



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change HEARING DATE: MARCH 22, 2012

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Project Name: **Waiving Certain Fees for Small Business Month**

Case Number: 2012.0186T [Board File No. 12-0188]
Initiated by: Supervisor Chu / Introduced February 28, 2012
Staff Contact: AnMarie Rodgers, Manager Legislative Affairs
 anmarie.rodgers@sfgov.org, 415.558.6395

Reviewed by: Jonas Ionin, Manager of the Public Information Counter
 Keith DeMartini, Finance Manager

90-Day Deadline: May 28, 2012

Recommendation: **Recommend Approval With Modification**

PLANNING AND BUILDING CODE AMENDMENTS

The proposed Ordinance would 1) recognize Small Business Month in May 2012; 2) amend the San Francisco Planning Code, and the San Francisco Building Code to waive fees for the month of May for certain façade improvements; and 3) make environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1

The Way It Is Now:

Planning Code (hereinafter "Code") Section 355(a) establishes fees for alterations to existing buildings based upon the cost of construction of the work. The Code establishes the current fees as follows:

Estimated Construction Cost	Initial Fee
\$0.00 to \$9,999.00	\$326.00
\$10,000.00 to \$49,999.00	\$334.00 + 3.414% of cost over \$10,000.00
\$50,000.00 to \$99,999.00	\$1,725.00 + 2.281% of cost over \$50,000.00 + \$89.00 D.R. Surcharge and \$291.00 Cat Ex Stamp Fee
\$100,000.00 to \$499,999.00	\$2,890.00 + 2.497% of cost over \$100,000.00 + \$89.00 D.R. Surcharge and \$291.00 Cat Ex Stamp Fee
\$500,000.00 to \$999,999.00	\$13,068.00 + 0.631% of cost over \$500,000.00 + \$89.00 D.R. Surcharge and \$291.00 Cat Ex Stamp Fee
\$1,000,000.00 to \$4,999,999.00	\$16,286.00 + 0.248% of cost over \$1,000,000.00 + \$89.00 D.R. Surcharge and \$291.00 Cat Ex Stamp Fee
\$5,000,000.00 to \$99,999,999.00	\$26,392.00 + .004% of cost over \$5,000,000.00 +

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	\$89.00 D.R. Surcharge and \$291.00 Cat Ex Stamp Fee
\$100,000,000.00 or more	\$30,530 + \$89.00 D.R. Surcharge and \$291.00 Cat Ex Stamp Fee

Planning Code Section 355(e) establishes a flat \$155 fee for sign replacement, including signage that is located on awnings.

The Way It Would Be:

The Ordinance proposes to waive Planning Department fees for permits of awning replacements (but not signage that may be located on an awning) that are issued during the month of May 2012. The Ordinance also proposes to waive Building Department fees for both awning replacement and pedestrian-level lighting.

Issues and Considerations:

- **Department of Building Inspection Review of Both Awning Replacement and Pedestrian Lighting Permits:** The Department of Building Inspection (hereinafter "DBI") reviews both pedestrian-oriented lighting and awning replacement permits. The Planning Department is not typically involved in the review of pedestrian-level lighting. DBI's Central Permit Bureau accepts and issues construction permits for buildings located within the City and County of San Francisco. The Central Permit Bureau estimates that there are typically fewer than 10 permits issued per month that would qualify for the awning replacement fee exemption. Therefore, if this proposed Ordinance were adopted the City anticipates that DBI fee revenue lost for awning permits would be between \$12,000 - \$15,000. DBI's Electrical Division was not able to separate the specific electrical permits that might fall into that pedestrian level lighting category. That said, DBI estimates that any permit fees tied specifically to such lighting would have a very minor impact on DBI permit fee revenues. The Code Advisory Group of DBI reviewed the proposed Ordinance on March 14, 2012 and asked that the Supervisor consider the following three requests:

1. Parties seeking to apply for the fee waiver should be required to sign an affidavit affirming that the business benefiting from the waiver is in fact a "small business" as defined by the Small Business Administration (i.e., 100 or fewer employees).
2. All pedestrian-lighted approved with this fee-waiver shall follow best lighting practices and be cast downward and avoid light spillage and light pollution.
3. Special attention should be paid to assure that new awnings comply with ADA requirements.

