

***BIC Meeting of
June 18, 2014***

Agenda Item #7

LEGISLATIVE DIGEST

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

Ordinance amending the Building Code to establish a procedure for maintaining and registering vacant or abandoned commercial storefronts, including imposition of a registration fee.

Existing Law

Building Code Section 103A.4 *et. seq.*, the Vacant or Abandoned Building Ordinance (“VABO”), requires that owners of vacant or abandoned buildings in San Francisco register their properties as such, pay registration fees, secure their properties to deny access to would-be trespassers, and provide proof of liability insurance coverage for the properties. VABO, as it currently reads, applies to some vacant commercial storefronts in San Francisco. However, a building containing a vacant commercial storefront but an occupied second floor unit is technically not a vacant or abandoned building, as defined by VABO. Hence, many vacant commercial storefronts in San Francisco evade VABO regulations under this loophole.

Amendments to Current Law

By amending the Building Code to apply requirements similar to those specified in VABO to properties containing vacant or abandoned commercial storefronts, owners of properties in commercial corridors will have extra incentive to seek suitable tenants to fill their vacant or abandoned commercial storefronts. To provide owners of vacant or abandoned commercial storefronts with ample time to find suitable tenants, the proposed amendment to the Building Code would mandate owners of vacant or abandoned commercial storefronts to do the following within 30 days of issuance of a Notice of Violation:

1. Register their commercial storefronts with the Department of Building Inspection (“DBI”);
2. Secure their commercial storefronts to prevent trespassers from gaining access to the premises;
3. Remove graffiti, refuse, and debris from in and around their commercial storefronts; and
4. Maintain fire and/or liability insurance coverage for their commercial storefronts as DBI determines necessary.

Additionally, owners of vacant or abandoned commercial storefronts would be required to do either of the following within 270 days of their commercial storefronts becoming vacant or abandoned:

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1. Rent their commercial storefronts to tenants who occupy the premises in a manner that complies with all state and local laws; or
2. Pay a fee of \$765.00 to include their commercial storefronts in the Registry of Vacant or Abandoned Commercial Storefronts. This fee shall be assessed on an annual basis for each year that a commercial storefront remains vacant or abandoned.

Finally, the proposed amendment carves out an exemption for owners of commercial storefronts who demonstrate a good faith effort to rent, lease, or sell their commercial storefronts, or obtain permits to bring their commercial storefronts into compliance with the law.

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

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3 **Ordinance amending the Building Code to establish a procedure for maintaining and**
4 **registering vacant or abandoned commercial storefronts, including imposition of a**
5 **registration fee.**

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

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

12 Section 1. Findings. The Board of Supervisors hereby finds and determines that:

13 Every commercial corridor in San Francisco has longstanding and blighted vacant
14 commercial storefronts. In addition to being eyesores, these vacant commercial storefronts
15 have a detrimental impact on the economic viability of the commercial corridors in which they
16 are located. Vacant storefronts often attract illegal activity, such as squatting, vandalism, and
17 dumping. Such activity not only repels would-be customers and patrons from commercial
18 corridors, but also places an undue burden on City agencies. The Police Department and the
19 Department of Public Works drain their resources by routinely responding to the same vacant
20 commercial storefronts to remove trespassers, clean up graffiti, and remove illegally discarded
21 refuse and debris.

22 Section 2. Pursuant to Charter Section D3.750-5, the Building Inspection Commission
23 considered this ordinance on _____ at a duly noticed public hearing.

24 Section 3. Findings under the California Health and Safety Code. The Board of
25 Supervisors hereby finds that this ordinance does not modify a State "building standard," as

1 that term is defined in Section 18909 of the California Health and Safety Code. Therefore, the
2 finding of local climactic, geological, or topographical conditions required by Sections 18941.5
3 and 17958.7 of the California Health and Safety Code is not required.

