

BOARD of SUPERVISORS



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MEMORANDUM

Date: May 15, 2024
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240474
Building, Planning Codes - Existing Awning Amnesty Program

- 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, Planning Codes - Existing Awning Amnesty Program]

2

3 **Ordinance amending the Building and Planning Codes to make permanent the**
4 **streamlined permitting provisions for unpermitted awnings and extend the waiver of**
5 **applicable fees for one fiscal year, until July 1, 2025; affirming the Planning**
6 **Department’s determination under the California Environmental Quality Act; making**
7 **findings of consistency with the General Plan, and the eight priority policies of**
8 **Planning Code, Section 101.1; and making findings of public necessity, convenience,**
9 **and welfare pursuant to Planning Code, Section 302.**

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

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

18

19 Section 1. Findings.

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

25 (b) On _____, the Planning Commission, in Resolution No. _____, adopted
findings 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

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
2 Board of Supervisors in File No. _____, and is incorporated herein by reference.

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

8 (d) On _____, at a duly noticed public hearing, the Building Inspection Commission
9 considered this ordinance in accordance with Charter Section 4.121 and Building Code
10 Section 104A.2.11.1.1. A copy of a letter from the Secretary of the Building Inspection
11 Commission regarding the Commission’s recommendation is on file with the Clerk of the
12 Board of Supervisors in File No. _____.

13 (e) No local findings are required under California Health and Safety Code Section
14 17958.7 because the amendments to the Building Code contained in this ordinance do not
15 regulate materials or manner of construction or repair, and instead relate in their entirety to
16 administrative procedures for implementing the code, which are expressly excluded from the
17 definition of a “building standard” by California Health and Safety Code Section 18909(c).

18
19 Section 2. Chapter 1A, Section 106A of the Building Code is hereby amended by
20 revising Sections 106A.5 and 106A.5.2, and deleting Section 106A.5.5, to read as follows:

21 **SECTION 106A – PERMITS**

22 * * * *

23 **106A.5 Awning Amnesty Program.** The Department shall implement the *temporary*
24 amnesty program outlined in this Section 106A.5 to incentivize and expedite the legalization of
25 Awnings, as defined and regulated in Section 1703 of the Building Code, that were installed

1 without a building permit or for which the Department has no record of a building permit on file
2 as of August 20, 2023~~the effective date of this ordinance in Board File No. 230477~~. All property
3 owners that have Awnings without a building permit on file are eligible for the amnesty
4 program, including property owners with active Notices of Violation for installing or having an
5 Awning without a building permit.

6 * * * *

7 **106A.5.2 Waiving of Fees.** Notwithstanding any other provisions of the Building Code,
8 the Department shall continue until July 1, 2025 to waive all fees for applications eligible for the
9 amnesty program and for any permits required to repair or replace an Awning that the
10 Department determined was not in compliance with the Building Code, including the
11 application fee for plan review, permit issuance fee for inspections, and any enforcement fees,
12 including inspection fees required under Section 107A.5 for work without a permit.

13 * * * *

14 ~~**106A.5.5 Sunset.** Unless the Board of Supervisors adopts an ordinance extending the term of
15 this Section 106A.5, it shall expire by operation of law on June 1, 2024. At such time, the City Attorney
16 shall cause it to be removed from the Building Code.~~

17
18 Section 3. Article 1.7 of the Planning Code is hereby amended by revising Section
19 187.3, to read as follows:

20 **SEC. 187.3. PRE-EXISTING AWNINGS AND SIGNS; AMNESTY.**

21 * * * *

22 **(b) Controls.** Notwithstanding any other provision of this Code, an Awning or
23 Business Sign physically existing on or serving a non-Residential business on August 20,
24 2023~~the introduction date of this ordinance in Board File No. 230745-230447~~ may be considered an
25 existing noncomplying structure and/or nonconforming use governed by this Article 1.7~~8~~ so

1 long as the Sign or Awning is not affixed to a building designated as significant or contributory
2 under Article 11 of this Code. In addition to the foregoing, Awnings or Signs that have been
3 required by the Department of Building Inspection on or after January 1, 2023 to be replaced
4 or altered, may be replaced or altered consistent with such requirement and subsequently
5 considered noncomplying structures and/or nonconforming uses subject to this Section 187.3
6 so long as such replacement or alteration does not increase the degree of nonconformity or
7 noncompliance with other Sections of this Code. All Signs must comply with the illumination
8 provisions of Article 6 of this Code.

9 * * * *

10 (d) **Fees.** Notwithstanding any other provision of this Code or the Administrative
11 Code, no fee shall be charged by the Planning Department for a determination under this
12 Section and/or for review of Building Permit Applications, Sign Permit Applications, or other
13 approvals which relate exclusively to the implementation of this Section, including any
14 enforcement fees under Section 350(g)(1) of this Code, as long as the application is submitted
15 before July 1, 2025.

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

20
21 Section 4. Effective Date; Retroactivity.

22 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
23 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
24 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
25 Mayor’s veto of the ordinance.

1 (b) It is the intent of the Board of Supervisors that Section 106A.5 of the Building Code
2 and Section 187.3 continue in operation without interruption. Accordingly, on its effective
3 date, this ordinance will be retroactive to June 1, 2024.

4
5 APPROVED AS TO FORM:
6 DAVID CHIU, City Attorney

7 By: /s/ Robb Kapla
8 ROBB KAPLA
9 Deputy City Attorney

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LEGISLATIVE DIGEST

[Building, Planning Codes - Existing Awning Amnesty Program]

Ordinance amending 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.

Existing Law

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 sunsets on June 1, 2024.

Amendments to Current Law

The Proposed Legislation would make the streamlined provisions for legalizing awnings installed prior to August 20, 2023 permanent and extend fee waivers for eligible awnings for one fiscal year to July 1, 2025.

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