The Building Inspection Commission is scheduled to review the proposed Ordinance on March 21, 2012. Any comment by the Building Inspection Commission will be brought to the Planning Commission hearing on March 22, 2012.

- **Planning Department Review of Awning Replacement Permits:** The proposed Ordinance would also waive fees for replacement of awnings. The Planning Department fees for review of awning replacement is dependent on two factors: 1) the cost of construction and 2) whether or not the awning contains signage. The cost of construction for an awning replacement is typically under \$10,000 and therefore the fee for awning replacement alone would likely be \$326. If signage on the awning were

to change, a flat fee of \$155 is added for review of the signage, bringing the total Planning fees for awning and signage review to \$481. Under the proposed Ordinance, only the fee for awning review would be waived. Therefore, as the draft Ordinance is currently drafted a permit issued during May 2012 that involved both awning replacement with new signage would incur only \$155 in Planning Fees, instead of the standard \$481. During Fiscal Year 2010-2011, the Planning Department reviewed 73 building permits for awning replacements for an average of about 6 permits per month. As a conservative estimate, if the Department were to process 9 permits during the month of the fee waiver the awning replacement lost revenue would equal \$2,934.

- **Incentive for Small Business Façade Improvements.** It should be noted that while the Ordinance acknowledges “Small Business Month” and is intended to help small businesses to improve their building facades and store fronts, as drafted, the Ordinance would exempt any property owner from fees for these permits issued during May 2012. The legislative sponsor, Supervisor Carmen Chu, has partnered with the Department of Building Inspection, Planning Department, Office of Economic & Workforce Development, and Office of Small Business. Together these parties intend to market this waiver to small businesses. The Code Advisory Committee of DBI has requested that DBI require applicants to sign an affidavit affirming that the permit applicant is a “small business”. Since the task of determining eligibility for the waiver will be the purview of DBI and not the Planning Department, the Planning Department supports DBI’s efforts to require proof via an affidavit.
- **Full Review Provided.** The proposed Ordinance does not circumvent any City or State requirements. Any building permit which needed additional review for historic resources, CEQA, public notice or other issues would be reviewed consistent with City practice. The fee exemption only applies to permits which can be *issued* during the month of May and does not require expediting or shortening of the permit review process.

REQUIRED COMMISSION ACTION

The proposed Resolution is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATIONS

The Department recommends that the Commission recommend approval with one modification of the proposed Ordinance. The recommended modification would be to add a waiver for the permit fee of the fixed \$155 sign permit fee governed by Code Section 355(e) when this permit is issued for signage on an awning which also qualified for a fee waiver under this ordinance during the month of May 2012.

Basis for Recommendation: The Department believes that the proposed Ordinances would provide an incentive to improve business facades at what is projected to be minimal cost to the City. Therefore, we recommend support of this proposed Ordinance as a gesture of goodwill during Small Business Month 2012.

Basis for Recommended Modification: In conversation with Supervisor Carmen Chu, it was her intent to waive both the awning fee (based on the cost of construction) and the fixed fee of \$155 that may be associated with an awning refurbishment that also includes signage on the awning. Including a reference to Section 355(e) should clarify this intent. The Planning Department estimates that this

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additional waiver would result in approximately \$1395 of additional waived fees, bringing the total estimated Planning Department lost revenue to \$4329 if the proposed Ordinance is adopted with this modification.

ENVIRONMENTAL REVIEW

The proposed amendments to the Planning Code has been reviewed and found exempt from CEQA per Section 15273, Rates, Tolls, Fares and Charges.

PUBLIC COMMENT

On March 12, 2012 the Small Business Commission voted 7-0 to recommend approval of Board of Supervisors File No. 120188. See Exhibit C for details. No other public comment was received on this item.

RECOMMENDATION: Recommendation of Approval with Modification
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Draft Board of Supervisors Ordinance [Board File No. 12-0188]
- Exhibit C: March 14, 2012 Letter from the Small Business Commission



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE: MARCH 22, 2012

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Initiated by: Supervisor Chu / Introduced February 28, 2012
Staff Contact: AnMarie Rodgers, Manager Legislative Affairs
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90-Day Deadline: May 28, 2012

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RECOMMENDING THAT THE BOARD OF SUPERVISORS PASS AN ORDINANCE THAT WOULD 1) RECOGNIZE SMALL BUSINESS MONTH IN MAY 2012; 2) AMEND THE SAN FRANCISCO PLANNING CODE, AND THE SAN FRANCISCO BUILDING CODE TO WAIVE FEES FOR THE MONTH OF MAY FOR CERTAIN FAÇADE IMPROVEMENTS; AND 3) MAKE ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1

PREAMBLE

Whereas, this is the eighth year in a row that the City of San Francisco has celebrated Small Business Week during the month of May; and

Whereas, small businesses are the backbone of the American economy, representing 99.7 percent of all employer firms; and

Whereas, on March 22, 2012 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed Ordinance have been found exempt from the California Environmental Quality Act per section Section 15273, Rates, Tolls, Fares and Charges; and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented by Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommend *approval with modification* of the proposed Ordinance and adopts the Draft Resolution to that effect.

The Commission recommended modification would be to add a waiver for the permit fee of the fixed \$155 sign permit fee governed by Code Section 355(e) when this permit is issued for signage on an awning which also qualified for a fee waiver under this ordinance during the month of May 2012.

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:

1. This Ordinance would provide an incentive to improve business facades at what is projected to be minimal cost to the City. Therefore, we recommend support of this proposed Ordinance as a gesture of goodwill during Small Business Month 2012.
2. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

POLICY 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

POLICY 4.1

Maintain and enhance a favorable business climate in the city.

POLICY 6.2

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

The proposed Ordinance would provide a gesture of goodwill for Small Business Month 2012.

URBAN DESIGN ELEMENT

POLICY 4.7

Encourage and assist in voluntary programs for neighborhood improvement.

The proposed Ordinance would assist building owners in voluntary façade upgrades.

1. The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:
 - A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:
The proposed Ordinance will assist neighborhood-serving retail uses in renovation of facades.
 - B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:
The proposed Ordinance will have no adverse impact on housing and will encourage improvements to neighborhood commercial corridors.
 - C) The City's supply of affordable housing will be preserved and enhanced:
The proposed Ordinance will have no adverse effects on the City's supply of affordable housing.
 - D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:
The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.
 - E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:
The proposed Ordinance would have no negative effects on industry.
 - F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.
The proposed Ordinance would not affect the preparedness against injury and loss of life in an earthquake is unaffected.
 - G) That landmark and historic buildings will be preserved:
The proposed Ordinance would not adversely affect landmark and historic buildings as it would encourage renovations and would not exempt any project from historic resource or other required review.
 - H) Parks and open space and their access to sunlight and vistas will be protected from development:

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The proposed Ordinance would not adversely affect parks and open spaces in terms their access to sunlight and vistas.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on March 22, 2012.

Linda Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED:

1 [Planning and Building Codes - Small Business Month - Fee Waiver Program]

2

3 **Ordinance: 1) recognizing Small Business Month in May 2012; 2) amending the San**
4 **Francisco Planning Code, and the San Francisco Building Code to waive fees for the**
5 **month of May for certain façade improvements; 3) making findings including**
6 **environmental findings, findings of consistency with the General Plan, and priority**
7 **policies of Planning Code Section 101.1.**

8

NOTE: Additions are *single-underline italics Times New Roman*;
9 deletions are ~~*strike-through italics Times New Roman*~~.
Board amendment additions are double-underlined;
10 Board amendment deletions are ~~strike-through normal~~.

