

File No. 250284

Committee Item No. 1

Board Item No. 21

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date: July 21, 2025

Board of Supervisors Meeting:

Date: July 29, 2025

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance - VERSION 3 |
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| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
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| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
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OTHER

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Commission Transmittal – June 27, 2025</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>BIC Transmittals – July 18 and May 23, 2025</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>CEQA Determinations – June 26 and May 5, 2025</u> |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Committee Report Request Memo – July 16, 2025</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>BLA Referral – July 21, 2025</u> |
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| <input type="checkbox"/> | <input type="checkbox"/> | <u>_____</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>_____</u> |

Prepared by: John Carroll

Date: July 18, 2025

Prepared by: John Carroll

Date: July 21, 2025

Prepared by: _____

Date: _____

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

2
3 **Ordinance amending the Planning Code to provide conditions for repair and relocation**
4 **of existing noncomplying structures within required yards, grant unpermitted**
5 **residential structures within yards that were constructed before 2003 noncomplying**
6 **status, and allow accessory structures up to 10 feet in height and 120 square feet**
7 **within required yards; amending the Building Code to exempt accessory structures up**
8 **to 120 square feet from building permits; affirming the Planning Department's**
9 **determination under the California Environmental Quality Act, making findings of**
10 **consistency with the General Plan and the eight priority policies of Planning Code,**
11 **Section 101.1, and making findings of public necessity, convenience, and welfare**
12 **under Planning Code, Section 302.**

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

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

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

22 (a) The Planning Department has determined that the actions contemplated in this
23 ordinance comply with the California Environmental Quality Act (California Public Resources
24 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
25

1 Supervisors in File No. 250284 and is incorporated herein by reference. The Board affirms
2 this determination.

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

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

13 (d) On July 16, 2025, at a duly noticed public hearing, the Building Inspection
14 Commission considered this ordinance in accordance with Charter Section 4.121 and Building
15 Code Section 104A.2.11.1.1. A copy of a letter from the Secretary of the Building Inspection
16 Commission regarding the Commission's recommendation is on file with the Clerk of the
17 Board of Supervisors in File No. 250284.

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

23

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

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

Streets and Alleys	Set- backs	Yards	Usable Open Space	
* * * *				
				(c) The permitted obstructions shall be as follows:
* * * *				
		x		<p>(23) <u>One or more detached Other structures, which may not include sleeping quarters or full kitchens, but may include bathrooms and wetbars but not full kitchens, commonly used in gardening activities, such as greenhouses and sheds for storage of garden tools, if no more than 10eight feet in height above grade, as measured to the top of the structure, and covering no more than a combined 120100 square feet as measured at grade. An additional 1 foot of roof eave may be permitted beyond the 120 square feet maximum of land;</u></p>
* * * *				

23
 24 **SEC. 188. NONCOMPLYING STRUCTURES: ENLARGEMENTS, ALTERATIONS,**
 25 **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,
12 including, but not limited to, the addition or construction of fire-rated walls. A noncomplying
13 structure that is located within a required yard may be relocated within the yard only if the structure's
14 new location is equally or further set back from the nearest property lines than the original location.
15 Interior alterations, including the structure's use for different purposes, shall not constitute an
16 intensification for the purposes of this subsection (a)(1). Additionally, for any partially noncomplying
17 structure that is located within a required yard, the rules set forth in this subsection (a)(1) shall apply
18 only to the portions of the structure that are noncomplying; portions of the structure within the
19 buildable area shall be subject to rules elsewhere in this Code governing building within the buildable
20 area of the lot.

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

23 * * * *

1 **SEC. 188.1. NONCOMPLYING STRUCTURE STATUS FOR CERTAIN PRE-EXISTING**
2 **RESIDENTIAL STRUCTURES IN RH, RM, AND RTO DISTRICTS.**

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

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

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

15
16 Section 3. Chapter 1A of the Building Code is hereby amended by revising Section
17 106A.2, to read as follows:

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

23 1. One-story detached accessory buildings or structures used as tool and storage
24 sheds, playhouses, and similar uses, provided the floor projected roof area does not exceed
25

1 120400 square feet (11.159.29 m²). It is permissible that these structures still be regulated by Section
2 710A, despite exemption from permit.

3 * * * *

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

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

15
16 APPROVED AS TO FORM:
17 DAVID CHIU, City Attorney

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

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24
25

REVISED LEGISLATIVE DIGEST
(Amended in Committee – July 21, 2025)

[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.

Existing Law

The Planning Code allows small structures shorter than 8 feet in height and less than 100 square feet to be located in required yards. The Planning Code allows existing noncomplying structures—structures that were permitted when constructed, but do not comply with current Planning Code provisions—to be repaired, altered, relocated, or enlarged—but not replaced—provided that the extent of noncompliance is not intensified. Property owners seeking to repair, alter, or replace an unpermitted structure located within the required yard area must obtain a Variance determination to exempt the structure from Planning Code requirements.

The San Francisco Building Code requires building permits for accessory structures larger than 100 square feet.

Amendments to Current Law

The Proposed Legislation amends the Planning Code to increase the size of detached structures allowed to be located in required yards to up to 10 feet in height and/or 120 square feet. It also allows existing noncomplying structures of any size in yards to be altered, repaired, enlarged, or relocated within the yard provided that any increase in the structure’s dimensions is required solely to comply with the Building Code and, if relocated, the structure is further set back from property lines. The Proposed Legislation would also provide a pathway for property owners in the RH, RM, and RTO districts to repair, alter, or replace unpermitted residential structures that were constructed before 2003 within the required yard area without the need for a Variance by granting these pre-2003 structures noncomplying status.

FILE NO. 250284

The Proposed Legislation amends the Building Code to harmonize with the California Building Code by exempting accessory structures up to 120 square feet from needing a building permit.

Background Information

This is a Substitute Ordinance that clarifies the original ordinance's provisions regarding permitted detached structures, repairing noncomplying yard structures, and replacing pre-2003 unpermitted yard structures. This Substitute Ordinance adds a new provision granting noncomplying status to pre-2003 unpermitted residential structures within yard areas, which would allow repairing, altering, and relocating such structures in addition to replacing in-kind.

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June 26, 2025

Ms. Angela Calvillo, Clerk
Honorable Supervisor Engardio
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2025-002733PCA:**
Noncomplying and Accessory Structures
Board File No. 250284

Planning Commission Recommendation: Approval with Modifications

Dear Ms. Calvillo and Supervisor Engardio,

On June 26, 2025, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Engardio that would amend the Planning Code to provide conditions for repair and relocation of existing noncomplying structures within required side and rear yards, grant unpermitted residential structures within side and rear yards that were constructed before 2003 noncomplying status, and allow accessory structures up to 10 feet in height and 120 square feet within required side and rear yards. At the hearing the Planning Commission adopted a recommendation for approval with modifications.

The Commission's proposed modifications were as follows:

1. Amend Section 136(c)(23) to clarify that detached structures allowed in yards may not contain sleeping quarters. The Section would read as follows:

*(23) One or more detached structures, **which may not include sleeping quarters, full bathrooms, or full kitchens, but may include wetbars and half bathrooms, if no more than 10 feet in height above grade, as measured to the top of the structure, and covering no more than a combined 120 square feet as measured at grade. An additional 1 foot of roof eave may be permitted beyond the 120 square feet maximum;***

2. Allow noncomplying structures that are relocated per Building Code requirements to be relocated at the same distance from property lines as the existing structure's location. Additionally, exempt firewalls from this provision by allowing the addition of new, solid, fire-rated walls, as they are required by the Building Code, without a Variance.
3. Do not issue refunds for previously sought Variances.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,



Aaron D. Starr
Manager of Legislative Affairs

cc: Robb Kapla, Deputy City Attorney
Jonathan Goldberg, Aide to Supervisor Engardio
John Carroll, Office of the Clerk of the Board

ATTACHMENTS :

Planning Commission Resolution
Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21757

HEARING DATE: June 26, 2025

Project Name: Noncomplying and Accessory Structures
Case Number: 2025-002733PCA [Board File No. 250284]
Initiated by: Supervisor Engardio
Staff Contact: Audrey Merlone, Legislative Affairs
Introduced March 25, 2025 / Substituted June 10, 2025
Audrey.Merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION ADOPTING A RECOMMENDATION FOR APPROVAL OF A PROPOSED ORDINANCE THAT WOULD AMEND 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.

WHEREAS, on June 10, 2025, Supervisor Engardio substituted a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 250284, which would amend 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;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 26, 2025; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15378 and 15060(c)(2); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby adopts a **recommendation for approval with modifications** of the proposed ordinance. The Commission's proposed recommendations are as follows:

1. Amend Section 136(c)(23) to clarify that detached structures allowed in yards may not contain sleeping quarters. The Section would read as follows:

*(23) One or more detached structures, **which may not include sleeping quarters, full bathrooms, or full kitchens, but may include wetbars and half bathrooms, if no more than 10 feet in height above grade, as measured to the top of the structure, and covering no more than a combined 120 square feet as measured at grade. An additional 1 foot of roof eave may be permitted beyond the 120 square feet maximum;***

2. Allow noncomplying structures that are relocated per Building Code requirements to be relocated at the same distance from property lines as the existing structure's location. Additionally, exempt firewalls from this provision by allowing the addition of new, solid, fire-rated walls, as they are required by the Building Code, without a Variance.
3. Do not issue refunds for previously sought Variances.

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:

The Planning Commission supports the proposed ordinance because it streamlines permitting for existing accessory residential structures and facilitates necessary repairs without compromising safety or the use and enjoyment of nearby properties. The cumulative effect of complex entitlement and post-entitlement permitting makes the process of property repairs uncertain and expensive. This is especially so for accessory residential structures. Existing noncomplying and long-standing unpermitted structures have been in place for many years, meaning any minor alterations needed to retain the structure are unlikely to

have an impact on adjacent properties. Structures that were nuisances have likely already faced enforcement and been corrected. The rear yard residential structures that are the subject of the proposed Ordinance are functional elements that increase livability for their occupants in a city where space is limited and housing is expensive. Additionally, some noncomplying structures like exterior stairs are required for life/safety. The proposed Ordinance reduces complicated permit processes and equalizes enforcement; making it easier for residents to repair, replace, and bring these structures up to Building Code standards to extend their lifespan.

