modifications.

The Commission's proposed modifications were as follows:

1. Limit the program to Business Signs.
2. Remove the 5-year lookback requirement. Instead, allow all Business Signs or Awnings that existed as of the introduction date of the Ordinance to qualify for the amnesty program (except Awnings/Signs attached to Article 11 buildings).
3. Require any Sign that participates in the amnesty program to comply with all illumination provisions contained in Article 6 of the Planning Code.
4. Expand the types of permits that qualify for a Planning fee waiver during the period of the amnesty program to include any permit whose scope of work is exclusively related to non-residential Awnings or

Business Signs.

5. Make technical amendments to:
 - a. Amend the Ordinance title, long title, and the heading of Subsection 187.3 to clarify that certain Signs are included in the amnesty program, in addition to Awnings.
 - b. Clarify that the amnesty program extends to all Business Signs that *physically* existed as of the introduction date of the Ordinance.
 - c. Clarify that the amnesty program applies to non-Residential Awnings only.
 - d. Change the phrase “professionally prepared” in reference to the drawings required, to “drawings prepared by a state licensed contractor or architect, or registered engineer”.
 - e. Recommend that the sponsor amend the Building Code to clarify that no “drawings prepared by a state licensed contractor or architect, or registered engineer” shall be required for Awning and Sign permit applications that qualify for the amnesty program and are compliant with Building Code standards at the time of application.
 - f. Recommend that the sponsor amend the Building Code to waive DBI fees for Signs that are eligible for the amnesty program and that are compliant with Building Code standards at the time of application.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Mayor Breed, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,



Aaron D. Starr
Manager of Legislative Affairs

cc: Robb Kapla, Deputy City Attorney
Katy Tang, Office of Small Business
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution

Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21328

HEARING DATE: JUNE 1, 2023

Project Name: Existing Awning Amnesty Program
Case Number: 2023-003753PCA [Board File No. 230447]
Initiated by: Mayor Breed / Introduced May 9, 2023
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO CREATE A TEMPORARY AMNESTY PROGRAM FOR UNPERMITTED AWNINGS THAT STREAMLINES THE APPLICATION PROCESS TO LEGALIZE AWNINGS, WAIVES APPLICABLE FEES, AND CONFERS LEGAL NONCONFORMING STATUS FOR AWNINGS THAT DO NOT COMPLY WITH THE PLANNING CODE; 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.

WHEREAS, on May 9, 2023 the Mayor introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 230447, which would amend the Planning Code to create a temporary amnesty program for unpermitted awnings that streamlines the application process to legalize awnings, waives applicable fees, and confers legal nonconforming status for awnings that do not comply with the Planning Code;

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 1, 2023; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15378 and 15060(c)(2); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission's proposed modifications are as follows:

1. Limit the program to Business Signs.
2. Remove the 5-year lookback requirement. Instead, allow all Business Signs or Awnings that existed as of the introduction date of the Ordinance to qualify for the amnesty program (except Awnings/Signs attached to Article 11 buildings).
3. Require any Sign that participates in the amnesty program to comply with all illumination provisions contained in Article 6 of the Planning Code.
4. Expand the types of permits that qualify for a Planning fee waiver during the period of the amnesty program to include any permit whose scope of work is exclusively related to non-residential Awnings or Business Signs.
5. Make technical amendments to:
 - a. Amend the Ordinance title, long title, and the heading of Subsection 187.3 to clarify that certain Signs are included in the amnesty program, in addition to Awnings.
 - b. Clarify that the amnesty program extends to all Business Signs that *physically* existed as of the introduction date of the Ordinance.
 - c. Clarify that the amnesty program applies to non-Residential Awnings only.
 - d. Change the phrase "professionally prepared" in reference to the drawings required, to "drawings prepared by a state licensed contractor or architect, or registered engineer".
 - e. Recommend that the sponsor amend the Building Code to clarify that no "drawings prepared by a state licensed contractor or architect, or registered engineer" shall be required for Awning and Sign permit applications that qualify for the amnesty program and are compliant with

Building Code standards at the time of application.

- f. Recommend that the sponsor amend the Building Code to waive DBI fees for Signs that are eligible for the amnesty program and that are compliant with Building Code standards at the time of application.

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

The Commission understands that non-compliant Awnings and Signs are common in the City. It also recognizes the many economic hardships that our small business community currently faces, and that replacing often long-standing Awnings and Signs only adds to that hardship. At the same time, the Commission also believes some Sign requirements are beneficial to the City for both aesthetic and quality of life reasons. The Commission finds that the proposed amnesty program, with all recommended modifications, balances the City's desire to support small businesses while still promoting vibrant public spaces.