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

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Section 1. Findings. The Board of Supervisors of the City and County of San Francisco

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hereby finds and declares as follows:

15

(a) May is Small Business Month and this Board desires to recognize the importance
16 of small businesses in San Francisco. As part of this recognition, the Board elects to waive
17 various permit fees for the month of May for awning replacement and installation of pedestrian
18 level lighting as these fees have acted as a bar from many small businesses to improve their
19 building facades and store fronts.

20

(b) On _____, 2012, the Planning Commission adopted Resolution No.

21

_____ recommending adoption of this Ordinance, and adopted findings that the
22 legislation is consistent, on balance, with the City's General Plan and eight priority policies of
23 Planning Code Section 101.1(b). The Board adopts these findings as its own. A copy of this
24 Commission Resolution is on file with the Clerk of the Board in File No. _____, and is
25 incorporated by reference herein.

1 (c) Pursuant to Planning Code Section 302, this Board finds that this Ordinance will
2 promote the public necessity, convenience, safety and welfare for the reasons set forth in
3 Commission Resolution No. _____, which is incorporated herein by reference.

4 (d) The Planning Department has determined that the actions contemplated in this
5 ordinance comply with the California Environmental Quality Act (California Public Resources
6 Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of
7 Supervisors in File No. _____ and is incorporated herein by reference.

8 (e) On _____, 2012, the Building Inspection Commission conducted a public
9 hearing on this legislation.

10 Section 2. This Section is uncodified.

11 (a) Notwithstanding any provision of the Planning Code, including the fee schedule
12 associated with Section 355(a), the permit fee of awning replacement is hereby waived for
13 any permit issued for such activity during the month of May 2012.

14 (b) Notwithstanding any provision of the Building Code, including the fee schedules of
15 Tables 1A-A and 1A-E, the permit fees of awning replacement and installation of pedestrian
16 level lighting, respectively, are hereby waived for any permit issued for such activities during
17 the month of May 2012.

18 Section 3. Effective Date. This ordinance shall become effective 30 days from the
19 date of passage; provided, however, that the provisions of this Ordinance shall be retroactive
20 to May 1, 2012 should the effective date of the Ordinance occur after said date.

21 Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to
22 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
23 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are
24 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
25

1 Board amendment deletions in accordance with the "Note" that appears under the official title
2 of the legislation.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: _____
7 John D. Malamut
8 Deputy City Attorney

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SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESSCITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

March 14, 2012

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694**Re: File No. 120188 [Planning, Building Codes - Small Business Month - Fee Waiver Program]**Small Business Commission Recommendation: **Approval**

Dear Ms. Calvillo:

On March 12, 2012 the Small Business Commission voted 7-0 to recommend approval of Board of Supervisors File No. 120188.

The Commission supports this ordinance, which will provide businesses with a waiver of permit fees when making certain improvements to their storefront businesses during the month of May. Enhancements such as new awnings and pedestrian lighting are crucial to improving both individual businesses as well as improving our important commercial corridors. Waiving these fees, which average between \$250 to \$350 at the Department of Building Inspection (DBI), will serve as an incentive for many businesses that operate on low profit margins to install new awnings and pedestrian lighting during the month of May. This ordinance also offers the City an opportunity to offer an incentive to businesses that do not typically qualify for tax credits and other incentives that the City currently offers.

The Office of Small Business looks forward to working with the Supervisor Carmen Chu and her staff to ensure that effective outreach efforts and logistical work take place which will help improve the results of this waiver program. The Commission also thanks DBI and the Planning Department for their support of this exciting opportunity.

Sincerely,

A handwritten signature in cursive script, appearing to read "Regina Dick-Endrizzi".

Regina Dick-Endrizzi
Director, Office of Small BusinessCc: Supervisor Carmen Chu
Jason Elliot, Mayors Office
AnMarie Rogers, Planning Department
William Strawn, DBI