

BOARD of SUPERVISORS



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MEMORANDUM

TO: Tom Hui, Director, Department of Building Inspection
Sonya Harris, Secretary, Building Inspection Commission

FROM: Erica Major, Assistant Clerk
Land Use and Transportation Committee

DATE: December 17, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Fewer on December 11, 2018:

File No. 181213

Ordinance amending the Building Code to require vacant or abandoned commercial storefront owners to pay annual registration fees at the time of registration; require annual inspections of registered vacant or abandoned storefronts; update the penalty for violations of the requirement to register vacant or abandoned commercial storefronts; 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: Erica.Major@sfgov.org.

c: William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection

1 [Building Code - Vacant or Abandoned Commercial Storefronts]

2

3 **Ordinance amending the Building Code to require vacant or abandoned commercial**
4 **storefront owners to pay annual registration fees at the time of registration; require**
5 **annual inspections of registered vacant or abandoned storefronts; update the penalty**
6 **for violations of the requirement to register vacant or abandoned commercial**
7 **storefronts; and affirming the Planning Department’s determination under the**
8 **California Environmental Quality Act.**

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

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

15

16 Section 1. Findings.

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

22 (b) The Building Inspection Commission considered this ordinance on _____,
23 at a duly noticed public hearing, pursuant to Charter Section D3.750-5.

24

25

1 Section 2. Chapter 1A of the Building Code is hereby amended by revising Sections
2 103A (more particularly Section 103A.5 and its subparts) and 110A (more particularly Table
3 1A-K), to read as follows:

4 * * * *

5 **SEC. 103A – VIOLATIONS**

6 * * * *

7 **103A.5 Vacant or Abandoned Commercial Storefronts – Annual Registration;**
8 **Registration Fees; Maintenance and Security Requirements.**

9 **103A.5.1 Definitions.** For the purposes of Section 103A.5, including Sections
10 103A.5.1-103A.5.3-67:

11 * * * *

12 **VACANT OR ABANDONED.** A Commercial Storefront shall be Vacant or
13 Abandoned if it (1) is unoccupied and unsecured; or (2) is unoccupied and secured by
14 boarding or other similar means; or (3) is unoccupied and unsafe as defined in Section 102A
15 of this Code; or (4) is unoccupied and has multiple code violations; or (5) has been
16 unoccupied for over 30 days. Notwithstanding the foregoing sentence, a Commercial
17 Storefront shall not be considered Vacant or Abandoned if

18 (1) There is a valid building permit for repair, rehabilitation, or construction of the
19 Commercial Storefront and the owner completes the repair, rehabilitation, or construction
20 within one year from the date the initial permit was issued, unless the Department, in its sole
21 discretion, determines that the owner needs additional time to complete the repair,
22 rehabilitation, or construction of the Commercial Storefront; or

23 (2) The owner or leaseholder has filed an application for, and is actively seeking to
24 obtain, authorization, permits, or a license required by state or local law permitting the lawful
25 use and occupancy of the Commercial Storefront.

1 ~~(3) The Commercial Storefront complies with all provisions of state and local law, does not~~
2 ~~contribute to blight as defined in Chapter 80 of the Administrative Code, is ready for occupancy, and~~
3 ~~the owner provides evidence satisfactory to the Department that the Commercial Storefront is actively~~
4 ~~being offered for sale, lease, or rent. Satisfactory evidence shall include, but is not limited to, evidence~~
5 ~~that the owner has hired a real estate agent or other rental agent who advertises and promotes the~~
6 ~~Commercial Storefront for rent, lease or sale, or proof that the Commercial Storefront is offered for~~
7 ~~sale on the Multiple Listing Service or any other comparable real estate listing service.~~

8 **103A.5.2 Property owner's obligation to register a vacant or abandoned**
9 **commercial storefront; registration fee.** The owner of a Vacant or Abandoned Commercial
10 Storefront shall, within 30 days after it has become vacant or abandoned, register the
11 Commercial Storefront with the Department on a form provided by the Department. The form
12 shall describe the methods by which the owner has secured the Commercial Storefront
13 against unauthorized entry, provide a contact phone number for the Commercial Storefront
14 owner or party responsible for maintenance of the Commercial Storefront, state the most
15 recent legal use of the Commercial Storefront, state the square footage of the Commercial
16 Storefront, declare any future plans for the Commercial Storefront, state whether there is fire
17 and liability insurance coverage, and provide such other information as the Department may
18 require. The owner shall pay an annual A-registration fee, which shall be due when the owner
19 submits the registration form to the Department shall be due 270 days after the Commercial Storefront
20 has become vacant or abandoned, unless the Director has issued a notice to register under Section
21 103A.5.4, in which case the registration fee shall be due 270 days after the issuance of the notice
22 ("registration payment deadline"). The registration payment deadline will serve as the date for
23 subsequent calculating an annual renewals of registration each fee which shall be paid every year
24 the Commercial Storefront remains Vacant or Abandoned ("annual renewal date"). The annual
25 registration fee shall be paid on or before the annual renewal date. However, if the owner rents the

1 Commercial Storefront to a tenant who occupies the premises in a manner that complies with
2 all provisions of state and local law prior to the registration payment deadline, the Commercial
3 Storefront shall be removed from the Department's registry and the owner *shall be refunded a*
4 *prorated amount of the registration fee based on any remaining days before the Commercial*
5 *Storefront's annual renewal date. need not pay the registration fee.* The registration fee shall be
6 equal to the amount due under Section 103A.4.2 of this Code. See Section 110A, Table 1A-J
7 for applicable fees.