General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The proposed Ordinance, with all recommended modifications, will help certain businesses stay afloat by establishing a path to legalization for their currently non-compliant Awning or Sign and waiving some fees associated with the permit process and enforcement of illegal Awnings and Signs.

OBJECTIVE 4

IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

Policy 4.1

Maintain and enhance a favorable business climate in the city.

The proposed Ordinance will encourage a positive relationship between city government and private businesses, which is an important factor for many industries in choosing to stay in the City or relocate.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss

of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 1, 2023.



Jonas P Ionin Digitally signed by Jonas P Ionin
Date: 2023.06.07 13:43:42 -07'00'

Jonas P. Ionin
Commission Secretary

AYES: Braun, Diamond, Imperial, Koppel, Moore, Tanner

NOES: None

ABSENT: Ruiz

ADOPTED: June 1, 2023



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: June 1, 2023

90-Day Deadline: August 10, 2023

Project Name: Existing Awning Amnesty Program
Case Number: 2023-003753PCA [Board File No. 230447]
Initiated by: Mayor Breed / Introduced May 9, 2023
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

Recommendation: Approval with Modifications

Planning Code Amendment

The proposed Ordinance would amend the Building and Planning Codes to create a temporary amnesty program for unpermitted awnings and certain unpermitted signs that streamlines the application process to legalize awnings and signs, waives applicable fees, and confers legal nonconforming status for awnings that do not comply with the Planning Code.

The Way It Is Now:

1. Awnings, as defined in Planning Code Sec. 102, are considered a permitted obstruction if they comply with the dimensional limitations laid out in Planning Code Sec. 136.1. They must also meet Building Code standards.
 - a. The installation, repair, or replacement of an Awning requires a permit that is reviewed for compliance with both the Building and Planning Codes.
 - b. Both the Planning and Building Departments charge a fee for permits to install, repair, or replace an Awning.

- c. The Department of Building Inspection determines whether drawings prepared by a licensed professional are required. They are usually required for Awning permits.
2. Signs, as defined in Planning Code Section 602, are permitted only if they meet the requirements in Article 6 of the Planning Code. They must also meet Building Code standards.
 - a. The installation, repair, or replacement of a Sign requires a permit that is reviewed for compliance with both the Building and Planning Codes.
 - b. The Planning and Building departments both charge a fee for a permit to install, repair, replace, or change the copy of a Sign.
 - c. The Department of Building Inspection (DBI) determines whether drawings prepared by a licensed professional are required. They are often required for Sign permits.

The Way It Would Be:

1. A temporary amnesty program would be created for certain unpermitted Awnings and Signs that do not comply with the Planning Code. The amnesty program would expire on June 1, 2024.

What Would Qualify:

- Awnings installed without a permit that existed as of the active date of the ordinance and that are "generally" the same shape, size, material, and location that they've been for at least 5 years prior; *except that buildings subject to Art. 11 do not qualify.*
- Signs installed without a permit that existed as of the active date of the ordinance that are "generally" the same shape, size, material, and location that they've been for at least 5 years prior; *except that buildings subject to Art. 11 do not qualify.* Signs that do not comply with current Building Code standards also do not qualify.

The Amnesty Program:

Qualified Awnings would:

- a. Not be subject to the Planning Code requirements for Awnings but *would* be required to comply with the Building Code.
- b. If DBI determines that changes must be made to comply with their Code, the applicant must replace/repair the Awning so that it complies with the Building Code but may replace the Awning to be the same shape/size/level of nonconforming with the Planning Code that it was prior.
- c. Professional drawings will not be required to accompany the application establishing the Awning as legal, non-conforming IF the existing Awning is compliant with the Building Code.
- d. No fee will be charged for this permit by Planning or DBI (including for permits required by DBI to bring an Awning into compliance with the Building Code).

Qualified Signs would:

- e. Not be subject to Planning Code requirements for Signs *only if* the existing sign currently complies with the Building Code. (*Signs that do not comply with the Building Code must be removed and replaced with a sign that meets both Building and Planning Codes and are not eligible for this amnesty program.*)
 - f. “Professional drawings” will not be required to accompany the application establishing the qualified Sign as legal, non-conforming.
 - g. No fee will be charged for this permit by Planning. DBI will charge their standard permit and inspection fee.
2. No enforcement fees will be charged for Awnings that qualify for the amnesty program, including fees from NOV’s issued by DBI or Planning. No Planning enforcement fees will be charged for Signs that qualify for the amnesty program.

Background

In recent months, many small business owners faced enforcement for allegedly non-compliant awnings. Between November 1 and February 23, the Department of Building Inspection (DBI) received 179 anonymous complaints about illegally installed awnings in San Francisco. Last year, only five such complaints were received during the same period. In response, Mayor Breed and Board President Peskin introduced this ordinance to create an amnesty program for businesses that may have unauthorized signs and awnings. The amnesty program recognizes the tremendous strain that small businesses have been under in recent years, particularly due to forced closures and loss of business during the COVID pandemic. While this ordinance is working its way through the legislative process, DBI and Planning will pause enforcement against complaints of non-compliant awnings. Exceptions to this pause will be in cases of urgent life safety issues requiring immediate action.

Small Business Commission

The Small Business Commission heard the proposed Ordinance at their May 22, 2023, hearing. At that hearing, the Commission unanimously voted to support the legislation, and thanked the Office of Small Business for responding to the needs of small businesses who have been struggling.

Building Inspection Commission

The Building Inspection Commission heard a presentation from DBI staff on both the status of the unpermitted Awning complaints they received, as well as on the proposed Ordinance, at their May 17, 2023, hearing. At the hearing, DBI staff clarified that Fire Department and Public Works fees would also be waived for qualified Awning permits under the legislation; however, several surcharges required by the state or other city codes would still apply. At that hearing, the Commission unanimously voted to support the legislation.

Small Business Month Fee Waiver

May is Small Business and Building Safety Month (Small Business Month) and the Board of Supervisors adopted legislation to support small businesses by waiving various local permit fees for the month of May. This program began as a pilot program in 2012 and was renewed annually until 2014, at which time the program was made permanent. The fee waiver applies to permits for the replacement of Awnings, Awning Signs, and installation of pedestrian level lighting as these fees have acted as a barrier for many small businesses to improve their building facades and store fronts. The proposed legislation would be a separate, temporary amnesty program for certain Awnings and Signs; providing an additional opportunity for small businesses seeking a fee waiver for permits related to their Awnings and/or Signs.

Issues and Considerations

Awnings versus Awning Signs

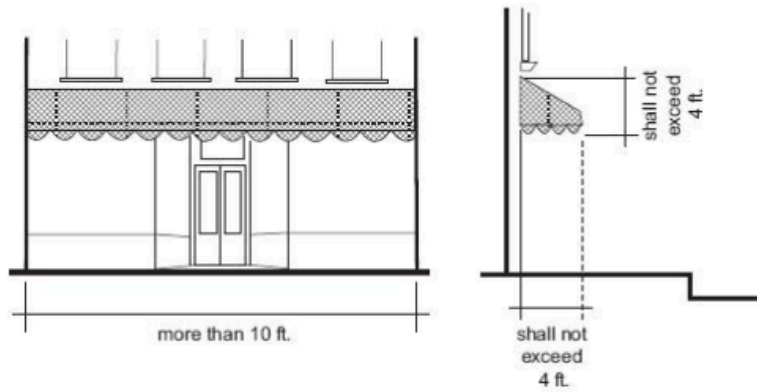
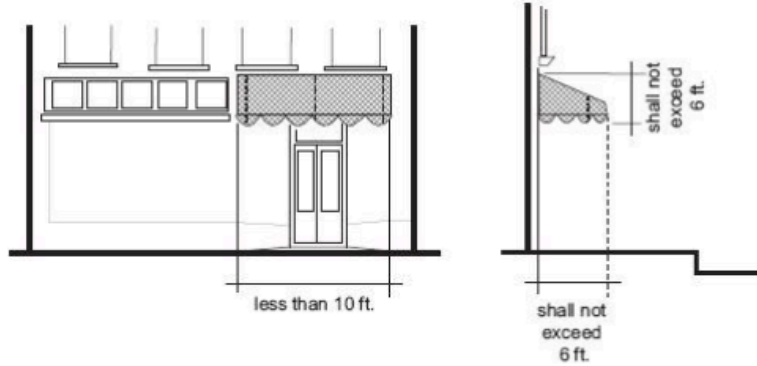
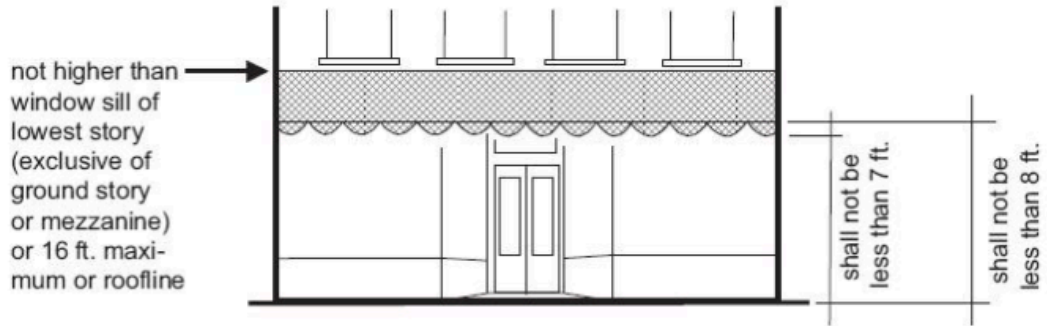
Section 102 of the Planning Code defines an Awning as:

“A light roof-like structure, supported entirely by the exterior wall of a building; consisting of a fixed or movable frame covered with cloth, plastic, or metal; extending over doors, windows, and/or show windows; with the purpose of providing protection from sun and rain and/or embellishment of the façade; as further regulated in Section 3105 of the Building Code.”

Section 602(c) further regulates signage that may be placed on an Awning as:

“The Area of any Sign on an Awning or Marquee shall be the total of all signage on all faces of the structure. All sign copy on each face shall be computed within one rectangular perimeter formed by extending lines around the extreme limits of writing, representation, or any figure of similar character depicted on the surface of the face of the awning or marquee.”

Awnings, whether they possess signage or not, are considered permitted obstructions under Sec. 136.1. To qualify as a permitted obstruction, in all zoning districts no portion of an awning may be less than 8 feet above the finished grade, nor may it be higher than the windowsill of the second story or extend higher than 16 feet or the roofline of the building; whichever is least (*see illustration on next page*).



There are additional limitations on Awnings in certain districts which are listed below:

SEC. 136.1 AWNINGS	Residential (R) & Residential Enclave (RED)	NC-1, NCT-1 & Limited Commercial Uses	All Other Zoning Districts
Permissibility	Limited Commercial Uses only. Must be cloth covered in R districts.	Allowed	Allowed
Projection from the Building Face Maximum	4'	4'	6' if the width of the awning is >10' 4' if the width is <10'
Height of Awning (vertical distance)	4', in no case may extend above the ground floor	4'	6' if the width of the awning is >10' 4' if the width is <10'

Types of Signs:

The sign controls exist to safeguard and enhance property values in residential, commercial, and industrial areas, and protect and enhance the distinctive appearance of San Francisco. To accomplish this, a permit is required to install, replace, reconstruct, expand, intensify, or relocate any sign unless it is specifically exempted from the regulations. Signs must conform to the provisions set forth in Article 6 and other applicable sections of the Planning Code. Article 6 defines a “Sign” as:

Any structure, part thereof, or device or inscription which is located upon, attached to, or painted, projected or represented on any land or right-of-way, or on the outside of any building or structure including an Awning, Canopy, Marquee or similar appendage, or affixed to the glass on the outside or inside of a window so as to be seen from the outside of the building, and which displays or includes any numeral, letter, word, model, banner, emblem, insignia, symbol, device, light, trademark, or other representation used as, or in the nature of, an announcement, advertisement, attention-arrester, direction, warning, or designation by or of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise or industry.

There are many types of signs regulated by the Planning Code, including Identifying Signs, General Advertising Signs, and Business Signs. The proposed Ordinance does not specify the types of signs that would qualify for the amnesty program; however, it is intended to assist small businesses with their storefronts. Section 602 defines a Business Sign as:

“A Sign which directs attention to the primary business, commodity, service, industry or other activity which is sold, offered, or conducted on the premises upon which such Sign is located, or to which it is affixed.”

Three of the most common types of Business Signs are Wall Signs, Projecting Signs, and signs on Awnings (also called Awning Signs for this report). A Wall Sign is generally painted directly on the wall or placed flat against a building wall with its copy parallel to the wall to which it is attached and not protruding more than the thickness

of the sign cabinet. The sign cabinet cannot be thicker than necessary to accommodate the electrical box. A Projecting Sign generally extends beyond a street property line or a building setback line. An Awning Sign is comprised of copy that advertises the business located at the site and its offerings. The copy on Awning Signs is often on multiple faces of the Awning.



Two examples of Wall Signs.



Example of a Projecting Sign.



Example of an Awning Sign.

Regulating Awning Signs, Projecting Signs, and Wall Signs

The Planning Code regulates the types and combinations of signage that are allowed based on a site's zoning district and historic status of the building.

