

[Planning, Building Codes - Noncomplying, Unpermitted, and Accessory Structures]

Ordinance amending the Planning Code to provide conditions for repair and relocation of existing noncomplying structures within required yards, grant unpermitted residential structures within yards that were constructed before 2003 noncomplying status, and allow accessory structures up to 10 feet in height and 120 square feet within required yards; amending the Building Code to exempt accessory structures up to 120 square feet from building permits; 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 under Planning Code, Section 302.

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

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

Section 1. Environmental, Land Use, and General Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 250284 and is incorporated herein by reference. The Board affirms this determination.

1 (b) On June 26, 2025, the Planning Commission, in Resolution No. 21757, adopted
2 findings that the actions contemplated in this ordinance are consistent, on balance, with the
3 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
4 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
5 Board of Supervisors in File No. 250284, and is incorporated herein by reference.

6 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
7 amendments will serve the public necessity, convenience, and welfare for the reasons set
8 forth in Planning Commission Resolution No. 21757 and the Board incorporates such reasons
9 herein by reference. A copy of Planning Commission Resolution No. 21757 is on file with the
10 Clerk of the Board of Supervisors in File No. 250284.

11 (d) On May 21, 2025, at a duly noticed public hearing, the Building Inspection
12 Commission considered this ordinance in accordance with Charter Section 4.121 and Building
13 Code Section 104A.2.11.1.1. A copy of a letter from the Secretary of the Building Inspection
14 Commission regarding the Commission's recommendation is on file with the Clerk of the
15 Board of Supervisors in File No. 250284.

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

22
23 Section 2. Articles 1.2 and 1.7 of the Planning Code are hereby amended by revising
24 Sections 136 and 188, and adding Section 188.1, to read as follows:
25

SEC. 136. OBSTRUCTIONS OVER STREETS AND ALLEYS AND IN REQUIRED SETBACKS, YARDS, AND USABLE OPEN SPACE.

Streets and Alleys	Set- backs	Yards	Usable Open Space	
* * * *				
			(c) The permitted obstructions shall be as follows:	
* * * *				
		x		(23) <u>One or more detached</u> Other structures, <u>which may include bathrooms and wetbars but not full kitchens, commonly used in gardening activities, such as greenhouses and sheds for storage of garden tools,</u> if no more than <u>10</u> eight feet in height above grade, <u>as measured to the top of the structure,</u> and covering no more than <u>a combined 120</u> 400 square feet <u>as measured at grade. An additional 1 foot of roof eave may be permitted beyond the 120 square feet maximum of</u> land;
* * * *				

SEC. 188. NONCOMPLYING STRUCTURES: ENLARGEMENTS, ALTERATIONS, AND RECONSTRUCTION.

1 (a) Within the limitations of this Article 1.7, and especially Sections 172 and 180
2 hereof, and notwithstanding Sections 188(a)(1) and 188.1, a noncomplying structure as defined in
3 Section 180 may be enlarged, altered, or relocated, or undergo a change or intensification of
4 use in conformity with the use limitations of this Code, provided that with respect to such
5 structure there is no increase in any discrepancy, or any new discrepancy, at any level of the
6 structure, between existing conditions on the lot and the required standards for new
7 construction set forth in this Code, and provided the remaining requirements of this Code are
8 met.

9 (1) Existing Yard Structures. A noncomplying structure that is located within a
10 required yard may be enlarged, altered, or replaced provided that any above-grade enlargement of
11 such structure is only to the degree necessary to conform to current Building Code requirements. A
12 noncomplying structure that is located within a required yard may be relocated within the yard only if
13 the new location is further set back from property lines than the original location. Interior alterations,
14 including the structure's use for different purposes, shall not constitute an intensification for the
15 purposes of this subsection (a)(1). Additionally, for any partially noncomplying structure that is
16 located within a required yard, the rules set forth in this subsection (a)(1) shall apply only to the
17 portions of the structure that are noncomplying; portions of the structure within the buildable area
18 shall be subject to rules elsewhere in this Code governing building within the buildable area of the lot.

19 (2) Nothing in this Section 188 shall exempt noncomplying structures from the Planning
20 Code controls other than those for required yards.

21 * * * *

22
23 **SEC. 188.1. NONCOMPLYING STRUCTURE STATUS FOR CERTAIN PRE-EXISTING**
24 **RESIDENTIAL STRUCTURES IN RH, RM, AND RTO DISTRICTS.**
25

1 (a) Within a required yard, residential structures that were constructed without the benefit of a
2 permit prior to January 1, 2003, shall be considered Noncomplying Structures and may be altered,
3 relocated, or replaced in-kind with the same dimensions as they existed prior to 2003. Alterations,
4 relocations, and in-kind or smaller replacements may deviate from the original structure's dimensions
5 only in keeping with the requirements of Section 188(a) of this Code.

6 (b) Nothing in this Section 188.1 shall exempt structures from the Planning Code controls other
7 than those for required yards.

8 (c) The City shall refund any permit fees incurred by applicants who sought a Variance
9 determination from Sections 133 or 134 to repair or replace structures that exceeded 100 square feet
10 and/or 8 feet in height, after January 1, 2021, only if: the structures subject to the Variance are no
11 more than 10 feet in height and no more than 120 square feet total; and were originally constructed
12 and completed prior to 2003.

13
14 Section 3. Chapter 1A of the Building Code is hereby amended by revising
15 Section 106A.2, to read as follows:

16 **106A.2 Work exempt from permit.** [Section 105.2 of the California Building Code.]
17 Exemptions from the permit requirements of this code shall not be deemed to grant
18 authorization for any work to be done in any manner in violation of the provisions of this code
19 or any other laws or ordinances of this jurisdiction. A building permit shall not be required for
20 the following:

21 1. One-story detached accessory buildings or structures used as tool and storage
22 sheds, playhouses, and similar uses, provided the floor projected roof area does not exceed
23 120400 square feet (11.159.29 m²). It is permissible that these structures still be regulated by Section
24 710A, despite exemption from permit.

25 * * * *

Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

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

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Robb Kapla
ROBB KAPLA
Deputy City Attorney

n:\legana\as2025\2500219\01847398.docx