General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

POLICY 26

STREAMLINE AND SIMPLIFY PERMIT PROCESSES TO PROVIDE MORE EQUITABLE ACCESS TO THE APPLICATION PROCESS, IMPROVE CERTAINTY OF OUTCOMES, AND ENSURE MEETING STATE- AND LOCAL-REQUIRED TIMELINES, ESPECIALLY FOR 100% AFFORDABLE HOUSING AND SHELTER PROJECTS.

POLICY 39

SUPPORT THE REPAIR AND REHABILITATION OF HOUSING TO ENSURE LIFE SAFETY, HEALTH, AND WELL-BEING OF RESIDENTS, ESPECIALLY IN ENVIRONMENTAL JUSTICE COMMUNITIES, AND TO SUPPORT SUSTAINABLE BUILDING PRACTICES.

Objective 1.A

Ensure housing stability and health homes.

The proposed Ordinance, with recommended modifications, will allow homeowners to not only retain long-standing accessory structures but also make the necessary improvements to ensure they are safe. This approach supports housing stability by streamlining permits, increasing process certainty, and promoting the preservation of existing affordable housing.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of

neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby ADOPTS A RECOMMENDATION FOR APPROVAL WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 26, 2025.



Jonas P. Ionin
Commission Secretary

Jonas P Ionin Digitally signed by Jonas P Ionin
Date: 2025.06.26 16:24:18 -07'00'

AYES: Campbell, Williams, Braun, Imperial, So
NOES: Moore
ABSENT: McGarry
ADOPTED: June 26, 2025



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: June 26, 2025

90-Day Deadline: September 8, 2025

Project Name: Noncomplying and Accessory Structures
Case Number: 2025-002733PCA [Board File No. 250284]
Initiated by: Supervisor Engardio
Introduced March 25, 2025 / Substituted June 10, 2025
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.Merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533
Environmental Review: Not a Project Under CEQA

RECOMMENDATION: Adopt a Recommendation for Approval with Modifications

Planning Code Amendment

The proposed Ordinance would amend the Planning Code to provide conditions for repair and relocation of existing noncomplying structures within required side and rear yards, grant unpermitted residential structures within side and rear yards that were constructed before 2003 noncomplying status, and allow accessory structures up to 10 feet in height and 120 square feet within required side and rear yards.

The Way It Is Now & The Way It Would Be:

The Way It Is	The Way It Would Be
<p>One or more accessory structures (garden/tool sheds) are allowed within the required yards* if they are no larger than 100sqft and no taller than 8ft. These types of structures may include a half bath.</p>	<p>Accessory structures would be allowed in the required yard, with a maximum size of no more than 120sqft and no more than 10ft tall, with a maximum 1ft roof eave for structures at the maximum size. The types of structures that qualify under this permitted obstruction would be expanded to include those containing wetbars and bathrooms, while clarifying that full kitchens are not permitted. Note: <i>This provision does not exempt such structures from obtaining any required Department of Building Inspection permits.</i></p>
<p>Existing noncomplying structures may be repaired, altered, relocated or enlarged—but not replaced—provided that the extent of noncompliance with the Planning Code is not intensified.</p>	<p>Existing, noncomplying structures located in the required yard may be repaired, altered, relocated or enlarged, even if the alterations increase the intensity of the nonconformity, if necessary to comply with current Building Code standards. If the structure is relocated, it must relocate further setback from property lines than the original location. Interior alterations, including the noncomplying structure’s change of use, would not be considered an intensification. Lastly, the Code would clarify that:</p> <ol style="list-style-type: none"> 1. In cases where only portions of the structure are noncomplying, these rules shall only apply to the noncomplying portion, and; 2. This does not exempt the structure from any other Planning Code requirements (for example Sec. 317).
<p>Residential structures that do not meet the requirements of Section 136(c) to be considered a permitted obstruction must seek a Variance.</p>	<p>Residential structures in the required yard within RH, RM, and RTO districts that were constructed before January 1, 2003, would be considered noncomplying and may be altered, relocated, or replaced in-kind without the need for a Variance. To qualify, the structure’s dimensions may not deviate from the conditions as they existed prior to January 1, 2003, unless the deviation is required to comply with the Building Code. The structure may not relocate any closer to property lines.</p>
<p>There is no fee waiver/refund for pre-existing non-complying structures that seek/sought in-kind replacement permits or Variances.</p>	<p>Applicants who previously paid permit fees for a Variance from yard requirements due to a structure exceeding 100sqft and/or 8ft in height would be eligible for a refund, provided the structure is no larger than 120sqft, no taller than 10ft, and was originally constructed before 2003. To qualify, the Variance must have been sought after January 1, 2021.</p>

* “Yard” is the required open space along the side and in the rear of a lot.



The proposed Ordinance would allow a 10-foot tall, 120 square foot structure (left). The Current Code allows an 8-foot tall, 100 square foot structure (right).

Issues and Considerations

PermitSF

In February of 2025, Mayor Lurie announced a new initiative to develop, prioritize, and implement bold, systematic changes to the City’s permitting processes. PermitSF is a citywide initiative with the goal of making permitting faster, more predictable, and more transparent; helping support economic recovery and growth. The initiative focuses on cutting unnecessary processes and making it easier for small businesses, homeowners, and developers to get the permits they need. PermitSF is comprised of multiple city departments who are working together on legislative reforms and engaging stakeholders. It aims to boost downtown revitalization, support nightlife, and simplify property maintenance across the city. The proposed Ordinance, sponsored by Supervisor Engardio, is one such effort that aims to fulfill PermitSF’s goal of reforming processes that have increased the time, stress, and cost of living in San Francisco.

Permitted Obstructions

Section 136 of the Planning Code lists building elements and structures that are allowed within required streets, alleys, yards, setbacks and/or usable open space. It regulates the maximum dimensions and other

characteristics each permitted obstruction must meet to be allowed to encroach into these spaces. The Section also regulates which of the listed spaces it may encroach into. For example, a railing is allowed to encroach into a street, alley, setback, yard, or usable open space, but only if it is no more than 3'6" high above the step, porch, or balcony it is attached to.

Section 136 currently allows the following features to encroach into the required "yard" (meaning side or rear yard)¹:

- **Architectural projections** like cornices, eaves, and sunshades that project no more than 4' into the required yard
- **Bay windows** that project no more than 3', as well as meeting other specified requirements
- **Fire escapes** under a certain length and projection, as measured in conjunction with other permitted obstructions
- **Chimneys** that extend no more than 3' into the yard or are less than the maximum proportion of buildable width of the lot along the rear building wall, as measured in conjunction with other permitted obstructions
- Certain **retaining walls**
- **Steps** no more than 3' high
- **Uncovered stairways and landings** that do not extend higher than the floor of the adjacent first floor of occupancy above the ground story. Any portion of the stair that is higher than 3' above grade cannot extend more than 6' into the required yard, and all stairs must be less than the maximum proportion of buildable width of the lot along the rear building wall, as measured in conjunction with other permitted obstructions
- **Railings** no more than 3'6" high above the step, porch, or balcony they are attached to
- **Decorative railings or grillwork** that are at least 75% open and no taller than 6'
- **Fences** no more than 10' high
- **Outdoor recreational and household equipment** like play structures and clotheslines
- **Landscaping and gardening furniture**
- **Gardening structures** that are no more than 50% enclosed, no taller than 8' and no larger than 60sqft
- **Other structures used in gardening activities** like greenhouses and sheds that are no taller than 8' and no larger than 100sqft
- **Decks** at or below the first floor of occupancy
- **Garages** either below ground or under decks that do not occupy any area within the deepest 15' of the lot
- **Driveways**
- **Minor additions ("pop outs")** that generally extend no more than 12' into the yard, do not occupy the deepest 25% of the lot, and are no more than two stories high
- Certain **Accessory Dwelling Units (ADUs)**

Obstructions that do not meet the qualifications of Sec. 136 must seek a Variance from the Planning Code.

The current State Building Code exempts certain gardening structures from obtaining a Building Permit Application so long as they do not exceed 120 square feet in size and are unfinished spaces (e.g. storage

¹For a comprehensive list, including additional permitted obstructions allowed in C-3 Districts, see [Sec. 136](#).

sheds and playhouses). The proposed Ordinance would increase the allowed size of gardening structures in the Planning Code to match what is permitted by the Building Code. The proposed increase from eight to ten feet ensures the structure remains within the maximum allowable fence height. It is important to note that although these changes would allow more intensive uses within these accessory structures, elements like plumbing and electrical installations may still require permit approval from the Department of Building Inspection.

Currently, both noncomplying and unpermitted structures may not increase their nonconformity with the Planning Code without special permission through a Variance.

Noncomplying versus Unpermitted Structures

A "noncomplying structure" is a building or part of a building that was legally constructed with the required permits but no longer meets current Planning Code standards. An "unpermitted structure", on the other hand, was built without the necessary approvals or permits. The Planning Code encourages bringing both types of structures into compliance with current regulations. However, it allows noncomplying structures to remain and undergo minor repairs or alterations, supporting their continued use over their natural lifespan. In contrast, unpermitted structures must be brought into full compliance, or removed, as soon as they are identified.

Currently, both noncomplying and unpermitted structures may not increase their nonconformity with the Planning Code without obtaining a Variance. The Department has seen many Variance requests over the years due to long-existing unpermitted residential structures that either: 1) Need full replacement due to the end of the natural lifespan of the structure, and or; 2) Require alterations that increase its nonconformity with the Planning Code to meet required Building Code standards. These situations put two City codes into direct conflict with each other from the perspective of the applicant. The Department of Building Inspection may require changes for life-safety reasons that would expand a structure; however, the Planning Code will not allow those changes to be made without a Variance.

Long-standing, unpermitted rear yard structures are common across the city.

Rear Yard Structures

The proposed Ordinance would allow certain unpermitted residential structures to be considered legal, noncomplying structures. Residential structures are most often the same types of building features that are listed in Section 136. In this case, these building elements do not meet the limitations of the Section to be considered "permitted". Examples include decks that are built off the second story, stairs that extend more than 6' into the required backyard, or residential additions that extend into the last 25% of the rear yard or are more than two stories tall. The proposed Ordinance would allow these types of unpermitted structures to not only remain in place, but also be repaired, altered and replaced so long as they have existed since at least January 1, 2003. It would not allow a structure to further expand or increase its nonconformity with the

Planning Code from how it existed in 2003, unless it is deemed necessary to meet Building Code requirements.

