

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

LAND USE AND TRANSPORTATION COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Myrna Melgar, Chair
Land Use and Transportation Committee

FROM: John Carroll, Assistant Clerk

DATE: July 22, 2024

SUBJECT **COMMITTEE REPORT, BOARD MEETING**
Tuesday, July 23, 2024

The following file should be presented as COMMITTEE REPORT during the Board meeting on Tuesday, July 23, 2024. This ordinance was acted upon during the Land Use and Transportation Committee meeting on Monday, July 22, 2024, at 1:30 p.m., by the votes indicated.

BOS Item No. 54

File No. 240499

[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.

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote: Supervisor Myrna Melgar – Aye
Supervisor Dean Preston – Aye
Supervisor Aaron Peskin – Aye

Cc: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy
Anne Pearson, Deputy City Attorney

File No. 240499

Committee Item No. 1

Board Item No. 54

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date: July 22, 2024

Board of Supervisors Meeting:

Date: July 23, 2024

Cmte Board

- Motion
- Resolution
- Ordinance - VERSION 2
- Legislative Digest - VERSION 2
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract / DRAFT Mills Act Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER

- BIC Transmittal – July 18, 2024
- CEQA Determination – June 6, 2024
- Referrals, CEQA, BIC, and SBC – May 22, 2024
- Committee Report Request Memo – July 17, 2024
- _____
- _____
- _____
- _____
- _____

Prepared by: John Carroll

Date: July 18, 2024

Prepared by: John Carroll

Date: July 22, 2024

Prepared by: _____

Date: _____

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. 240499 and is incorporated herein by reference. The Board affirms
19 this determination.

20 (b) On July 17, 2024, 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. 240499.

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

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

20
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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REVISED LEGISLATIVE DIGEST
(Amended in Committee – July 22, 2024)

[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 for 30 days or more. 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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BUILDING INSPECTION COMMISSION (BIC)

Department of Building Inspection

49 South Van Ness Avenue, 5th Floor San Francisco, California 94103

Voice (628) 652 -3510

July 18, 2024

London N. Breed
Mayor

COMMISSION

Alysabeth
Alexander-Tut
President

Earl Shaddix
Vice-President

Evita Chavez
Catherine Meng
Bianca Neumann
Angie Sommer
Kavin Williams

Sonya Harris
Secretary

Monique Mustapha
Asst. Secretary

Patrick O'Riordan,
C.B.O., Director

Ms. Angela Calvillo
Clerk of the Board
Board of Supervisors, City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4694

Dear Ms. Calvillo:

RE: File No. 240499

Ordinance (File No. 240499) 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.

The Code Advisory Committee (CAC) considered this Ordinance on July 10, 2024 and after review and discussion the CAC voted, 10 to 1, to recommend disapproval of the proposed ordinance, on the grounds that the overall program should not, in their opinion, be the Department's responsibility. The vote included a recommendation to rescind or to place on hold the original ordinance as it exists.

The Building Inspection Commission met and held a public hearing on July 17, 2024 regarding the proposed amendment to the Building Code contained in Board File No. 240499. The Commissioners supported the legislation and positively discussed the proposed amendments.

Following the discussion, Angelina Yu, Supervisor Chan's Aide said that she would take the comments back to the Supervisor regarding the following: They are not expecting DBI staff to be the subject matter experts around causality, and will strike out that piece. Allowing for the submittal of evidence comes down to the forms and how it is communicated to the public, and they would work with DBI going forward.

The Commissioners voted unanimously to **recommend approval of the ordinance with the recommendation that Supervisor Chan adopt a geographical boundary that is clearly defined.**

President Alexander-Tut	Yes
Vice-President Shaddix	Yes
Commissioner Chavez	Yes
Commissioner Meng	Yes
Commissioner Neumann	Yes
Commissioner Sommer	Yes
Commissioner Williams	Yes

Should you have any questions, please do not hesitate to call me at (628) 652-3510.

Sincerely,



Sonya Harris
Commission Secretary

cc: Patrick O'Riordan, Director
Mayor London N. Breed
Supervisor Connie Chan
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.) Not defined of a project as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.
- Ordinance / Resolution 6/6/2024
- 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.

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MEMORANDUM

TO: Patrick O’Riordan, Director, Department of Building Inspection
Sonya Harris, Secretary, Building Inspection Commission

FROM: John Carroll, Assistant Clerk
Land Use and Transportation Committee

DATE: May 22, 2024

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors’ Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Chan on May 14, 2024:

File No. 240499

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.

The proposed ordinance is being transmitted pursuant to Charter, Section D3.750-5, for public hearing and recommendation. It is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Please forward me the Commission’s recommendation and reports at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: john.carroll@sfgov.org.

c:
Offices of Chair Melgar and Supervisor Chan
Patty Lee, Department of Building Inspection

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MEMORANDUM

TO: Katy Tang, Director
Small Business Commission, City Hall, Room 448

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: May 22, 2024

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. 240499

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.

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.

c:
Offices of Chair Melgar and Supervisor Chan
Kerry Birnbach, Senior Policy Analyst/Commission Secretary

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

No Comment
 Recommendation Attached

Chairperson, Small Business Commission



MYRNA MELGAR

DATE: July 17, 2024

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee
COMMITTEE REPORTS

A handwritten signature in blue ink, appearing to read "mm", located to the right of the "FROM:" line.

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request them be considered by the full Board on Tuesday, July 23, 2024, as Committee Reports:

- | | |
|------------------------|--|
| File No. 240499 | Building Code - Vacant Storefronts and Infrastructure Construction
Sponsor: Chan |
| File No. 240297 | Building Code - Deadlines for Disability Access Improvements for Places of Public Accommodation
Sponsors: Mandelman; Engardio and Chan |

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, July 22, 2024, at 1:30 p.m.

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:

