

BOARD of SUPERVISORS



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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: March 3, 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. 230212

Ordinance amending the Planning and Building Codes to codify the annual waiver of awning replacement fees and awning sign fees applied for during the month of May, to annually waive fees for new awning installations applied for during the month of May, and to indicate that the Planning Code and Building Code waivers pertaining to pedestrian street lighting as well as awning replacement, awning installation, and awning sign fees are keyed to permit application in May rather than permit issuance in May; 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

1 [Planning, Building Codes - Small Business Month Fee Waivers Including for Awning
Installation]

2

3 **Ordinance amending the Planning and Building Codes to codify the annual waiver of**
4 **awning replacement fees and awning sign fees applied for during the month of May, to**
5 **annually waive fees for new awning installations applied for during the month of May,**
6 **and to indicate that the Planning Code and Building Code waivers pertaining to**
7 **pedestrian street lighting as well as awning replacement, awning installation, and**
8 **awning sign fees are keyed to permit application in May rather than permit issuance in**
9 **May; affirming the Planning Department's determination under the California**
10 **Environmental Quality Act; making findings of consistency with the General Plan, and**
11 **the eight priority policies of Planning Code, Section 101.1; and making findings of**
12 **public necessity, convenience, and welfare pursuant to Planning Code, Section 302.**

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

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

21 Section 1. Land Use and Environmental Findings.

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

1 (b) On _____, the Planning Commission, in Resolution No. _____,
2 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
3 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
4 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
5 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

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

11
12 Section 2. Background and Findings.

13 (a) Annually, May is Small Business Month, during which the Board of Supervisors
14 recognizes the importance of small businesses in San Francisco. As part of this recognition,
15 each year during Small Business Month, there are waivers of various local permit fees that
16 have acted as a bar for many small businesses to improve their building facades and store
17 fronts. Fee waivers include fees for the replacement of awnings, signs on awnings, and
18 installation of pedestrian level lighting. These fee waivers are contained in an uncodified
19 Section 4 of Ordinance No. 149-16 in Board of Supervisors File No. 160632 and in Tables 1A-
20 A and 1A-E of the Building Code. This ordinance would codify the existing awning fee
21 waivers, expand fee waivers to include the installation of new awnings, and key the Planning
22 Code and Building Code fee waivers to application for the permit in May rather than issuance
23 of the permit in May.

24 (b) On _____, the Building Inspection Commission considered this
25 ordinance at a duly noticed public hearing pursuant to Charter Section D3.750-5.

1 (c) No local findings are required under California Health and Safety Code Section
2 17958.7 because the amendments to the Building Code contained in this ordinance do not
3 regulate materials or manner of construction or repair, and instead relate in their entirety to
4 administrative procedures for implementing the code, which are expressly excluded from the
5 definition of a “building standard” by California Health and Safety Code Section 18909(c).

6
7 Section 3. Article 3.5 of the Planning Code is hereby amended by revising Section
8 350, to read as follows:

9
10 **SEC. 350. FEES.**

11 * * * *

12 (j) **Deferred or Reduced Fee; Fee Waivers.**

13 (1) Any fraternal, charitable, benevolent, or any other nonprofit organization, that
14 is exempt from taxation under the Internal Revenue laws of the United States and the
15 Revenue and Taxation Code of the State of California as a bona fide fraternal, charitable,
16 benevolent, or other nonprofit organization, or public entity, that submits an application for the
17 development of residential units all of which are affordable to low and moderate income
18 households, as defined by the United States Housing and Urban Development Department,
19 for a time period that is consistent with the policy of the Mayor's Office of Housing and
20 Community Development and the Successor to the San Francisco Redevelopment Agency,
21 may defer payment of the fees except those for discretionary review and appeals to the Board
22 of Supervisors until (A) before final Planning Department approval of the building permit,
23 preparatory to issuance of the building permit, before the building permit is released to the
24 applicant, or (B) within one year of the date of action on the application, whichever comes
25 first. This ~~exemption~~ deferral provision shall apply notwithstanding the inclusion in the

1 development of other nonprofit ancillary or accessory uses. Should the project be withdrawn
2 prior to final Planning approval, the applicant shall pay time and material costs pursuant to
3 Section 350(g).