EagleView

The Department uses a program that has high resolution satellite imagery from both bird's eye and angled positions that make it possible for staff to understand the built conditions on individual lots in the city. The satellite images go back to 2002. These images from 2002, compared with the most recent conditions on the lot, allows the Department to determine not only if a rear yard structure existed as of January 1, 2003, but also the general dimensions and placement of the structure on the lot as of January 1, 2003.



Two EagleView images of a lot in the Sunset District with a rear yard structure. The structure is approximately 325 square feet and therefore would not be allowed without a Variance. Under the proposed Ordinance, because this structure has existed with the same dimensions since at least January 1, 2003, it would be allowed to be repaired and/or replaced. The structure could also be expanded or relocated to the extent needed to comply with the Building Code.

Equalizing Enforcement

The Department has found that these types of long-standing, but unpermitted rear yard structures are common across the city. They are largely innocuous building elements or accessory structures that were constructed by previous owners; often with the current owners unaware that they are unpermitted. They are part of a legacy of many structures that comprise the fabric of San Francisco, yet would not be allowed under today's Code: from buildings that are too tall, to those with too many units, or those that extend into a required setback.

The Department's enforcement program is based on complaints, meaning action is often triggered by a single report. This can result in enforcement against one structure, while similar unpermitted ones nearby remain untouched. In extreme cases, complaints are filed not because the structure is creating a nuisance, but as a retaliatory measure in a personal dispute. The proposed Ordinance would ensure that all residential accessory structures are given equal treatment by reclassifying eligible, long-standing unpermitted

structures as noncomplying, meaning they would not need to be rebuilt to meet current Planning Code standards.

General Plan Compliance

Policy 26 of the Housing Element is to: “Streamline and simplify permit processes to provide more equitable access to the application process, improve certainty of outcomes, and ensure meeting State- and local-required timelines, especially for 100% affordable housing and shelter projects.” Further, Policy 39 directs the Department to: “Support the repair and rehabilitation of housing to ensure life safety, health, and wellbeing of residents, especially in Environmental Justice Communities, and to support sustainable building practices.” The proposed Ordinance, with recommended modifications, will allow homeowners to not only retain long-standing accessory structures but also make the necessary improvements to ensure they are safe. This approach supports housing stability by streamlining permits, increasing process certainty, and promoting the preservation of existing affordable housing.

Racial and Social Equity Analysis

The Planning Code amendments in the proposed Ordinance support racial and social equity by preserving affordable housing and preventing displacement. Many unpermitted residential structures exist in marginalized communities, where permitting was historically inaccessible or unaffordable. Allowing repairs without full Planning Code compliance acknowledges these past inequities and helps families stay in place. It supports community stability and offers a path to legalization without forcing costly upgrades that many cannot afford.

— Prioritizing life-safety upgrades over Planning Code compliance ensures vulnerable communities are not forced into lower-quality housing.

Additionally, allowing nonconforming structures to be altered to meet Building Code requirements even if the alterations would increase Planning Code nonconformity also ensures these structures are not lacking safety features, exposing residents—often BIPOC or low-income—to avoidable risks. Prioritizing life-safety upgrades over Planning Code compliance ensures vulnerable communities are not forced into lower-quality housing.

Implementation

The Department has determined that this Ordinance will impact our current implementation procedures; however, the proposed changes can be implemented without increasing permit costs or review time.

Recommendation

The Department recommends that the Commission **adopt a recommendation for approval with modifications** of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Amend Section 136(c)(23) to clarify that detached structures allowed in yards may not contain sleeping quarters. The Section would read as follows:

*(23) One or more detached structures, **which may not include sleeping quarters, full bathrooms, or full kitchens, but may include wetbars and half bathrooms, if no more than 10 feet in height above grade, as measured to the top of the structure, and covering no more than a combined 120 square feet as measured at grade. An additional 1 foot of roof eave may be permitted beyond the 120 square feet maximum;***

2. Allow noncomplying structures that are relocated per Building Code requirements to be relocated at the same distance from property lines as the existing structure's location. Additionally, exempt firewalls from this provision by allowing the addition of new, solid, fire-rated walls, as they are required by the Building Code, without a Variance.
3. Do not issue refunds for previously sought Variances.

Basis for Recommendation

The Planning Department supports the proposed ordinance because it streamlines permitting for existing accessory residential structures and facilitates necessary repairs without compromising safety or the use and enjoyment of nearby properties. The cumulative effect of complex entitlement and post-entitlement permitting makes the process of property repairs uncertain and expensive. This is especially so for accessory residential structures. Existing noncomplying and long-standing unpermitted structures have been in place for many years, meaning any minor alterations needed to retain the structure are unlikely to have an impact on adjacent properties. Structures that were nuisances have likely already faced enforcement and been corrected. The rear yard residential structures that are the subject of the proposed Ordinance are functional elements that increase livability for their occupants in a city where space is limited and housing is expensive. Additionally, some noncomplying structures like exterior stairs are required for life/safety. The proposed Ordinance reduces complicated permit processes and equalizes enforcement; making it easier for residents to repair, replace, and bring these structures up to Building Code standards to extend their lifespan.

