

BOARD of SUPERVISORS



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MEMORANDUM

Date: May 22, 2024
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240499
Building Code - Vacant Storefronts and Infrastructure Construction

- 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 John Carroll at john.carroll@sfgov.org.

1 [Building Code - Vacant Storefronts and Infrastructure Construction]

2

3 **Ordinance amending the Building Code to exempt storefronts that are vacant due to**
4 **public infrastructure construction from vacant storefront registration requirements;**
5 **and affirming the Planning Department's determination under the California**
6 **Environmental Quality Act.**

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

11

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

13

14 Section 1. Findings.

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

20 (b) On _____, at a duly noticed public hearing, the Building Inspection
21 Commission considered this ordinance in accordance with Charter Section 4.121 and Building
22 Code Section 104A.2.11.1.1. A copy of a letter from the Secretary of the Building Inspection
23 Commission regarding the Commission's recommendation is on file with the Clerk of the
24 Board of Supervisors in File No. _____.

25

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 2. Chapter 1A of the Building Code is hereby amended by revising Section
8 103A.5 (specifically, Section 103A.5.1), to read as follows:

9 **103A.5 Vacant or Abandoned Commercial Storefronts – Annual Registration;**
10 **Registration Fees; Maintenance and Security Requirements.**

11 **103A.5.1 Definitions.** For the purposes of Section 103A.5, including Sections
12 103A.5.1-103A.5.7:

13 * * * *

14 **VACANT OR ABANDONED.** A Commercial Storefront shall be Vacant or Abandoned
15 if it (1) is unoccupied and unsecured; or (2) is unoccupied and secured by boarding or other
16 similar means; or (3) is unoccupied and unsafe as defined in Section 102A of this Code; or (4)
17 is unoccupied and has multiple code violations; or (5) has been unoccupied for over 30 days.
18 Notwithstanding the foregoing sentence, a Commercial Storefront shall not be considered
19 Vacant or Abandoned if

20 (1) There is a valid building permit for repair, rehabilitation, or construction of the
21 Commercial Storefront and the owner completes the repair, rehabilitation, or construction
22 within one year from the date the initial permit was issued, unless the Department, in its sole
23 discretion, determines that the owner needs additional time to complete the repair,
24 rehabilitation, or construction of the Commercial Storefront; or

1 (2) The owner or leaseholder has filed an application for, and is actively seeking to
2 obtain, authorization, permits, or a license required by state or local law permitting the lawful
3 use and occupancy of the Commercial Storefront; or

4 (3) The owner or leaseholder submits evidence, and the Department verifies, that vacancy is
5 due to public infrastructure construction or maintenance activity impacting the Commercial
6 Storefront's access to the nearest public right-of-way or essential utilities. Where the Department
7 verifies a Commercial Storefront is vacant due to infrastructure construction or maintenance activity,
8 the Commercial Storefront shall not be subject to the requirements in subsections 105A.5.2 through
9 105A.5.6 for 180 calendar days from the date of the Department's verification. The initial exemption
10 period may be extended by the Department where it verifies infrastructure construction or maintenance
11 activity continues to impact the Commercial Storefront. The owner or leaseholder shall alert the
12 Department within 30 days of the conclusion of infrastructure construction or maintenance activity.

13
14 Section 3. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 of Supervisors overrides the Mayor's veto of the ordinance.

18
19 APPROVED AS TO FORM:
20 DAVID CHIU, City Attorney

21 By: /s/ Robb Kapla
22 ROBB KAPLA
23 Deputy City Attorney

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LEGISLATIVE DIGEST

[Building Code - Vacant Storefronts and Infrastructure Construction]

Ordinance amending the Building Code to exempt storefronts that are vacant due to public infrastructure construction from vacant storefront registration requirements; and affirming the Planning Department’s determination under the California Environmental Quality Act.

Existing Law

Section 103A.5 of the Building Code requires storefronts that have been vacant for 30 days, are unsafe, or are improperly secured or maintained, to register with the Department of Building Inspection (“DBI”), pay an annual fee, and comply with various provisions to ensure the property does not fall into disrepair or blight. There are two exceptions to the registration requirements. The first exception is for storefronts that pulled a building permit within the last year to repair, rehabilitate, or do new construction at the property. The second exception is for storefronts where there is an active application to establish or change the use or occupancy of the storefront.

Amendments to Current Law

The Proposed Legislation would add a third exception to the vacant storefront registration requirements for storefronts where public infrastructure construction or maintenance activities impact the storefront’s access to the nearest public right-of-way and/or essential utilities. The initial exception would last 180 days and can be renewed if DBI verifies the construction or maintenance activities continue to impact the storefront. Owners of exempted storefronts must notify DBI within 30 days of conclusion of the impacting activities and if the storefront remains vacant, be subject to the registration requirements of Section 103A.5.

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Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2024 MAY 14 AM 11:56

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment) BY GA
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor _____ inquires..."
- 5. City Attorney Request
- 6. Call File No. _____ from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No. _____
- 9. Reactivate File No. _____
- 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Chan

Subject:

Building Code - Vacant Storefronts and Infrastructure Construction

Long Title or text listed:

Ordinance amending the Building Code to exempt storefronts that are vacant due to public infrastructure construction from vacant storefront registration requirements; and affirming the Planning Department's determination under the California Environmental Quality Act.

Signature of Sponsoring Supervisor:

