

***BIC Regular Meeting
of
December 13, 2023***

Agenda Item 6



December 7, 2023

Building Inspection Commission
49 South Van Ness Avenue
San Francisco, CA 94103

Re: Board of Supervisors Ordinance (File No. 230862) Vacant or Abandoned Commercial Storefronts
Registration and Fee Suspension

Honorable Members of the Commission:

At the December 6, 2023 special meeting of the full Code Advisory Committee (CAC) voted to make a recommendation to the Building Inspection Commission (BIC) to approve the changes to the San Francisco Building code as written in File No. 230862. CAC added two recommendations; that the Notice of Violations (NOV) written under this ordinance be rescinded by the Department of Building Inspection (DBI) and a review by the appropriate sub-committee of the CAC for further recommendations if the program were to resume in 2025.

Respectfully submitted,

A handwritten signature in blue ink that reads "Thomas Fessler".

Thomas Fessler
DBI Technical Services
Secretary to the Code Advisory Committee

cc. Patrick O'Riordan, C.B.O. Director
Neville Pereira, Deputy Director
Christine Gasparac, Deputy Director
Janey Chan, Manager
J. Edgar Fennie, AIA, Chair, Code Advisory Committee

Attach: File No. 230862

1 [Building Code - Vacant or Abandoned Commercial Storefronts Registration and Fee
2 Suspension]

3 **Ordinance amending the Building Code to temporarily suspend the annual registration**
4 **requirement and registration fee for vacant or abandoned commercial storefronts**
5 **through December 31, 2024; and affirming the Planning Department’s determination**
6 **under the California 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.

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

15 Section 1. Findings.

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

21 (b) On _____, at a duly noticed public hearing, the Building Inspection
22 Commission considered this ordinance in accordance with Charter Section D3.750-5 and
23 Building Code Section 104A.2.11.1.1. A copy of a letter from the Secretary of the Building
24 Inspection Commission regarding the Commission’s recommendation is on file with the Clerk
25 of the Board of Supervisors in File No. 230862.

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 adding Section
8 103A.5.8, to read as follows:

9
10 **103A.5 Vacant or Abandoned Commercial Storefronts – Annual Registration;
11 Registration Fees; Maintenance and Security Requirements.**

12 **103A.5.1 Definitions.** For the purposes of Section 103A.5, including Sections
13 103A.5.1-103A.5.7:

14 **COMMERCIAL STOREFRONT.** A Commercial Storefront shall be any area within a
15 building that may be individually leased or rented for any purpose other than Residential Use
16 as defined in Planning Code Sections 790.88 and 890.88.

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

23 (1) There is a valid building permit for repair, rehabilitation, or construction of the
24 Commercial Storefront and the owner completes the repair, rehabilitation, or construction
25 within one year from the date the initial permit was issued, unless the Department, in its sole

1 discretion, determines that the owner needs additional time to complete the repair,
2 rehabilitation, or construction of the Commercial Storefront; or

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

6 **103A.5.2 Property owner’s obligation to register a vacant or abandoned**
7 **commercial storefront; registration fee.** The owner of a Vacant or Abandoned Commercial
8 Storefront shall, within 30 days after it has become vacant or abandoned, register the
9 Commercial Storefront with the Department on a form provided by the Department. The form
10 shall describe the methods by which the owner has secured the Commercial Storefront
11 against unauthorized entry, provide a contact phone number for the Commercial Storefront
12 owner or party responsible for maintenance of the Commercial Storefront, state the most
13 recent legal use of the Commercial Storefront, state the square footage of the Commercial
14 Storefront, declare any future plans for the Commercial Storefront, state whether there is fire
15 and liability insurance coverage, and provide such other information as the Department may
16 require. The owner shall pay an annual registration fee, which shall be due when the owner
17 submits the registration form to the Department (“registration payment deadline”). The
18 registration payment deadline will serve as the date for subsequent annual renewals of
19 registration each year the Commercial Storefront remains Vacant or Abandoned (“annual
20 renewal date”). The annual registration fee shall be paid on or before the annual renewal date.
21 However, if the owner rents the Commercial Storefront to a tenant who occupies the premises
22 in a manner that complies with all provisions of state and local law prior to the registration
23 payment deadline, the Commercial Storefront shall be removed from the Department’s
24 registry and the owner shall be refunded up to half of the registration fee based on any
25 remaining days before the Commercial Storefront’s annual renewal date. The registration fee

1 shall be equal to the amount due under Section 103A.4.2 of this Code. See Section 110A,
2 Table 1A-J for applicable fees.

3 **103A.5.3 Annual Report.** The owner of a registered Vacant or Abandoned
4 Commercial Storefront shall provide a report from a licensed professional confirming the
5 storefront’s interior and exterior has been maintained, as specified in Sections 103A.4.5.1 and
6 103A.4.5.2 of this Code (“annual report”). The annual report shall be provided to the
7 Department when the owner renews the storefront’s registration and pays the annual renewal
8 fee.

9 **103A.5.4 Maintenance of vacant or abandoned commercial storefront registry.**
10 The Department shall maintain a registry of all Vacant or Abandoned Commercial Storefronts
11 within the City and shall furnish a copy of the registry to the Office of Economic and Workforce
12 Development at least once per fiscal quarter.