Recommendation 1: Amend Section 136(c)(23) to clarify that detached structures allowed in yards may not contain sleeping quarters. As currently drafted, this permitted obstruction's description lacks clarity on whether sleeping space is included, and as such would require a Zoning Administrator interpretation. Further, if sleeping space or full bathrooms are included, it may incentivize the creation of Unpermitted Dwelling Units (UDUs) that cannot be legalized due to size constraints, potentially leading to enforcement actions and required removals. To address this issue, it is recommended that the description clearly states that neither sleeping spaces nor full bathrooms are allowed.

Recommendation 2: Allow noncomplying structures that are relocated per Building Code requirements to be relocated at the *same* distance from property lines as the existing structure’s location.

Additionally, exempt firewalls from this provision by allowing the addition of new, solid, fire-rated walls, as they are required by the Building Code, without a Variance. The proposed Ordinance currently requires that such structures, when located in the rear yard and relocated due to Building Code compliance, be moved further away from the property lines. However, this language does not permit relocation that maintains the existing setback. To address this, the Ordinance should be amended to explicitly permit relocated structures to retain their original setback distance rather than requiring a greater one. Additionally, the Ordinance as currently drafted would prevent the installation of new fire-rated walls without a Variance, as they are usually at or directly adjacent to, property lines. The Ordinance should exempt fire-rated walls that are required per Building Code from this provision, to ensure they can be installed along or directly adjacent to property lines when required for fire safety.

Recommendation 3: Do not issue refunds for previously sought Variances. Unlike other recent refund programs for permit fees, the proposed Variance refunds seek exemption from the rules that applied at the time of application. Staff reviewed these applications correctly, using the Code as it existed when the requests were made. The Department did not make an error in issuing or denying any Variance. Approving these refunds would set a precedent that Code changes justify refunds for past applications that now meet updated rules but did not meet the Code standards at the time.

Required Commission Action

The proposed Ordinance is before the Commission so that it may adopt a recommendation of approval, disapproval, or approval with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

ATTACHMENTS:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 250284



BUILDING INSPECTION COMMISSION (BIC)

**Department of Building Inspection
49 South Van Ness Avenue, 5th Floor San Francisco, California 94103**

Voice (628) 652 -3510

July 18, 2025

Daniel Lurie
Mayor

COMMISSION

Alysabeth
Alexander-Tut
President

Catherine Meng
Vice-President

Dan Calamuci
Evita Chavez
Bianca Neumann
Kavin Williams

Sonya Harris
Secretary

Monique Mustapha
Asst. Secretary

Patrick O’Riordan,
C.B.O., Director

Ms. Angela Calvillo
Clerk of the Board
Board of Supervisors, City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4694

Dear Ms. Calvillo:

RE: File No. 250284-2

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.

The Building Inspection Commission met and held a public hearing on July 16, 2025 regarding the proposed amendment to the Planning Code contained in Board File No. 250284-2.

The Commissioners voted unanimously to **recommend approval of the Ordinance.**

President Alexander-Tut	Excused
Vice-President Meng	Yes
Commissioner Calamuci	Yes
Commissioner Chavez	Yes
Commissioner Neumann	Yes
Commissioner Williams	Yes

Should you have any questions, please do not hesitate to call me at (628) 652-3510.

Sincerely,

A handwritten signature in blue ink that reads "Sonya Harris". The signature is fluid and cursive, with the first name "Sonya" and the last name "Harris" clearly legible.

Sonya Harris
Commission Secretary

cc: Patrick O'Riordan, Director
Mayor Daniel Lurie
Supervisor Joel Engardio
Board of Supervisors



BUILDING INSPECTION COMMISSION (BIC)

Department of Building Inspection

49 South Van Ness Avenue, 5th Floor San Francisco, California 94103

Voice (628) 652 -3510

May 23, 2025

Daniel Lurie
Mayor

COMMISSION

Alysabeth
Alexander-Tut
President

Dan Calamuci
Evita Chavez
Catherine Meng
Bianca Neumann
Kavin Williams

Sonya Harris
Secretary

Monique Mustapha
Asst. Secretary

Patrick O'Riordan,
C.B.O., Director

Ms. Angela Calvillo
Clerk of the Board
Board of Supervisors, City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4694

Dear Ms. Calvillo:

RE: File No. 250284

Ordinance amending the Planning Code to allow repair and replacement of noncomplying structures constructed before the year 2003, and allow accessory structures up to 10 feet in height and 120 square feet within required setbacks and usable open space; 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 necessity, convenience, and welfare under Planning Code, Section 302.

The Code Advisory Committee (CAC) met on May 14, 2025 and a discussion around the differences between the proposed changes to the Planning and Building Codes with respect to exemption of accessory structures up to 120 square feet of floor space from building permits ensued. The CAC members support the alignment of the San Francisco Building Code with the California Building Code as to the size of these structures, their concern is the potential conflict between the San Francisco Building and Planning Code. The CAC voted unanimously to refer **File No. 250284** back to Supervisor Engardio for revisions to make sure the Building Code and Planning Code are consistent while aligning with the California State Building Code.