PROJECTING SIGNS	NC-1 and NCT-1	RC, NC-2, NCT-2	NCT, NC-3, NCT-3, Chinatown CBD	Chinatown Visitor Retail District	Chinatown Residential NCD
Permissibility	1 max per business	1 max per business	1 max per business	1 max per business	1 max per business
Projection from the Building Face Maximum	6'6" or no more than 75% of distance from property line to curb	6'6" or no more than 75% of distance from property line to curb	6'6" or no more than 75% of distance from property line to curb	6'6" or no more than 75% of distance from property line to curb	6'6" or no more than 75% of distance from property line to curb
Height or Total Area	15' high or height of the wall to which it is attached	24 square feet total area 24' height or height of the wall to which it is attached, or height of lowest residential windowsill of the building	32 square feet total area 24' height or height of the wall to which it is attached, or height of lowest residential windowsill of the building	24 square feet total area 24' height or height of the wall to which it is attached, or height of lowest residential windowsill of the building	15' high or height of the wall to which it is attached
Illumination	Direct or Indirect allowed	Direct or Indirect allowed	Direct or Indirect allowed	Indirect, or direct only during business hours	Indirect, or direct only during business hours

AWNING SIGNS	NC-1 and NCT-1	RC, NC-2, NCT-2	NCT, NC-3, NCT-3, Chinatown CBD	Chinatown Visitor Retail District	Chinatown Residential NCD
Permissibility	In addition to a projecting OR wall sign	In addition to a projecting sign	In addition to a projecting sign	In addition to a projecting sign	In addition to a projecting OR wall sign
Copy Limit	20sqft total across all awnings	30sqft total across all awnings	40sqft total across all awnings	30sqft total across all awnings	20sqft total across all awnings
Illumination	Indirect allowed	Indirect allowed	Indirect allowed	Indirect allowed	Indirect allowed

Illumination Requirements

Although illuminated signs can attract wanted attention to a business, they can also cause harm to neighboring tenants and residents if not illuminated appropriately. As such, the Planning Code categorizes Signs and specifies their location and lighting based on zoning districts, as shown in previous tables. These restrictions are important for creating a space where a mix of commercial and residential uses may coexist in harmony.

Directly Illuminated Sign. A Sign designed to give forth artificial light directly (or through transparent or translucent material) from a source of light within such Sign, including but not limited to neon and exposed lamp signs.

Indirectly Illuminated Sign. A Sign illuminated with a light directed primarily toward such Sign and so shielded that no direct rays from the light are visible elsewhere than on the lot where said illumination occurs. If not effectively so shielded, such sign shall be deemed to be a Directly Illuminated Sign.

Nonilluminated Sign. A Sign which is not illuminated, either directly or indirectly.



Directly Illuminated Sign

Indirectly Illuminated Sign

Nonilluminated Sign

Supporting Small Businesses

The Controller's Office of Economic Analysis released a report¹ in October of 2022 on the status of the re-opening of the City's economy. Some of the key findings were:

- San Francisco continued to lag most other metro areas in office attendance, at just 40% of pre-pandemic levels.
- New business formation (tracked by the number of business registration certificates filed) remained far below pre-pandemic rates, especially in the retail trades and restaurant/bar categories.

The report revealed that visitors were beginning to return to San Francisco to shop, eat, and experience the City; however, the lack of daily commuters and lower than normal number of tourists has hurt small businesses. As many businesses are still attempting to recover from the pandemic, the country is also entering a period of economic uncertainty.

¹ https://sfcontroller.org/sites/default/files/Documents/Economic%20Analysis/October%20Re-Opening%20Report_final.pdf

General Plan Compliance

Objective 2 of the Commerce and Industry Element is to “Maintain and enhance a sound and diverse economic base and fiscal structure for the City”. Policy 2.1 of this Objective is to “Seek to retain existing commercial and industrial activity and to attract new such activity to the City”. The proposed Ordinance, with all recommended modifications will help certain businesses stay afloat by establishing a path to legalization for their currently non-compliant Awning or Sign and waiving some fees associated with the permit process and enforcement of illegal Awnings and Signs.

Racial and Social Equity Analysis

Staff research found some of the highest rates of noncompliance (i.e., businesses that contain either an unpermitted Awning or Sign) are within the City’s Cultural Heritage Districts. These distinctive neighborhoods are the backbone of the City’s economy. Tourists come to San Francisco to immerse themselves in the unique cultures, aesthetic, and artistic tradition of each neighborhood. In 2015 alone, more than 24.6 million visitors contributed an estimated \$9.3 billion to the local economy. This translates to an average visitor spending of \$25.4 million dollars every day; much of which was spent in the City’s restaurants, shops, and services². San Francisco’s culture is also a major contributor to the City’s other economic sectors. Studies show that this strong cultural identity is what attracts a skilled and educated workforce, which in turn attracts innovative companies and firms. Even manufacturing and light industrial sector benefits from the City’s brand and its strong association with diversity, history, and innovation.