13 **103A.5.5 Notice.** Whenever the Director has probable cause to believe, based upon
14 an inspection, complaint, or report from another agency of the City or other governmental
15 agency, that a Commercial Storefront is Vacant or Abandoned and has not been registered as
16 required by Section 103A.5.2, the Director shall serve the owner of record, as shown on the
17 Assessor’s Records, or authorized agent with a written notice requiring the owner to register
18 the Commercial Storefront with the Department as Vacant or Abandoned and pay the
19 registration fee within the period of time specified in the notice, which shall be no greater than
20 30 days. The Department shall issue a Notice of Violation (“NOV”) pursuant to Section 102A.4
21 of this Code to owners that fail to register within the period of time specified in the notice. See
22 Section 110A, Table 1A-K, Failure to register vacant commercial storefront, for the applicable
23 penalty.

24 **103A.5.6 Sign posting, maintenance, security, and insurance.** All requirements
25 listed in Sections 103A.4.4-103A.4.6 of this Code shall also apply to Vacant or Abandoned

1 Commercial Storefronts. All such requirements shall be fulfilled by the owner within 30 days of
2 the Commercial Storefront becoming Vacant or Abandoned, or within 30 days of the issuance
3 of notice to register.

4 **103A.5.7 Violation a public nuisance; enforcement.** A Commercial Storefront in
5 violation of this Section 103A.5, including Sections 103A.5.1-103A.5.7, is deemed to be a
6 public nuisance and subject to enforcement by the Department and penalties under Sections
7 102A and 103A and Section 110A, Table 1A-K of this Code or other applicable sections of the
8 Municipal Code.

9 **103A.5.8 Temporary suspension of annual registration and registration fee.** *The*
10 *requirements of Sections 103A.5.2-103A.5.5 shall be suspended through December 31, 2024. Sections*
11 *103A.5.1 and 103A.5.6-103A.5.7 shall remain in effect during such period, provided, however that any*
12 *failure to satisfy the annual registration and fee requirements in Section 103A.5.2, and any failure to*
13 *provide the annual report required by Section 103A.5.3, shall not subject a Commercial Storefront to*
14 *enforcement under Section 103A.5.7. This Section 103A.5.8 shall expire by operation of law on January*
15 *1, 2025, after which the City Attorney is authorized to cause the Section to be removed from the*
16 *Building Code.*

17
18 Section 3. Effective Date; Retroactivity.

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

23 (b) If the effective date of this ordinance is after January 1, 2024, this ordinance shall
24 upon its effective date be retroactive to January 1, 2024.

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

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8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/ Peter R. Miljanich
11 PETER R. MILJANICH
12 Deputy City Attorney

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Ordinance: One-Year Temporary Suspension of Vacant Commercial Storefront Registration and Fee

Building Inspection Commission – Agenda Item #6

December 13, 2023

Background

- The San Francisco Building Code (SFBC) sets forth controls for vacant or abandoned commercial storefronts, requiring the owner of a vacant or abandoned commercial storefront to:
 - Register the commercial storefront with the Department of Building Inspection (DBI) within 30 days after it has become vacant or abandoned
 - Renew the registration annually
 - Pay annual registration fee
 - Submit an annual report to DBI confirming maintenance of the property
- SFBC also requires DBI to maintain a registry of vacant or abandoned commercial storefronts.

Proposed Ordinance

- The Mayor's Office has proposed an ordinance to temporarily suspend the registration, fee and annual report requirements of the SFBC.
- The suspension would be for one year, from January 1, 2024 through December 31, 2024.

What Would be Suspended?

- Property owner's obligation to register a vacant or abandoned commercial storefront and pay the registration fee. (SFBC 103A.5.2)
- Annual report from a licensed professional confirming storefront's interior/exterior has been maintained. (SFBC 103A.5.3)
- DBI's vacant storefront registry. (SFBC 103A.5.4)
- NOV's issued solely because a property owner hasn't registered, paid the registration fee, and/or filed an annual report. (SFBC 103A.5.5)

What Would Not be Suspended?

- All sign posting, maintenance, security and insurance requirements listed in SFBC 103A.4.4 – 103A.4.6:
 - Sign posting in a conspicuous location that provides the current name, address, and phone number of the owner of record and authorized agent if different from the owner.
 - Exterior maintenance of the building and the grounds so that they remain in continuing compliance with all applicable codes and regulations, and do not contribute to and are not likely to contribute to blight.
 - Interior maintenance to keep the building free from damage by the elements or plumbing leaks, and keep it free from accumulation of garbage and other debris, and from infestation by rodents, insects, or other pests.
 - Secured against unauthorized entry.
 - Fire and liability insurance coverage.

What Would Not be Suspended?

- NOVs issued and enforcement for public nuisance for failure to comply with the sign posting, maintenance, security and insurance requirements listed in SFBC 103A.4.4 – 103A.4.6 (those listed on the previous slide).

Other Factors

- DBI's anticipated fiscal impact would be decreased registration fees up to \$300,000.
- DBI staff would use the one-year suspension period to create a better data capture and reporting system based on the existing list of vacant commercial storefronts.
- DBI's vacant commercial storefront registry and registration fee is separate from the tax assessed on vacant commercial storefronts by the Treasurer & Tax Collector.

Code Advisory Committee Recommendation

- The Code Advisory Committee (CAC) met December 6, 2023 and voted unanimously to make a recommendation to the BIC to recommend approval of the proposed ordinance.
- The CAC also recommended:
 - Rescinding NOVs issued in prior years for failure to register vacant commercial storefronts.
 - Referring the matter to a subcommittee of the CAC to evaluate the program and make recommendations on changes to the program when it resumes in 2025.
- DBI staff respectfully disagrees with the CAC's recommendation to rescind NOVs already issued for failure to register in prior years out of fairness to property owners who properly registered their vacant commercial storefronts under the existing law.



THANK YOU