The Building Inspection Commission met and held a public hearing on May 21, 2025 regarding the proposed amendment to the Building Code contained in Board File No. 250284.

The Commissioners voted unanimously to **recommend approval of the Ordinance.**

President Alexander-Tut	Excused
Commissioner Calamuci	Yes
Commissioner Chavez	Yes
Commissioner Meng	Yes
Commissioner Neumann	Yes
Commissioner Williams	Yes

Should you have any questions, please do not hesitate to call me at (628) 652-3510.

Sincerely,



Sonya Harris
Commission Secretary

cc: Patrick O'Riordan, Director
Mayor Daniel Lurie
Supervisor Joel Engardio
Board of Supervisors

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: June 20, 2025
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 250284-2 SUBSTITUTION
Planning, Building Codes - Noncomplying, Unpermitted, and Accessory Structures

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*) Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.
 - Ordinance / Resolution
 - Ballot Measure

6/26/25 *Joy Navarrete*
- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan
 - Planning Code, Section 101.1
 - Planning Code, Section 302
- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: April 1, 2025
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 250284
Planning, Building Codes - Noncomplying and Accessory Structures

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure
- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan Planning Code, Section 101.1 Planning Code, Section 302
- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

A handwritten signature in blue ink, appearing to read "John Carroll".

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

BOARD of SUPERVISORS



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1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Patrick O’Riordan, Director, Department of Building Inspection
Sonya Harris, Secretary, Building Inspection Commission

FROM: John Carroll, Assistant Clerk
Land Use and Transportation Committee

DATE: June 20, 2025

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors’ Land Use and Transportation Committee has received the following legislation, introduced as a substitute by Supervisor Engardio on June 10, 2025:

File No. 250284-2

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.

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: john.carroll@sfgov.org.

c:
Offices of Chair Melgar and Supervisor Engardio
Tate Hanna, Department of Building Inspection
Patty Lee, Department of Building Inspection

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Patrick O'Riordan, Director, Department of Building Inspection
Sonya Harris, Secretary, Building Inspection Commission

FROM: John Carroll, Assistant Clerk
Land Use and Transportation Committee

DATE: April 1, 2025

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Engardio on March 25, 2025:

File No. 250284

Ordinance amending the Planning Code to allow repair and replacement of noncomplying structures constructed before the year 2003, and allow accessory structures up to 10 feet in height and 120 square feet within required setbacks and usable open space; 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 necessity, convenience, and welfare under Planning Code, Section 302.

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: john.carroll@sfgov.org.

c:
Offices of Chair Melgar and Supervisor Engardio
Tate Hanna, Department of Building Inspection
Patty Lee, Department of Building Inspection

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Budget and Legislative Analyst

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: July 21, 2025

SUBJECT: LEGISLATION AMENDED - FISCAL IMPACT DETERMINATION

The Board of Supervisors' Land Use and Transportation Committee (a nonfiscal committee) amended the following legislation on July 21, 2025. Pursuant to Administrative Code, Section 2.6-3, the new version is being forwarded to you as it was initially determined not to have fiscal impact.

File No. 250284-3

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.

If the new version is determined to have fiscal impact, the legislation will need to be referred to a fiscal committee before it can be referred to the full Board for approval.

Please send your determination or contact with me any questions at (415) 554-4445 or email: john.carroll@sfgov.org.

RESPONSE FROM THE BUDGET AND LEGISLATIVE ANALYST - Date: _____

- This matter has fiscal impact.
- This matter does not have fiscal impact.
- Additional information attached.

Budget and Legislative Analyst

From: [Menard, Nicolas \(BUD\)](#)
To: [Carroll, John \(BOS\)](#)
Cc: [Somera, Alisa \(BOS\)](#); [Goncher, Dan \(BUD\)](#); [BOS Legislation, \(BOS\)](#)
Subject: RE: REFERRAL BLA - FISCAL IMPACT DETERMINATION REQUEST - AMENDED IN LUT - BOS File No. 250284 - Planning, Building Codes - Noncomplying, Unpermitted, and Accessory Structures
Date: Monday, July 21, 2025 4:46:16 PM
Attachments: [image001.png](#)

Hi John

This legislation, as amended, does not have fiscal impact.

Nicolas Menard
Budget & Legislative Analyst's Office
415-484-5485

From: Carroll, John (BOS) <john.carroll@sfgov.org>
Sent: Monday, July 21, 2025 2:35 PM
To: Menard, Nicolas (BUD) <nicolas.menard@sfgov.org>
Cc: Somera, Alisa (BOS) <alisa.somera@sfgov.org>; Goncher, Dan (BUD) <dan.goncher@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Subject: REFERRAL BLA - FISCAL IMPACT DETERMINATION REQUEST - AMENDED IN LUT - BOS File No. 250284 - Planning, Building Codes - Noncomplying, Unpermitted, and Accessory Structures

Good afternoon,

The subject ordinance was amended in LUT on July 21, 2025. It was then recommended as amended as a committee report to the BOS for consideration on July 22, 2025.

