[Building, Planning Codes - Existing Awning Amnesty Program]

Ordinance amending the Building and Planning Codes to create a temporary amnesty program for unpermitted awnings that streamlines the application process to legalize awnings, waives applicable fees, and confers legal nonconforming status for awnings that do not comply with the Planning Code; 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.

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

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

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 230447 and is incorporated herein by reference. The Board affirms this determination.

(b) On June 1, 2023, the Planning Commission, in Resolution No. 21328, adopted findings [OR, the Planning Department determined] that the actions contemplated in this

ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings [OR, this determination] as its own. A copy of said Resolution [OR determination] is on file with the Clerk of the Board of Supervisors in File No. 230447, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, the Board finds that this Planning Code amendment will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 230447, and the Board incorporates such reasons herein by reference. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File No. 230447.

(d) On May 17, 2023, at a duly noticed public hearing, the Building Inspection Commission considered this ordinance in accordance with Charter Section D3.750-5 and Building Code Section 104A.2.11.1.1. A copy of a letter from the Secretary of the Building Inspection Commission regarding the Commission's recommendation is on file with the Clerk of the Board of Supervisors in File No. 230447.

(e) No local findings are required under California Health and Safety Code Section 17958.7 because the amendments to the Building Code contained in this ordinance do not regulate materials or manner of construction or repair, and instead relate in their entirety to administrative procedures for implementing the code, which are expressly excluded from the definition of a "building standard" by California Health and Safety Code Section 18909(c).

Section 2. The Building Code is hereby amended by adding Section 106A.5, to read as follows:

106A.5 Awning Amnesty Program. *The Department shall implement the temporary amnesty program outlined in this Section 106A.5 to incentivize and expedite the legalization of Awnings, as defined and regulated in Section 1703 of the Building Code, that were installed without a building*

permit or for which the Department has no record of a building permit on file as of the effective date of this ordinance in Board File No. 230447. All property owners that have Awnings without a building permit on file are eligible for the amnesty program, including property owners with active Notices of Violation for installing or having an Awning without a building permit.

106A.5.1 Certification of Existing Installation: No New Construction, Repairs, or Corrective Work. *The amnesty program shall provide a streamlined process to verify that an existing Awning complies with applicable provisions of the Building Code as well as Planning Code Section 187.3 and will result in a building permit authorizing the existing Awning. The amnesty program shall not authorize new construction or corrective work to bring an existing Awning into compliance. Any alterations, modifications, or construction required to bring the Awning into compliance with the Building Code will require a standard building permit and is not subject to the provisions of this Section 106A.5, except that the fees for any such permit shall be waived pursuant to Section 106A.5.2.*

106A.5.2 Waiving of Fees. *Notwithstanding any other provisions of the Building Code, the Department shall waive all fees for applications eligible for the amnesty program and for any permits required to repair or replace an Awning that the Department determined was not in compliance with the Building Code, including the application fee for plan review, permit issuance fee for inspections, and any enforcement fees, including inspection fees required under Section 107A.5 for work without a permit.*

106A.5.3 Streamlined Application Process. *The Department shall develop a streamlined application process to facilitate and expedite review of Awning permits during the amnesty program. The application shall require only information essential to determining whether an existing Awning complies with the applicable Building and Planning Code provisions, including the Planning Code's amnesty program in Planning Code Section 187.3.*

106A.5.4 No Relaxation of Building Standards. *The amnesty program governs the certification of existing Awnings' compliance with applicable Building Code provisions. Any Awning*

that is not in compliance with the Building Code will require a separate building permit to repair, replace, or remove the Awning.

106A.5.5 Sunset. *Unless the Board of Supervisors adopts an ordinance extending the term of this Section 106A.5, it shall expire by operation of law on June 1, 2024. At such time, the City Attorney shall cause it to be removed from the Building Code.*

Section 3. The Planning Code is hereby amended by adding Section 187.3, to read as follows:

Sec. 187.3. PRE-EXISTING AWNINGS; AMNESTY.

(a) Intent. *The purpose of this Section 187.3 is to recognize the impacts of the COVID-19 pandemic on small businesses, to acknowledge the contribution of those businesses' Awnings and Signs, as defined in Sections 102 and 602 of this Code, respectively, to the diverse character of the City's commercial corridors, and to establish a time-limited program whereby certain existing Awnings and Signs that have been erected, installed, or maintained without required permits may be allowed to remain.*

(b) Controls. *Notwithstanding any other provision of this Code, an Awning or Sign existing on the effective date of this ordinance in Board File No. 230447 may be considered an existing noncomplying structure and/or nonconforming use governed by this Article 1.8 so long as the Sign or Awning is not affixed to a building subject to Article 11 of this Code, has existed at the same general location with the same general size, construction methodology, and material for at least five years prior to the effective date. In the case of a Sign, the name of the business and/or particular Sign copy need not have remained unchanged during that five-year period so long as the general location of the Sign has remained constant. In addition to the foregoing, Awnings that have been required by the Department of Building Inspection on or after January 1, 2023 to be replaced or altered, along with any Signs affixed to such Awnings, may be replaced or altered consistent with such requirement and*

subsequently considered noncomplying structures and/or nonconforming uses subject to this Section 187.3 so long as such replacement or alteration does not increase the degree of nonconformity or noncompliance with other Sections of this Code.

(c) Procedures. *The Planning Director or Zoning Administrator or their designee(s) shall determine the degree of nonconformity or noncompliance for each Awning or Sign that is granted amnesty under this Section. Determinations of nonconformity and/or noncompliance shall be based on (i) historical photographs to be provided by the applicant and/or which are publicly available; (ii) current photographs provided by the applicant, including photographs showing the Awning's points of attachment to the building; and (iii) drawings provided by the applicant which need not be professionally prepared so long as those drawings depict the width, depth, height, projection, elevation, and other key characteristics of the Signs or Awnings in question. Such determination shall be memorialized either on a Building Permit, Sign Permit, or other form developed by the Planning Department or other City agency.*

(d) Fees. *Notwithstanding any other provision of this Code or the Administrative Code, no fee shall be charged by the Planning Department for a determination under this Section and/or for review of Building Permit Applications, Sign Permit Applications, or other approvals which relate exclusively to the implementation of this Section, including any enforcement fees under Section 350(g)(1) of this Code.*

(e) Sunset. *Unless the Board of Supervisors adopts an ordinance extending the term of this Section 187.3, it shall expire by operation of law on June 1, 2024. At such time, the City Attorney shall cause it to be removed from the Planning Code and no additional Signs or Awnings may be altered, replaced, or reviewed for consideration as nonconforming or noncomplying under this Section.*

Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Robb Kapla_____
ROBB KAPLA
Deputy City Attorney

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