At the same time, individual character and culture of Cultural Districts have never been more at risk, and the City’s historic small businesses are especially vulnerable. Prior to the pandemic, commercial rents in most neighborhoods were doubling or tripling. Otherwise, healthy businesses that act as anchors for the City’s commercial corridors were forced to close³. The pandemic has only further exacerbated the financial pressures on historic, small businesses.

Looking beyond the financial pressures placed on small businesses, it is important to also acknowledge the origins of many of the City’s design controls, and why certain aesthetics are considered “desirable” over others. Many of the City’s oldest design controls sought to reduce “visual clutter” a term employed often as a proxy to minimize the expression of cultural identity and diversity. More recent design guidelines in the Japantown and Calle 24 cultural districts recognize the importance of enhancing and celebrating these districts’ unique aesthetics, and the diverse qualities of signage.

The proposed amendments will serve as one small but important step in helping preserve long-standing businesses and the pattern of smaller sized retail spaces in the City. This amnesty program will assist businesses that may currently be out of compliance by creating a more affordable (and in some cases cost-free) path to legalization. These amendments help further equity and complement the goal of Cultural Districts to promote and protect businesses and industries that advance the culture and history of said districts.

² <https://oewd.org/tourism>

³ https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_admin/0-0-0-59520

Implementation

The Department has determined that this ordinance will not have a material impact on our current implementation procedures.

Recommendation

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Limit the program to Business Signs.
2. Remove the 5-year lookback requirement. Instead, allow all Business Signs or Awnings that existed as of the introduction date of the Ordinance to qualify for the amnesty program (except Awnings/Signs attached to Article 11 buildings).
3. Require any Sign that participates in the amnesty program to comply with all illumination provisions contained in Article 6 of the Planning Code.
4. Expand the types of permits that qualify for a Planning fee waiver during the period of the amnesty program to include any permit whose scope of work is exclusively related to non-residential Awnings or Business Signs, except for buildings subject to Article 11 or Awning/Sign permits subject to neighborhood notification.
5. Make technical amendments to:
 - a. Amend the Ordinance title, long title, and the heading of Subsection 187.3 to clarify that certain Signs are included in the amnesty program, in addition to Awnings.
 - b. Clarify that the amnesty program extends to all Business Signs that *physically* existed as of the introduction date of the Ordinance.
 - c. Clarify that the amnesty program applies to non-Residential Awnings only.
 - d. Change the phrase "professionally prepared" in reference to the drawings required, to "drawings prepared by a state licensed contractor or architect, or registered engineer".
 - e. Recommend that the sponsor amend the Building Code to clarify that no "drawings prepared by a state licensed contractor or architect, or registered engineer" shall be required for Awning and Sign permit applications that qualify for the amnesty program and are compliant with Building Code standards at the time of application.
 - f. Recommend that the sponsor amend the Building Code to waive DBI fees for Signs that are eligible for the amnesty program and that are compliant with Building Code standards at the

time of application.

Basis for Recommendation

The Department understands that non-compliant Awnings and Signs are common in the City. It also recognizes the many economic hardships that our small business community currently faces, and that replacing often long-standing Awnings and Signs only adds to that hardship. At the same time, the Department also believes some Sign requirements are beneficial to the City for both aesthetic and quality of life reasons. The Department finds that the proposed amnesty program, with all Department recommended modifications, balances the City's desire to support small businesses while still promoting vibrant public spaces.

Recommendation 1: Limit the program to Business Signs. The definition of a "Sign" in the Planning Code is very broad, and includes General Advertising Signs, which cannot be legalized due to a voter-initiated ordinance. Limiting the program to "Business Signs" as defined in the Planning Code, will remove ambiguity in the program while ensuring the amnesty program targets the signs it is intended to cover.

Recommendation 2: Remove the 5-year lookback requirement. Instead, allow all Business Signs or Awnings that existed as of the introduction date of the Ordinance to qualify for the amnesty program. The pandemic caused storefront turnover to rise at an astonishing rate. Many small businesses have relocated within the last 5 years or have changed their Awnings or Signs in the interim. Whether an Awning or Sign has existed for 5 years versus the introduction date of the legislation should not determine whether it qualifies for the amnesty program. It overly complicates a program designed to aid our small businesses in a struggling, post-pandemic environment.

Recommendation 3: Require any Sign that participates in the amnesty program to comply with all illumination provisions contained in Article 6 of the Planning Code. Illumination restrictions are vital to ensuring that Signs do not create a nuisance for surrounding residents and other businesses. It is important that they remain in place, even for Signs in the amnesty program.

Recommendation 4: Expand the types of permits that qualify for a Planning fee waiver during the period of the amnesty program to include any permit whose scope of work is exclusively related to non-residential Awnings or Business Signs, except for buildings subject to Article 11 or Awning/Sign permits subject to neighborhood notification. The Department believes that the benefit of providing small businesses with a less complicated amnesty program outweighs the temporary loss of revenue from Awning and Sign permits not currently included in the proposed fee waiver. Additionally, the Department feels that business owners who have legally installed their Awnings and Signs should be extended the same relief if they need to replace or repair their sign while the amnesty program is in effect.

Recommendation 5: Make technical amendments:

- Amend the Ordinance title, long title, and the heading of Subsection 187.3 to clarify that certain Signs are included in the amnesty program, in addition to Awnings.
- Clarify that the amnesty program extends to all Business Signs that *physically* existed as of the

introduction date of the Ordinance.

- Clarify that the amnesty program applies to non-Residential Awnings only.
- Change the phrase “professionally prepared” in reference to the drawings required, to “drawings prepared by a state licensed contractor or architect, or registered engineer”.
- Recommend that the sponsor amend the Building Code to clarify that no “drawings prepared by a state licensed contractor or architect, or registered engineer” shall be required for Awning and Sign permit applications that qualify for the amnesty program and are compliant with Building Code standards at the time of application.
- Recommend that the sponsor amend the Building Code to waive DBI fees for Signs that are eligible for the amnesty program and that are compliant with Building Code standards at the time of application.

Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: May 12, 2023
To: Planning Department / Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 230447-2
Building, Planning Codes - Existing Awning Amnesty Program

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan
 - Planning Code, Section 101.1
 - Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Erica Major at Erica.Major@sfgov.org.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
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MEMORANDUM

TO: Patrick O'Riordan, Director, Department of Building Inspection
Sonya Harris, Commission Secretary, Building Inspection Commission

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: May 12, 2023

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, introduced by Mayor Breed on May 9, 2023:

File No. 230447-2

Ordinance amending the Building and Planning Codes to create a temporary amnesty program for unpermitted awnings that streamlines the application process to legalize awnings, waives applicable fees, and confers legal nonconforming status for awnings that do not comply with the Planning Code; 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.

The proposed ordinance is being transmitted pursuant to Charter, Section D3.750-5, for public hearing and recommendation. It is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Please forward me the Commission's recommendation and reports at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: Erica.Major@sfgov.org.

cc: Patty Lee, Department of Building Inspection

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
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MEMORANDUM

TO: Katy Tang, Director
Small Business Commission, City Hall, Room 448
FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee
DATE: May 12, 2023
SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 230447-2

Ordinance amending the Building and Planning Codes to create a temporary amnesty program for unpermitted awnings that streamlines the application process to legalize awnings, waives applicable fees, and confers legal nonconforming status for awnings that do not comply with the Planning Code; 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.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

___ No Comment
___ Recommendation Attached

Chairperson, Small Business Commission

c: Kerry Birnbach

Member, Board of Supervisors
District 7



City and County of San Francisco

MYRNA MELGAR

DATE: July 12, 2023

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee
COMMITTEE REPORTS

A handwritten signature in blue ink, appearing to read "mm", located to the right of the "TO:" field.

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request they be considered by the full Board on Tuesday, July 18, 2023, as Committee Reports:

File No. 230770

Administrative Code - Government Regulated Rents

Sponsors: Preston; Walton and Chan

Ordinance amending the Administrative Code to provide that tenant-occupied units in buildings that will be receiving either low-income housing tax credits or tax-exempt multifamily revenue bonds shall remain subject to the Rent Ordinance, as long as any of the existing tenants continue to reside in the unit, or unless all the tenants in the unit agree otherwise in writing; and for any such units that may have previously become exempt from the Rent Ordinance since 2018, restoring rents to the levels allowed had the Rent Ordinance continuously applied.

File No. 230690

Planning Code - Landmark Designation - Parkside Branch Library

Sponsor: Engardio

Ordinance amending the Planning Code to designate Parkside Branch Library, situated within McCoppin Square Park, 1200 Taraval Street, a portion of Assessor's Parcel Block No. 2351, Lot No. 001, as a Landmark consistent with the standards set forth in Article 10 of the Planning Code; affirming the Planning Department's determination under the California Environmental Quality Act; and making public necessity, convenience, and welfare findings under Planning Code, Section 302, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1. (Historic Preservation Commission)

File No. 230732

Planning and Building Codes - Commercial to Residential Adaptive Reuse and Downtown Economic Revitalization

Sponsors: Mayor; Peskin

Ordinance amending the Planning Code to 1) facilitate residential uses Downtown by authorizing the conversion of non-residential uses to residential use in C (Commercial) zoning districts, and exempting such projects from requirements for rear yard, open space, streetscape