At the time of introduction this ordinance was determined to not have fiscal impact.

[Referral to BLA – July 21, 2025](#)

Pursuant to Admin Code, Section 2.6-3, please review the amended ordinance to determine whether the amendments result in the legislation having a fiscal impact.

You are invited to review the entire matter on our [Legislative Research Center](#) by following the link below.

[Board of Supervisors File No. 250284](#)

Best to you,



MYRNA MELGAR

DATE: July 16, 2025

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee
COMMITTEE REPORT

A handwritten signature in blue ink, appearing to read "mm", located to the right of the "FROM" line.

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on Tuesday, July 22, 2025

File No. 250284

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

Sponsor: Engardio

This matter will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, July 21, 2025.

From: [Board of Supervisors \(BOS\)](#)
To: [Carroll, John \(BOS\)](#); [Calvillo, Angela \(BOS\)](#); [De Asis, Edward \(BOS\)](#); [Entezari, Mehran \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [Ng, Wilson \(BOS\)](#); [Somera, Alisa \(BOS\)](#)
Cc: [BOS-Operations](#)
Subject: FW: Strongly Urging CONTINUANCE for Land Use and Transportation Committee Meeting July 21, 2025 Agenda Item #1 AND Full Board of Supervisors Meeting July 22, 2025 Agenda Item #64 [Planning, Building Codes - Noncomplying, Unpermitted, and Accessory Stru...
Date: Monday, July 21, 2025 8:35:14 AM

Hello,

Please see below communication regarding **File No. 250284:**

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.

Regards,

John Bullock
Office of the Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
(415) 554-5184
BOS@sfgov.org | www.sfbos.org

***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

From: aeboken <aeboken@gmail.com>

Sent: Sunday, July 20, 2025 7:14 PM

To: BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>

Subject: Strongly Urging CONTINUANCE for Land Use and Transportation Committee Meeting July 21, 2025 Agenda Item #1 AND Full Board of Supervisors Meeting July 22, 2025 Agenda Item #64 [Planning, Building Codes - Noncomplying, Unpermitted, and Accessory Structur...

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TO: Land Use and Transportation Committee members and full Board of Supervisors members

FR: Eileen Boken,
State and Federal Legislative Liaison

Coalition for San Francisco Neighborhoods*

*For identification purposes only.

RE: Land Use and Transportation Committee Meeting July 21, 2025 Agenda Item #1 AND Full Board of Supervisors Meeting July 22, 2025 Agenda Item #64 [Planning, Building Codes - Noncomplying, Unpermitted, and Accessory Structures] File #250284

Position: Strongly urging CONTINUANCE

This legislation was first heard at the Planning Department on June 26, 2025.

Even though this is a minor issue and is non-urgent, it was on a Planning Commission agenda with 23 items including upzoning.

This Planning Commission hearing lasted seven hours.

Even though this is a minor issue and is non-urgent, it was agendized for the Land Use and Transportation Committee meeting on June 30, 2025 which was just four days after the Planning Commission hearing.

At the Land Use and Transportation Committee meeting, the Chair stated that the legislation would be continued until September which is after the August BOS recess.

Instead, the legislation is once again on the July 21, 2025 Land Use and Transportation Committee meeting agenda.

This legislation is the one and only item on that Land Use and Transportation Committee agenda.

Not only is this legislation the one and only item on the Land Use and Transportation Committee agenda, it's also scheduled to be heard as a Committee Report.

This legislation is also agendized for the full BOS meeting the very next day on July 22, 2025.

That a minor issue and a non-urgent piece of legislation is being treated as though it's a major, urgent issue is more than questionable.

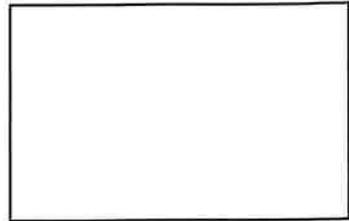
Once again, I'm strongly urging that this item be continued until September.

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Sent from my Verizon, Samsung Galaxy smartphone

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor _____ inquires..."
- 5. City Attorney Request
- 6. Call File No. _____ from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No. 250284
- 9. Reactivate File No. _____
- 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Engardio

Subject:

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

Long Title or text listed:

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.

Signature of Sponsoring Supervisor:



BOARD of SUPERVISORS



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TDD/TTY No. (415) 554-5227

MEMORANDUM

LAND USE AND TRANSPORTATION COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Myrna Melgar, Chair
Land Use and Transportation Committee

FROM: John Carroll, Assistant Clerk

DATE: July 21, 2025

SUBJECT **COMMITTEE REPORT, BOARD MEETING**
Tuesday, July 22, 2025

The following file should be presented as COMMITTEE REPORT during the Board meeting on Tuesday, July 22, 2025. This ordinance was acted upon during the Land Use and Transportation Committee meeting on Monday, July 21, 2025, at 1:30 p.m., by the votes indicated.

BOS Item No. 64

File No. 250284

[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.

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote: Supervisor Myrna Melgar – Aye
Supervisor Chyanne Chen – Aye
Supervisor Bilal Mahmood – Aye

Cc: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy
Brad Russi, Deputy City Attorney