8 **103A.5.3 Annual Inspections.** *The Department shall perform, pursuant to Section 102A.3 of*
9 *this Code, annual inspections of registered Vacant or Abandoned Commercial Storefronts to confirm*
10 *they remain safe and do not pose a hazard ("annual inspection"). The annual inspection shall be*
11 *performed within 60 days of a registered Vacant or Abandoned Commercial Storefront's annual*
12 *renewal date. See Section 110A, Table 1A-G, Inspections, Surveys and Reports, Survey of*
13 *nonresidential buildings, for the applicable fee.*

14 **103A.5.34 Maintenance of vacant or abandoned commercial storefront registry.**

15 The Department shall maintain a registry of all Vacant or Abandoned Commercial Storefronts
16 within the City and shall furnish a copy of the registry to the Office of Economic and Workforce
17 Development at least once per fiscal quarter.

18 **103A.5.45 Notice.** Whenever the Director has probable cause to believe, based upon
19 an inspection, complaint, or report from another agency of the City or other governmental
20 agency, that a Commercial Storefront is Vacant or Abandoned and has not been registered as
21 required by Section 103A.5.2, the Director shall serve the owner of record, as shown on the
22 Assessor's Records, or authorized agent with a written notice requiring the owner to register
23 the Commercial Storefront with the Department as Vacant or Abandoned *and pay the*
24 *registration fee* within the period of time specified in the notice, which shall be no greater than
25 30 days. *The Department shall issue a Notice of Violation ("NOV") pursuant to Section 102A.4 of this*

1 Code to owners that fail to register within the period of time specified in the notice. See Section 110,
2 Table 1A-K, Failure to register vacant commercial storefront, for the applicable penalty. Additionally,
3 the owner shall pay the associated registration fee within 270 days of the issuance of the notice to
4 register if required by Section 103A.5.2.

5 **103A.5.56 Sign posting, maintenance, security, and insurance.** All requirements
6 listed in Sections 103A.4.4-103A.4.6 of this Code shall also apply to Vacant or Abandoned
7 Commercial Storefronts. All such requirements shall be fulfilled by the owner within 30 days of
8 the Commercial Storefront becoming Vacant or Abandoned, or within 30 days of the issuance
9 of notice to register, ~~regardless of the owner's intentions to rent the Commercial Storefront before~~
10 ~~the registration payment deadline lapses.~~

11 **103A.5.67 Violation a public nuisance; enforcement.** A Commercial Storefront in
12 violation of this Section 103A.5, including Sections 103A.5.1-103A.5.76, is deemed to be a
13 public nuisance and subject to enforcement by the Department and penalties under Sections
14 102A and 103A and Section 110, Table 1A-K of this Code or other applicable sections of the
15 Municipal Code.

16
17 **SEC. 110A – SCHEDULE OF FEE TABLES**

18 * * * *

19 **TABLE 1A-K – PENALTIES, HEARINGS, CODE ENFORCEMENT ASSESSMENTS**

20
21 1. Abatement Appeals Board hearing, filing fee \$158.10 per case

22 * * * *

23 12. Failure to register vacant commercial storefront 4 times the registration fee

24 * * * *

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

5
6 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
10 additions, and Board amendment deletions in accordance with the "Note" that appears under
11 the official title of the ordinance.

12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By:


16 ROBB W. KAPLA
Deputy City Attorney

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LEGISLATIVE DIGEST

[Building Code - Vacant or Abandoned Commercial Storefronts]

Ordinance amending the Building Code to require vacant or abandoned commercial storefront owners to pay annual registration fees at the time of registration; require annual inspections of registered vacant or abandoned storefronts; update the penalty for violations of the requirement to register vacant or abandoned commercial storefronts; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Building Code Section 103A.5 *et. seq.*, Vacant or Abandoned Commercial Storefronts Ordinance ("VSO"), establishes a registry for vacant or abandoned commercial storefronts, mandates that owners register storefronts within 30 days of vacancy and pay a registration fee 270 days after vacancy, and requires owners to comply with maintenance and insurance provisions for vacant buildings outlined in Building Code Section 103A.4.4 - 103A.4.6. The VSO provides that owners do not need to register vacant storefronts that are actively being offered for rent or lease.

Amendments to Current Law

The Proposed Legislation would amend the VSO to:

1. Require registration of vacant or abandoned commercial storefronts regardless of whether the storefront is actively being offered for rent or lease;
2. Require payment of the annual registration fee at the time of registration and provide a prorated refund of the annual registration fee for storefronts that are occupied prior to expiration of their annual registration;
3. Require annual safety inspections of registered vacant storefronts within 60 days of their annual registration renewal; and
4. Set the Notice of Violation penalty for failure to register a vacant commercial storefront at four times the annual registration fee.

Background Information

The purpose of the Proposed Legislation is to make the registry of vacant storefronts more comprehensive, accurate, and effective so the City can properly assess the number and geographic scope of vacancies, ensure vacant storefronts are monitored to maintain safety and avoid blight, and to evaluate options for assisting owners that wish to find commercial

tenants. By mandating that vacant storefronts register, even if they are being offered for rent, the Proposed Legislation would better capture the full number of storefront vacancies in the City. By requiring payment of the annual registration fee at the time of registration and setting the penalty for violating the registration requirement, the Proposed Legislation would compensate the Department of Building Inspection for time and resources used to implement, enforce, and monitor the VSO. And by requiring annual inspections, the Proposed Legislation would ensure that storefronts that remain vacant do not pose safety concerns.

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