4 Section 4. The Building Code is hereby amended by amending Section 103A.4.1 to
5 read as follows:

6 103A.4.1 Definition. A building shall be defined as a vacant or abandoned if it (1) is
7 unoccupied and unsecured; or (2) is unoccupied and secured by boarding or other similar
8 means; or (3) is unoccupied and unsafe as defined in Section 102A of this Code; or (4) is
9 unoccupied and has multiple code violations; or (5) has been unoccupied for over 30 days. A
10 building which is partially unoccupied and has been cited for blight under Chapter 80 of the
11 San Francisco Administrative Code, shall also be deemed a vacant or abandoned building
12 that is subject to this Section. Commercial Storefronts, as defined in Section 103A.5.1 of this Code,
13 located within vacant or abandoned buildings shall be subject to the enforcement provisions in Sections
14 103A.5-103A.5.6 of this Code.

15 For purposes of this Section 103A.4. a building shall not be considered vacant or
16 abandoned if:

17 (1) There is a valid building permit for repair, rehabilitation, or construction of a
18 building on the parcel and the owner completes the repair, rehabilitation, or construction within
19 one year from the date the initial permit was issued; or

20 (2) The building complies with all codes, does not contribute to blight as defined in
21 Chapter 80 of the San Francisco Administrative Code, is ready for occupancy, and is actively
22 being offered for sale, lease, or rent.

23 Section 5. The Building Code is hereby amended by adding Section 103A.5 including
24 Sections 103A.5.1 through 103A.5.6, to read as follows:

25

1 **SEC. 103A.5.: VACANT OR ABANDONED COMMERCIAL STOREFRONTS—ANNUAL**
2 **REGISTRATION; REGISTRATION FEES; MAINTENANCE AND SECURITY**
3 **REQUIREMENTS.**

4 **SEC. 103A.5.1. DEFINITIONS.**

5 *For the purposes of Section 103A.5, including Sections 103A.5.1-103A5.3.6:*

6 *"Commercial Storefront" A Commercial Storefront shall be any area within a building that may be*
7 *individually leased or rented for any purpose other than Residential Use as defined in Planning Code*
8 *Sections 790.88 and 890.88.*

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

14 *(1) There is a valid building permit for repair, rehabilitation, or construction of the*
15 *Commercial Storefront and the owner completes the repair, rehabilitation, or construction within one*
16 *year from the date the initial permit was issued; or*

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

20 *(3) The Commercial Storefront complies with all provisions of state and local law, does not*
21 *contribute to blight as defined in Chapter 80 of the Administrative Code, is ready for occupancy, and*
22 *the owner provides evidence satisfactory to the Department that the Commercial Storefront is actively*
23 *being offered for sale, lease, or rent. Satisfactory evidence shall include, but is not limited to, evidence*
24 *that the owner has hired a real estate agent or other rental agent who advertises and promotes the*

1 Commercial Storefront for rent, lease or sale, or proof that the Commercial Storefront is offered for
2 sale on the Multiple Listing Service or any other comparable real estate listing service.

3 **SEC. 103A.5.2. PROPERTY OWNER'S OBLIGATION TO REGISTER A VACANT OR**
4 **ABANDONED COMMERCIAL STOREFRONT; REGISTRATION FEE.**

5 The owner of a Vacant or Abandoned Commercial Storefront shall, within 30 days after it has
6 become vacant or abandoned, register the Commercial Storefront with the Department on a form
7 provided by the Department. The form shall describe the methods by which the owner has secured the
8 Commercial Storefront against unauthorized entry, declare any future plans for the Commercial
9 Storefront, state whether there is fire and liability insurance coverage, and provide such other
10 information as the Department may require. A registration fee shall be due 270 days after the
11 Commercial Storefront has become vacant or abandoned ("registration payment deadline"). The
12 registration payment deadline will serve as the date for calculating an annual renewal fee which shall
13 be paid every year the Commercial Storefront remains Vacant or Abandoned. However, if the owner
14 rents the Commercial Storefront to a tenant who occupies the premises in a manner that complies with
15 all provisions of state and local law prior to the registration payment deadline, the Commercial
16 Storefront shall be removed from the Department's registry and the owner need not pay the registration
17 fee. The registration fee shall be equal to the amount due under Section 103A.4.2 of this Code. See
18 Section 110A, Table 1A-J for applicable fees.

19 **SEC. 103A.5.3. MAINTENANCE OF VACANT OR ABANDONED COMMERCIAL**
20 **STOREFRONT REGISTRY.**

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