4 (2) An exemption from paying the full fees specified for discretionary review or
5 appeals to the Board of Supervisors may be granted when the requestor's income is not
6 enough to pay for the fee without affecting ~~his or her~~ their abilityies to pay for the necessities of
7 life, provided that the ~~y person seeking the exemption~~ demonstrates to the Planning Director or
8 ~~his/her~~ the Director's designee that ~~he or she~~ they would be substantially affected by the
9 proposed project.

10 (3) Certain of the fees charged in accordance with subsections (b) and (c) are
11 subject in some circumstances to waiver, as stated in Section 4 of Ordinance No. 149-16 in
12 Board of Supervisors File No. 160632, or as stated below. Description of the waivers below does
13 not affect the other waiver provisions in Section 4 of Ordinance No. 149-16.

14 Small Business Month Fee Waivers: No Planning Department fees shall apply to a Small
15 Business Enterprise that applies for a permit for awning replacement, awning installation, or signs on
16 awnings during the month of May. For purposes of this subsection (j)(3), a Small Business Enterprise
17 shall be a business that has 100 or fewer employees. The Planning Department and the Department of
18 Building Inspection shall establish a process by which those two departments will certify that an
19 applicant is a Small Business Enterprise for the purpose of this subsection and Section 110A, Tables
20 1A-A and 1A-E of the Building Code. To the extent this provision for Small Business Month Fee
21 Waivers differs from the description in subsection (f) on page 43 of Ordinance No. 149-16, this
22 provision governs.

23 * * * *

1 Section 4. Chapter 110A of the San Francisco Building Code is hereby amended by
 2 revising Section 110A, to read as follows:

3
 4 **SECTION 110A – SCHEDULE OF FEE TABLES**

5 * * * *

6 **TABLE 1A-A – BUILDING PERMIT FEES**

7

	<i>NEW CONSTRUCTION</i> ^{1,3}		<i>ALTERATIONS</i> ^{1,23}		<i>NO PLANS</i> ^{1,2,3}
TOTAL VALUATION	PLAN REVIEW FEE	PERMIT ISSUANCE FEE	PLAN REVIEW FEE	PERMIT ISSUANCE FEE	PERMIT ISSUANCE FEE

8
 9
 10
 11
 12
 13 * * * *

14 **NOTES:**

- 15 1. These permit fees do not include other fees that may be required by other
 16 Departments: Public Works, Planning, Fire, Public Health, etc., nor do they include
 17 plumbing, electrical or mechanical permit fees unless so stated in the other fee tables.
- 18 2. A surcharge of \$5.00 shall be added to those alteration permits sought for
 19 buildings classified as R3 (one/two-family dwelling) and E3 (licensed day care) that were
 20 constructed prior to 1979 to implement the interior lead safe work practices provisions of
 21 Section 3407 et seq. of this code.
- 22 3. All permit fees related to reviewing the structural integrity of awning
 23 replacements *and awning installations* for permits submitted "over the counter" at the Central
 24 Permit Bureau are hereby waived for any *Small Business Enterprise that applies for a permit*
 25 *issued to a Small Business Enterprise* for such activities during the month of May. For purposes

1 of this Section, a Small Business Enterprise shall be a business that has 100 or fewer
2 employees. The Planning Department and the Department of Building Inspection shall
3 establish a process by which those two departments will certify that an applicant is a Small
4 Business Enterprise for the purpose of this Section and Section ~~355~~ 350 of the Planning
5 Code. To the extent this provision for Small Business Month Fee Waivers differs from the
6 description in subsection (f) on page 43 of Ordinance No. 149-16, this provision governs.
7

8 * * * *

9 **TABLE 1A-E – ELECTRICAL PERMIT ISSUANCE AND INSPECTION FEE**

10 **SCHEDULE**

11 A. Permit applicants are required to itemize the proposed scope of work and select
12 the appropriate category and fee amount.

13 B. Separate permits are required for each structure, condominium unit, existing
14 dwelling unit (except in R3 occupancies), common area, commercial office floor or individual
15 tenant space.

16 C. Standard hourly permit issuance and inspection rates shall apply for installations
17 not covered by this fee schedule.

18 D. Fees shall be paid in full prior to obtaining: occupancy approval, job card signature,
19 permission to energize, or final signoff, as applicable.

20 E. For the purpose of fee calculation: appliances and utilization equipment each count
21 as one outlet or device in addition to receptacles, switches, and light outlets.

