



SAN FRANCISCO PLANNING DEPARTMENT

September 27, 2016

Ms. Angela Calvillo, Clerk
Honorable Supervisor Peskin
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 2016-008022PCA:
Signs- Exemptions and General Advertising Sign Penalties
Board File No. 160553
Planning Commission Recommendation: Approval**

Dear Ms. Calvillo and Supervisor Peskin,

On September 15, 2016, the Planning Commission conducted duly noticed public hearings at regularly scheduled meetings to consider the proposed Ordinance that would amend the Planning Code to clarify that all noncommercial signs are exempt from regulation pursuant to Planning Code Article 6, increase penalties for repeat violations for the display of General Advertising Signs, shorten the time before penalties for General Advertising Sign violation begin to accrue and allow property liens for such penalties that go unpaid, introduced by Supervisor Peskin. At the hearing the Planning Commission recommended approval.

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.

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,

A handwritten signature in black ink, appearing to read "Aaron D. Starr".

Aaron D. Starr
Manager of Legislative Affairs

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cc:

Victoria Wong, Deputy City Attorney
Sunny Angulo, Aide to Supervisor Peskin
Alisa Somera, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19736

HEARING DATE SEPTEMBER 15, 2016

Project Name: Signs- Exemptions and General Advertising Sign Penalties
Case Number: 2016-008022PCA [Board File No. 160553]
Initiated by: Supervisor Peskin / Introduced May 17, 2016
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO CLARIFY THAT ALL NONCOMMERCIAL SIGNS ARE EXEMPT FROM REGULATION PURSUANT TO PLANNING CODE, ARTICLE 6; INCREASE PENALTIES FOR REPEAT VIOLATIONS FOR THE DISPLAY OF GENERAL ADVERTISING SIGNS; SHORTEN THE TIME BEFORE PENALTIES FOR GENERAL ADVERTISING SIGN VIOLATIONS BEGIN TO ACCRUE; ALLOW PROPERTY LIENS FOR SUCH PENALTIES THAT GO UNPAID; 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 A FINDING OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE SECTION 302 FINDINGS.

WHEREAS, on May 17, 2016 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 160553, which would amend the Planning Code to clarify that all noncommercial Signs are exempt from regulation pursuant to Planning Code, Article 6; increase penalties for repeat violations for the display of illegal General Advertising Signs; shorten the time before penalties for General Advertising Sign violations begin to accrue; and allow property liens for such penalties that go unpaid;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 15, 2016; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) and 15378; 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 1650 Mission Street, Suite 400, San Francisco; and

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

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve** the proposed ordinance.

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:

1. San Francisco's urban environment and aesthetics set it apart from most large cities in the US. Carefully crafted signage regulations have helped the City's aesthetics and contributed to its distinction.
2. The City's voters have repeatedly adopted ballot measures to contain and control General Advertising Signs. These have been adopted in large part to maintain and improve the City's aesthetics.
3. Ordinances to bolster existing sign regulations, and in particular those for General Advertising Signs, align with the voting electorate's policy preference for meaningful signage controls.
4. Clarifying sign exemptions, increasing penalties for repeat General Advertising Sign violators, accelerated response times for General Advertising Sign violators and new methods to assure the City collects unpaid penalties are all methods to improve the City's signage regulations and are consistent with the policy direction for sign regulations.
5. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

URBAN DESIGN ELEMENT

OBJECTIVE 4

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.14

Remove and obscure distracting and cluttering elements.

The proposed Ordinance will help to better regulate signs in the City, including illegal General Advertising Signs. Illegal signage is often culpable for the street clutter that detracts from the City's urban streetscape.

VAN NESS AVENUE AREA PLAN

OBJECTIVE 8

CREATE AN ATTRACTIVE STREET AND SIDEWALK SPACE WHICH CONTRIBUTES TO THE TRANSFORMATION OF VAN NESS AVENUE INTO A RESIDENTIAL BOULEVARD.

Policy 8.11

Permit general advertising signs, business signs and other identifying signs. Permitted signs should meet the following design criteria.

The proposed Ordinance will aid enforcement efforts on General Advertising signs that are illegally installed or that are altered to not meet the design criteria in the Van Ness Avenue Area Plan, including that General advertisement Signs should conform to State Outdoor Advertisement regulations requiring that no advertising display shall be placed within 100 feet from another advertising display.

6. **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 as the Ordinance concerns itself with sign regulations.

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 because the Ordinance amends sign regulations.

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 as it focuses on regulating signs.

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 because the Ordinance proposes to amend the City's sign regulations.

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 because the Ordinance concerns itself with sign regulations.

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 as it deals with the regulation of signs.

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.

7. **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 recommends that the Board ADOPT the proposed Ordinance described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 15, 2016.