COMMITTEE REPORTS MEMORANDUM

Land Use and Transportation Committee

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improvements, dwelling unit exposure, off-street freight loading, curb cuts for vehicular access, bike parking, transportation demand management, dwelling unit mix, and Intermediate Length Occupancy controls, permitting live work units in such project, streamlining administrative approvals for projects in the C-3 zoning district, and modifying the dimensional limits on exemptions to height restrictions for mechanical equipment, elevator, stair, and mechanical penthouses; 2) economically revitalize Downtown by adding Flexible Workspace as a defined use, authorizing large scale retail uses in the C-3 zoning district, allowing window displays in the C-3 zoning district, allowing Flexible Workspace as an active ground floor commercial use along certain street frontages in C-3 zoning districts, allowing accessory storage in any C zoning district, allowing the temporary installation for 60 days of certain signs in the C-3-R district, allowing temporary non-residential uses in vacant spaces for up to one year, including formula retail, reducing density limits for Residential Dwelling Units and Senior Housing in the C-2 zoning districts east of or fronting Franklin Street/13th Street and north of Townsend Street, principally permitting Laboratory, Life Science, Agricultural and Beverage Processing, and Animal Hospitals in C-2 zoning districts, principally permitting Senior Housing, Residential Care Facilities, Outdoor Entertainment, Open Recreation Areas, Animal Hospitals, and Trade Schools in the C-3 zoning district, allowing formula retail as a ground floor use on Market Street, principally permitting office and design professional uses on the second floor and higher in the C-3-R zoning district, and requiring consideration of office vacancy in consideration of granting exceptions in the Transit Center Commercial Special Use District; 3) streamline sign permitting citywide and in the C-3 and portions of the C-2 districts by allowing for the repair and rehabilitation of certain neon signs, and exempting existing business signs in the C-3 zoning district from certain zoning controls; 4) streamline Historic Preservation review of administrative certificates of appropriateness, and minor permits to alter for awnings, and Qualifying Scopes of Work, as may be delegated by the Historic Preservation Commission; 5) increase threshold for large projects subject to commercial to residential ratios in the C-3-O district, and provide alternatives to on-site open space in certain C-3 districts by allowing for payment of an in lieu fee as an alternative to providing open space; 6) facilitate residential adaptive reuse by amending the Building Code to add standards for adaptive reuse of non-residential buildings; and 7) principally permit formula retail and waive size limitations for such uses on a portion of Showplace Square Area (555-9th Street, Assessor's Parcel Block No. 3781, Lot No. 003); 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.

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File No. 230745

Building, Planning Codes - Existing Awning Amnesty Program

Sponsors: Mayor; Peskin and Stefani

Ordinance amending the Building and Planning Codes to create a temporary amnesty program for unpermitted awnings that streamlines the application process to legalize awnings, waives applicable fees, and confers legal nonconforming status for awnings and signs that do not comply with the Planning Code; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency

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Land Use and Transportation Committee

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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.

File No. 230374

Building Code - Streamlining Site Permit Review

Sponsors: Safai; Melgar

Ordinance amending the Building Code to outline the site permit application process, and define and limit the scope of Building Official review of site permits; requiring simultaneous interdepartmental review of electronically submitted applications for site permits; and affirming the Planning Department's determination under the California Environmental Quality Act.

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File No. 230026

Planning, Subdivision, and Administrative Codes and Zoning Map - Family Housing Opportunity Special Use District

Sponsors: Melgar; Engardio

Ordinance amending 1) the Planning Code to create the Family Housing Opportunity Special Use District; 2) the Planning Code to authorize the greater of up to four units or one unit per 1,000 square feet of lot area on individual lots in the RH (Residential, House) District, the greater of up to twelve units or one unit per 1,000 square feet of lot area on three merged lots and the greater of up to eight units or one unit per 1,000 square feet of lot area on two merged lots in RH-1 (Residential, House: One Family) districts, and Group Housing in RH-1 districts for eligible projects in the Special Use District; 3) the Planning Code to exempt eligible projects in the Special Use District from certain height, open space, dwelling unit exposure, and rear-yard requirements, conditional use authorizations, and neighborhood notification requirements; 4) the Subdivision Code to authorize eligible projects in the Special Use District to qualify for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; 5) the Administrative Code to require new dwelling or group housing units constructed pursuant to the density limit exception to be subject to the rent increase limitations of the Rent Ordinance; 6) the Zoning Map to show the Family Housing Opportunity Special Use District; and affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, July 17, 2023, at 1:30 p.m.



MYRNA MELGAR

DATE: July 12, 2023

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee
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File No. 230026

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