22 F. All permit fees related to reviewing the installation of pedestrian level lighting
23 are hereby waived for any Small Business Enterprise that applies for a permit issued for such
24 activities ~~for Small Business Enterprises~~ during the month of May. For purposes of this Section, a
25 Small Business Enterprise shall be a business that has 100 or fewer employees. The

1 Planning Department and the Department of Building Inspection shall establish process by
2 which those two departments will certify that an applicant is a Small Business Enterprise for
3 the purpose of this Section and Section ~~355~~ 350 of the Planning Code. To the extent this
4 provision for Small Business Month Fee Waivers differs from the description in subsection (f) on page
5 43 of Ordinance No. 149-16, this provision governs.

6 See Table 1A-R for refund policy.

7 See Table 1A-J for permit extensions.

8 * * * *

9
10 Section 5. Effective Date; Retroactivity.

11 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
12 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
13 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
14 Mayor’s veto of the ordinance.

15 (b) The Board of Supervisors intends that this ordinance be operative during the
16 entirety of May 2023, which is Small Business Month. To effectuate this intent, the operative
17 provisions of this ordinance shall be retroactive to May 1, 2023 should the effective date of the
18 ordinance occur after May 1, 2023. If any fees that are waived by this ordinance have been
19 collected prior to its effective date, said fees shall be promptly refunded on or after the
20 effective date of the ordinance.

21
22 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
23 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
24 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
25 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

1 additions, and Board amendment deletions in accordance with the “Note” that appears under
2 the official title of the ordinance.

3
4 Section 7. Effect of Ordinance on Ordinance No. 149-16; Directions to Clerk of the
5 Board of Supervisors.

6 (a) This ordinance overlaps with subsection (f) on page 43 of Ordinance No. 149-16,
7 duplicating some of that subsection’s features but making some changes. To the extent the
8 provisions of this ordinance differ from those of Ordinance No. 149-16, the provisions of this
9 ordinance govern. This ordinance therefore supersedes subsection (f) on page 43 of
10 Ordinance No. 149-16.

11 (b) Upon the effective date of this ordinance, the Clerk of the Board of Supervisors
12 shall place a copy of this ordinance in Board File No. 160632, the file for Ordinance No. 149-
13 16. In addition, the Clerk of the Board shall indicate on the Board’s website chart for
14 ordinances enacted in 2016 that Ordinance No. 149-16 has been superseded in part by this
15 ordinance.

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

19 By: /s/
20 GIULIA GUALCO-NELSON
21 Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning, Building Codes - Small Business Month Fee Waivers Including for Awning Installation]

Ordinance amending the Planning and Building Codes to codify the annual waiver of awning replacement fees and awning sign fees applied for during the month of May, to annually waive fees for new awning installations applied for during the month of May, and to indicate that the Planning Code and Building Code waivers pertaining to pedestrian street lighting as well as awning replacement, awning installation, and awning sign fees are keyed to permit application in May rather than permit issuance in May; 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

May is Small Business Month in San Francisco. (See Administrative Code Section 2A.240(a)(7).)

Planning Code Section 350 authorizes the Planning Department to charge fees to compensate the Department for the cost of processing applications, developing and revising land use controls, and performing or providing other activities and services. Currently, such fees are contained in Ordinance No. 149-16.

Planning Code Section 350(j) provides for waivers or reductions of certain fees. Certain waivers are contained in Ordinance No. 149-16, which includes a waiver for permit fees for awning replacement and signs on awnings during the month of May for a Small Business Enterprise.

Building Code Section 110A contains the schedule of fees for building permits. Table 1A-A contains a fee waiver for awning replacements for a Small Business Enterprise during the month of May. Table 1A-E contains a fee waiver for pedestrian-level lighting permits for a Small Business Enterprise during the month of May.

Amendments to Current Law

This ordinance would amend Planning Code Section 350(j) to codify the existing planning fee waivers for Small Business Enterprises. It would also add a fee waiver for new installation of awnings during the month of May.

FILE NO. 230212

This ordinance would also amend Building Code Section 110A to add the building permit fee waiver for new installation of awnings during the month of May and make additional clarifying edits.

The ordinance also clarifies that the Planning Code and Building Code fee waivers applies to Small Business Enterprises that apply for such permits during the month of May.

The operative provisions of this ordinance shall be retroactive to May 1, 2023 should the effective date of the ordinance occur after May 1, 2023.

This ordinance also contains provisions that overlap with subsection (f) on page 43 of Ordinance No. 149-16. To the extent the provisions of this ordinance differ from those of Ordinance No. 149-16, the provisions of this ordinance govern.

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