Jonas P. Ionin
Commission Secretary

AYES: Hillis, Johnson, Koppel, Moore, Fong

NOES: None

ABSENT: Richards

ADOPTED: September 15, 2016



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: SEPTEMBER 15, 2016

EXPIRATION DATE: OCTOBER 13, 2016

Project Name: Signs- Exemptions and General Advertising Sign Penalties
Case Number: 2016-008022PCA [Board File No. 160553]
Initiated by: Supervisor Peskin / Introduced May 17, 2016
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to clarify that all noncommercial Signs are exempt from regulation pursuant to Planning Code, Article 6. It would also increase penalties for repeat violations for the display of illegal General Advertising (GA) Signs, shorten the time before penalties for GA Sign violations begin to accrue and allow property liens for such penalties that go unpaid.

The Way It Is Now:

Identifying, Exempted and other Signs

1. A bulletin board of a public, charitable or religious institution, used to display announcements relative to meetings to be held on the premises is an Identifying Sign.
2. Religious symbols attached to buildings, if not projecting beyond any street property line or setback line, are exempt from the restrictions under Article 6.
3. Information plaques or signs which identify to the public open spaces, architectural features, creators of artwork, or an Identifying Sign directing the public to open spaces or parking resources projecting not more than three inches from the wall and with dimensions no greater than 24 inches by 24 inches are exempt from the restrictions under Article 6.
4. Flags indicating weather conditions and single flags that are emblems of business firms, enterprises and other organizations are exempt from the restrictions under Article 6.
5. Non-illuminated art murals within the South of Market Mixed Use Districts and the Eastern Neighborhood Mixed Use Districts, except for the Urban Mixed Use District, are exempt from the restrictions of Article 6 if they project no more than 18 inches from the pre-existing surface of a structure.

General Advertising Signs

6. The Responsible Party for a violation of GA Sign requirements has 30 calendar days to either file an application to remove the GA Sign, correct the violation, or request reconsideration of the violation.
7. A Repeat Violation is subject to the same administrative penalties as an initial violation of the GA Sign requirements. These are based on the size of the GA Sign found in violation of the Planning Code and are assessed for every day in violation.

8. The Planning Department (Department) coordinates with the Bureau of Delinquent Revenue Collection for payment of assessed GA Sign penalties that go unpaid.

The Way It Would Be:

Identifying, Exempted and other Signs

1. A bulletin board of a public, charitable or religious institution, used to display announcements relative to meetings to be held on the premises would no longer be an Identifying Sign. It would be regulated under other existing sign controls including, but not limited to, exempted signs or business signs.
2. Religious symbols without limits to their projection over the street property line or setback line would be exempt from the restrictions under Article 6.
3. Information plaques or signs which identify to the public open spaces, architectural features, creators of artwork, or an Identifying Sign directing the public to open spaces or parking resources without limits to their dimensions would be exempt from the restrictions under Article 6.
4. Flags indicating weather conditions would be considered signs exempt from the restrictions under Article 6. Single flags which are emblems of business firms, enterprises and other organizations would no longer be exempt from the restrictions under Article 6. They would be considered Wind Signs.
5. Art murals, including non-illuminated art murals, in any zoning district and of any projection would be considered exempt from the restrictions of Article 6.

General Advertising Signs

6. The Responsible Party for a violation of GA Sign requirements would have five calendar days from the date of a postmarked notice of violation, or three calendar days from the hand delivery or electronic mail delivery date of a notice, to either file a permit application to remove the GA Sign, correct the violation, or request reconsideration of the violation.
7. The Responsible Party for a Repeat Violation may elect one of two ways in which to calculate accrued penalties. The first is the “Daily Penalties.” These are also based on the size of the GA Sign found in violation of the Planning Code. However, on the first day in violation, the penalty is twice the amount of the penalty for an initial violation, three times on the second day in violation, four times on the third day in violation and five times for each subsequent day in violation. The second is the “Alternative Penalty.” The Alternative Penalty consists of the income earned for the display of the illegal GA Sign, including revenue earned by the Sign owner or operator from advertisement placement and revenue earned by the property owner or lessee from the lease of the property to the Sign owner or operator, plus an additional 20% of that total income.
8. The Planning Director would be able to initiate proceedings to make payment for unpaid assessed GA Sign penalties, and all additional authorized costs, a lien on the property pursuant to Administrative Code Chapter 100.

ISSUES AND CONSIDERATIONS

Signs and the City’s Streetscape

It is important that the City’s sign controls serve its interest in aesthetics and safety while safeguarding the First Amendment right to free speech. Signs have important civic, institutional, wayfinding and commercial purposes; however, misplaced, disproportioned or an excessive number of signs detract from the visual qualities of the urban environment. They may even create pedestrian and motorist hazards. At

the same time, sign controls must comply with the First Amendment, and to that end must not regulate noncommercial speech based on content. It is therefore imperative that the City continue to refine its sign controls to ensure public beauty and safety while complying with the First Amendment by clarifying that all noncommercial speech is exempt from regulation under Article 6.

Ballot Measures Regulating General Advertising Signs

San Francisco voters have repeatedly approved ballot measures that enhance the City's regulations on General Advertising Signs. For example, in March 2002 San Francisco voters overwhelmingly approved Proposition G. This Proposition amended the Planning Code to prohibit the installation of new GA Signs.¹ In November 2007 voters approved Proposition K, a policy statement declaring the proliferation of advertising signs in the public right of way as contributors to urban blight and visual clutter.² In November 2009 the San Francisco voters once again approved a measure to limit advertising signs. Proposition E prohibited an increase in the number of GA signs on street furniture and prohibited new GA Signs on City-owned buildings.³ Together these measures indicate a preference of the City's voting electorate to restrain the proliferation of GA Signs as a means to improve neighborhood aesthetics and character.

General Advertising Sign Enforcement

Initial Violations

The intent of the Department's GA Sign enforcement procedures is to eliminate illegal GA Signs and discourage violation of the GA Sign regulations. The procedures consist of multiple steps. The first is to determine whether a GA Sign has either been erected, installed, expanded, intensified, relocated or is operating in violation of Planning Code requirements. If staff determines that a violation exists, a notice of violation is sent to the responsible party by first class mail. The notice describes the violation and provides the responsible party 30 days to respond in one of the three ways. The first is to file a permit application to remove the GA Sign. The second is to correct the violation. The third is to request reconsideration of the notice due to an error in issuance. If the Responsible Party fails to respond to the notice within the 30 days, administrative penalties are assessed. Penalties are assessed per violation on a daily basis and their magnitude depends on the size of the GA Sign found in violation (*See Table 1: GA Sign Penalty Amounts*).

¹ March 2002 Proposition G

<http://sf-planning.org/sites/default/files/FileCenter/Documents/3284-PropositionG.pdf>

Election results:

<http://sfgov.org/elections/results-summary-mar-2002>

² November 2007 Proposition K (page 102)

http://sfpl.org/pdf/main/gic/elections/November6_2007.pdf

Election results:

<http://sfgov.org/elections/election-summary>

³ November 2009 Proposition E (page 47):

http://sfpl.org/pdf/main/gic/elections/November3_2009.pdf

Election results:

<http://sfgov.org/elections/november-3-2009-municipal-election-results-summary>

TABLE 1: GA SIGN PENALTY AMOUNTS (*Planning Code Section 610(b)(2)(B)*)

SIGN SIZE	PENALTY PER DAY PER VIOLATION
100 Square Feet or Less	\$100
101 – 300 Square Feet	\$1,000
301 – 500 Square Feet	\$1,750
Over 500 Square Feet	\$2,500

Under certain circumstances, the 30 day response period is an ineffective deterrent to installing unauthorized GA Signs. In the case of short term or one-time events, the 30 day response period can be too generous a time frame. The GA Sign can publicize the event and the event can conclude well within the 30 day response period. Any costs associated with legally removing the GA Sign may be absorbed by the event host. However, no penalties would be assessed or accrued.

Subsequent Violations

Repeat violations, defined as a violation occurring on a property subject to a notice of violation during the previous five years and owned by the same entity at the time of the earlier violation, are subject to an accelerated response time prior to penalty assessment. Instead of 30 days, a response is required in three days or penalties are assessed. However, the penalty rates are currently the same as those for first time violations. While repeat violations are not extremely common, it is worthwhile to bolster repeat violation penalties. Strengthened penalties serve as a deterrent to repeatedly violating GA Sign regulations while also compensating the public for the injury and damage caused by the GA Sign violation.

Penalty Collection

When GA Sign penalties are assessed, it has been the Department's experience that violators typically pay those penalties within a reasonable time frame; however, on occasion, the GA Sign owner in violation does not pay assessed penalties at all. In these instances, the Department has worked with the Bureau of Delinquent Revenue Collection to retrieve outstanding penalties. This typically occurs many weeks into the process. Delinquent amounts are then able to be made into a lien on the property with the GA Sign violation. It would be useful if an official from the Planning Department was enabled to begin lien proceedings earlier in the enforcement process so that it could serve as a deterrent to potential GA Sign violators or those delaying payment of penalties.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The Department supports the proposed Ordinance because it further aligns the Planning Code's sign controls with the First Amendment's protection of noncommercial speech. The Department also supports the proposed strengthened deterrents to violating GA Sign controls. The accelerated violation response timeframe, updated penalty elections and the possibility of early lien proceeding initiation will serve as

valuable tools. Further, the Ordinance proposes changes in line with the multiple voter-approved ballot measures supporting the containment and enhanced control of GA Signs. Taken as a whole, the proposed amendments serve the City’s interest in improving its physical aesthetics and public safety through enhanced sign regulation.

IMPLEMENTATION

The Department has determined that this Ordinance will impact our current implementation procedures; however the proposed changes can be implemented without increasing permit costs or review time.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) 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.

RECOMMENDATION: Recommend Approval
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 160553