



June 25, 2024

Ms. Angela Calvillo, Clerk
Honorable Supervisor 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 2024-004529PCA:**
Existing Awning Amnesty Program
Board File No. 240474

Planning Commission Recommendation: Approval

Dear Ms. Calvillo and Mayor Breed,

On June 20, 2024, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Mayor Breed. The proposed ordinance would amend the Building and Planning Codes to make permanent the streamlined permitting provisions for unpermitted awnings and extend the waiver of applicable fees for one fiscal year, until July 1, 2025. At the hearing the Planning Commission recommended approval.

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.

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, Executive Director, Office of Small Business
John Carroll, Office of the Clerk of the Board

ATTACHMENTS :

Planning Commission Resolution
Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21579

HEARING DATE: JUNE 20, 2024

Project Name: Existing Awning Amnesty Program
Case Number: 2024-004529PCA [Board File No. 240474]
Initiated by: Mayor Breed / Introduced May 7, 2024
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 BUILDING AND PLANNING CODES TO MAKE PERMANENT THE STREAMLINED PERMITTING PROVISIONS FOR UNPERMITTED AWNINGS AND EXTEND THE WAIVER OF APPLICABLE FEES FOR ONE FISCAL YEAR, UNTIL JULY 1, 2025; 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 7, 2024 the Mayor introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 240474, which would amend the Building and Planning Codes to make permanent the streamlined permitting provisions for unpermitted awnings and extend the waiver of applicable fees for one fiscal year, until July 1, 2025;

WHEREAS, The Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 20, 2024; 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** 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:

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. The program is only now becoming known to many business owners across the city, and the increase in applications in the last few months of the program prove that an extension of the program is warranted. The Department finds that the amnesty program balances the City's desire to support small businesses while still promoting vibrant public spaces.

General Plan Compliance

The proposed Ordinance is 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 will help certain businesses stay afloat by extending an amnesty program that creates 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 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 20, 2024.



Jonas P. Ionin
Commission Secretary

Jonas P Ionin

Digitally signed by Jonas P Ionin
Date: 2024.06.24 12:48:46
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AYES: Braun, Williams, Imperial, Koppel, Moore, Diamond

NOES: None

ABSENT: So

ADOPTED: June 20, 2024



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: June 20, 2024

90-Day Deadline: August 13, 2024

Project Name: Existing Awning Amnesty Program
Case Number: 2024-004529PCA [Board File No. 240474]
Initiated by: Mayor Breed / Introduced May 7, 2024
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

Planning Code Amendment

The proposed Ordinance would amend the Building and Planning Codes to make permanent the streamlined permitting provisions for unpermitted awnings and extend the waiver of applicable fees for one fiscal year, until July 1, 2025.

The Way It Is Now:

Section 106A.5 of the Building Code and Section 187.3 of the Planning Code created a temporary amnesty program for awnings installed without permits prior to August 29, 2023. The amnesty program streamlined the Planning Department and Department of Building Inspection’s review of these awnings and waived all fees. The program sunset on June 1, 2024.

The Way It Would Be:

The streamlined provisions for legalizing awnings installed prior to August 20, 2023, would be reinstated and made permanent, and the fee waivers from the amnesty program would be extended for eligible awnings until July 1, 2025.

Background

In 2023, 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. In the previous year only five such complaints were received during the same period. In response, Mayor Breed and Board President Peskin introduced an ordinance (Board File No. 230745), to create a temporary amnesty program for businesses that may have unauthorized signs and awnings.

The Planning Commission heard this proposed ordinance on June 1, 2023, and voted to approve it with several modifications¹. Supervisor Peskin adopted many of the Commission's recommended modifications and the ordinance was eventually approved by the Board of Supervisors and the Mayor. The ordinance became effective in August of 2023.

Although the program was slow to receive applications when it first became effective, there has been a sharp influx of applications in recent months. The Department received nearly 200 applications to legalize existing business signs and/or awnings before the expiration of the program on June 1st. Knowing that many businesses are just learning of the amnesty program, the Department has placed a temporary stay of enforcement on cases of signs and awnings that would otherwise be eligible for the amnesty program, until after the proposed Ordinance is either disapproved by the Board, or becomes active law

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. This Small Business Month fee waiver differs from the temporary amnesty program for certain Awnings and Signs which provided an additional opportunity for small businesses seeking a fee waiver for permits related to their previously installed Awnings and/or Signs.

Issues and Considerations

Awnings, Awning Signs & Other Business Signs

Awnings:

Section 102 of the Planning Code defines an Awning as:

¹The Commission's recommended modifications were to: 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. 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 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 various technical amendments.

“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.

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.

There are many types of signs regulated by the Planning Code, including Identifying Signs, General Advertising Signs, and Business Signs. 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. A Projecting Sign generally extends beyond a street property line or a building setback line. An Awning Sign is often on multiple faces of the Awning. 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. The Department’s executive summary from the original Awning and Sign Amnesty ordinance goes into greater detail on Signs and Awnings, and their regulations. The report may be found at: https://citypln-m-extnl.sfgov.org/Commissions/CPC/6_1_2023/Commission%20Packet/2023-003753PCA.pdf.

Supporting Small Businesses

The Controller’s Office of Economic Analysis released a report² 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. The

² https://sfcontroller.org/sites/default/files/Documents/Economic%20Analysis/October%20Re-Opening%20Report_final.pdf

Controller's March 2024 report³ on the state of San Francisco's economy indicates similar findings from the 2022 report on the status of the reopening: Although tourism and office vacancy rates are slowly improving, they are still below pre-pandemic levels. Many businesses are still attempting to recover from the pandemic amidst a period of slow economic growth both locally and nationally.

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 will help certain businesses stay afloat by extending a legalization program 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 services⁴. 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 the manufacturing and light industrial sector benefits from the City's brand and its strong association with diversity, history, and innovation.

At the same time, the individual character and culture of Cultural Districts has 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 close⁵. The pandemic 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 often employed 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.

This amnesty program has assisted businesses that were not in compliance by creating a more affordable (and in some cases cost-free) path to legalization. This amnesty program helps to further equity and complements the

³ <https://www.sf.gov/sites/default/files/2024-04/Status%20of%20the%20San%20Francisco%20Economy%20March%202024.pdf>

⁴ <https://oewd.org/tourism>

⁵ https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_admin/0-0-0-59520

goal of Cultural Districts to promote and protect businesses and industries that advance the culture and history of said districts; therefore, its extension should be supported.

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* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

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. The program is only now becoming known to many business owners across the city, and the increase in applications in the last few months of the program prove that an extension of the program is warranted. The Department finds that the amnesty program balances the City's desire to support small businesses while still promoting vibrant public spaces.

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.

Attachments: