

BOARD of SUPERVISORS



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MEMORANDUM

Date: August 5, 2024
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240798
Building Code - Change of Use Designation and Permit Exemptions

- 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 - Change of Use Designation and Permit Exemptions]

2

3 **Ordinance amending the Building Code to exempt the requirement for architectural**
4 **drawings for building permits to change use designations that do not increase**
5 **occupant load or occupancy class, or entail physical improvements; add to the list of**
6 **work exempt from needing building permits; and affirming the Planning Department's**
7 **determination under the California Environmental Quality Act.**

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

12

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

14

15 Section 1. General Findings.

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

21 (b) On _____, the Building Inspection Commission considered this
22 ordinance at a duly noticed public hearing pursuant to Charter Section 4.121 and Building
23 Code Section 104A.2.11.1.1.

24 (c) No local findings are required under California Health and Safety Code
25 Section 17958.7 because the amendments to the Building Code contained in this ordinance

1 do not regulate materials or manner of construction or repair, and instead relate in their
2 entirety to administrative procedures for implementing the code, which are expressly excluded
3 from the definition of a “building standard” by California Health and Safety Code
4 Section 18909(c).

5
6 Section 2. Chapter 1A of the Building Code, Section 106A, is hereby amended by
7 revising Sections 106A.1.12 and 106A.2, to read as follows:

8 **106A.1.12 Permit and fees for change in occupancy or use.** Whenever a change in
9 occupancy or use is made, a building permit shall be required to legalize the changed
10 occupancy or use ~~or occupancy~~. The fee shall be the minimum fee required for filing for a permit
11 and must be secured prior to the change of occupancy.

12 No architectural or professionally prepared plans or drawings will be required for processing
13 the change of use building permit where:

- 14 (a) occupancy classification remains the same and only the use designation is being changed;
- 15 (b) the occupant load remains the same or decreases; and
- 16 (c) no physical work, including alterations, improvements, or new construction, is proposed
17 along with, or required by, the change of use.

18 In the event any alteration work is required, the alteration permit with plans shall be
19 considered sufficient for this requirement and no additional permit will be required or
20 additional fee required for the change in use or occupancy except as set forth in
21 Section 109A.8.

22 * * * *

23 **106A.2 Work exempt from permit.** [Section 105.2 of the California Building Code.]
24 Exemptions from the permit requirements of this code shall not be deemed to grant
25 authorization for any work to be done in any manner in violation of the provisions of this code

1 or any other laws or ordinances of this jurisdiction. A building permit shall not be required for
2 the following:

3 * * * *

4 25. Fixture replacements where plumbing already exists; only a plumbing permit shall be
5 required, as long as fixture-related accessibility features are maintained, repaired, or replaced.

6 26. Electrical work that can be performed under an electrical permit.

7 27. Replacement of equipment that sits on counters and/or tables, and is plugged in through
8 outlets.

9
10 Section 3. Effective Date. This ordinance shall become effective 30 days after
11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
13 of Supervisors overrides the Mayor’s veto of the ordinance.

14
15 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
16 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
17 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
18 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
19 additions, and Board amendment deletions in accordance with the “Note” that appears under
20 the official title of the ordinance.

21 APPROVED AS TO FORM:
22 DAVID CHIU, City Attorney
23 By: /s/ Robb Kapla
24 ROBB KAPLA
Deputy City Attorney

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LEGISLATIVE DIGEST

[Building Code - Change of Use Designation and Permit Exemptions]

Ordinance amending the Building Code to exempt the requirement for architectural drawings for building permits to change use designations that do not increase occupant load or occupancy class, or entail physical improvements; add to the list of work exempt from needing building permits; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Section 106A.1.12 of the Building Code requires submission of a building permit application, including professionally prepared building plans, for a change of use regardless of whether any physical modifications, improvements, or work is being done on site. Section 106A.2 of the Building Code provides a list of actions, improvements, or changes to a property that do not require building permits.

Amendments to Current Law

The Proposed Legislation would forego the requirement to submit professionally prepared building plans for permits to change the use of a property that do not involve any physical work or improvements, and do not change the occupancy classification or increase occupant load.

The Proposed Legislation would also add new examples of actions that do not require a building permit to Section 106A.2, including actions that can otherwise be done with an electrical or plumbing permit and replacing equipment that uses standard electrical outlets.

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