

BOARD of SUPERVISORS



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MEMORANDUM

Date: March 3, 2025
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 250191
Planning and Building Codes - Amnesty for Properties in the Department of Building Inspection's Internal Quality Control Audit

- 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*)

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

1 [Planning and Building Codes - Amnesty for Properties in the Department of Building
 2 Inspection's Internal Quality Control Audit]

3 **Ordinance amending the Planning Code to: create a time-limited amnesty program for**
 4 **properties listed on the Department of Building Inspection's Internal Quality Control**
 5 **Audit and subject to a Notice of Violation; consider those properties as noncomplying**
 6 **structures and nonconforming uses following certification; and waive fees and**
 7 **penalties associated with the Planning Department's review of requests for amnesty,**
 8 **and refund any fees and penalties already paid by amnesty projects; amending the**
 9 **Building Code to: require certification of existing conditions for amnesty projects;**
 10 **prohibit expansion or intensification of non-complying amnesty structures; create a**
 11 **streamlined process for reviewing amnesty project applications; and waive fees**
 12 **associated with amnesty projects, and refund any fees and penalties already paid by**
 13 **amnesty projects; affirming the Planning Department's determination under the**
 14 **California Environmental Quality Act; making findings of consistency with the General**
 15 **Plan, and the eight priority policies of Planning Code, Section 101.1; and making**
 16 **findings of necessity and convenience under Planning Code, Section 302.**

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

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

25 Section 1. Environmental and General Findings.

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

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

11 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that the
12 Planning Code amendments in this ordinance will serve the public necessity, convenience,
13 and welfare for the reasons set forth in Planning Commission Resolution No. _____,
14 and the Board incorporates such reasons herein by reference.

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

20 (e) No local findings are required under California Health and Safety Code Section
21 17958.7 because the amendments to the Building Code contained in this ordinance do not
22 regulate materials or manner of construction or repair, and instead relate in their entirety to
23 administrative procedures for implementing the code, which are expressly excluded from the
24 definition of a "building standard" by California Health and Safety Code Section 18909(c).
25

1 Section 2. Legislative Findings.

2 (a) In January 2023, Rodrigo Santos, a building and construction engineer who did
3 business in San Francisco, was found guilty of leading multiple fraud schemes, tax evasion,
4 and providing falsified documents to the Federal Bureau of Investigations. Santos had
5 defrauded his clients, submitted false plans to the Department of Building Inspection (“DBI”)
6 and worked beyond the scope of his permits dozens of times. He also stole money from his
7 clients by misrepresenting the fees that were due to DBI and keeping the difference.

8 (b) In July 2023, former DBI Inspector Bernie Curran was found guilty of accepting
9 illegal gratuities for personal gain in connection with building inspections he performed.
10 Santos had made payments to Curran to approve illegal work including unauthorized
11 demolitions and unpermitted construction.

12 (c) In May 2021, DBI initiated the Internal Quality Control Audit (“Audit”) – a review of
13 properties that were associated with Rodrigo Santos and former Inspector Bernard Curran.

14 (d) DBI identified 5,445 properties for review (“Audit Properties”). The Audit identified
15 three Tiers of properties: (1) Tier 1: those that were associated with both Santos and Curran –
16 119 properties; (2) Tier 2: those associated with Santos or Curran and in a slope protection
17 area – 158 properties; and (3) Tier 3: those associated with Santos or Curran but not in a
18 slope protection area – 5,168 properties.

19 (e) Within the scope of the audit, DBI auditors have looked for evidence of work
20 beyond the scope of the permit, unpermitted work, missing inspections, missing slope
21 protection review, missing trade permits, missing special inspections, and complaints that
22 were not investigated.

23 (f) DBI completed the Audit in January 2025, and did not find any imminent life-safety
24 hazards. Most of the Audit Properties, were cleared without DBI issuing a Notice of Violation
25

1 (“NOV”), including all Audit Properties in Tier 3. As of January 2025, DBI had issued NOV
2 for approximately 100 Audit Properties in Tiers 1 and 2.

3 (g) Many owners of the Audited Properties that received NOVs purchased the property
4 after renovations had been completed and were unaware that unauthorized work had been
5 done.

6 (h) For some of these properties, the work needed to abate a violation can be costly,
7 leaving these owners responsible for tens of thousands of dollars in unanticipated permit and
8 architectural fees.

9 (i) To provide relief for these property owners, this ordinance amends the Planning and
10 Building Codes to create a time-limited amnesty program for properties that have been issued
11 NOVs pursuant to the Audit.

12
13 Section 3. Article 1.7 of the Planning Code is hereby amended by adding Section 187,
14 to read as follows:

15 **SEC. 187. AUDIT PROPERTIES; AMNESTY PROGRAM.**

16 (a) Intent. The purpose of this amnesty program is to provide relief from strict compliance
17 with the Planning Code for properties subject to Notices of Violation (“NOV”) issued by the
18 Department of Building Inspection as part of its Internal Quality Control Audit (“Audit”). The Audit
19 identified approximately 5,500 properties that could have been subject to permitting and inspection
20 irregularities. Pursuant to the Audit procedures, these properties were subject to additional review by
21 DBI. As of January 1, 2025, DBI had issued approximately 100 NOVs as a result of the Audit.

22 (b) Limitations. This Section 187 does not alter, modify, waive, or otherwise change the City’s
23 legal defenses to and immunity from any responsibility or liability for harm caused by the conduct of
24 any permit expediter, engineer, architect of record, or other design professional, such as Rodrigo
25 Santos, or inspections by City employees, such as Bernard Curran, or anyone acting on behalf of or in

1 concert with those individuals. The amnesty provided in this Section 187 does not relieve any property
2 owner from complying with the Building Code or obtaining final legal inspection for any work subject
3 to the Audit.

4 (c) **Definitions.** For purposes of this Section 187 the following definitions shall apply:

5 “Audit” means the Department of Building Inspection’s Internal Quality Control Audit, as it
6 may be updated.

7 “NOV Property” means any property identified in the Audit that is or has been subject to a
8 NOV arising from the Audit.

9 (d) **Amnesty Determination.** Notwithstanding any other provision of this Code, upon a written
10 determination of the existing conditions made by the Planning Director (“Director”) or the Director’s
11 designee pursuant to subsection (e), the physical condition and use of any NOV Property shall be
12 considered an existing noncomplying structure and/or nonconforming use subject to this Article 1.7,
13 after the property owner abates the NOV by obtaining a final certification of noncomplying conditions
14 from the Department of Building Inspection pursuant to Building Code Section 106A.6, or a Building
15 Permit.

16 (e) **Planning Determination of Nonconformity and Noncompliance.** The Director or their
17 designee shall document the degree of nonconformity or noncompliance for each NOV Property that is
18 granted amnesty under this Section 187. The Director’s determination of the degree of nonconformity
19 and/or noncompliance shall be based on any of the following: (1) historical photographs; (2) publicly
20 available information, including any NOV’s; (3) current photographs provided by the applicant,
21 including photographs showing the NOV Property; (4) drawings provided by the applicant prepared by
22 a state licensed contractor, architect, or registered engineer depicting the width, depth, height,
23 projection, elevation, and other key characteristics of the NOV Property; (5) site inspections by the
24 Planning Department, Department of Building Inspection, or other department having jurisdiction to
25 perform such an inspection, if requested; and (6) any other document or information the Director

1 deems relevant. Such determination shall be provided to the Department of Building Inspection under
2 Building Code Section 106A.6. It shall be the obligation of the property owner to demonstrate
3 eligibility for amnesty under this Section 187. The Director's determination regarding the degree of
4 nonconformity or noncompliance shall not be subject to appeal.

5 (f) **Waiver of Fees.** The Planning Department shall waive all fees for applications or other
6 actions under this Section 187. The Planning Department shall also refund any permit fees or
7 enforcement fees and penalties related to abating a NOV issued pursuant to the Audit, regardless of
8 whether the fees or penalties were paid prior to the effective date of the ordinance in Board File No.
9 _____.

10 (g) **Relationship to Planning Code.** Pursuant to the provisions of this Section 187 and Building
11 Code Section 106A.6, NOV Properties subject to the Audit may receive amnesty from the Planning
12 Code and be considered existing noncomplying structures and/or nonconforming uses. Although NOV
13 Properties may receive amnesty from strict compliance with the Planning Code for work subject to the
14 Audit, NOV Properties may not enlarge, modify or otherwise intensify the noncomplying structures
15 and/or nonconforming uses. Following receipt by property owner of a certification of existing
16 conditions pursuant to Building Code Section 106A or a Building Permit to abate a NOV, any changes
17 to the property shall be subject to the requirements of the Planning Code in effect as of the date of the
18 subsequent work.

19 (h) **Application deadline.** Any NOV Property must submit a complete amnesty application no
20 later than three years after the effective date of the ordinance in Board File No. _____.

21 (i) **Sunset.** This Section 187 shall expire by operation of law five years after the effective date
22 of the ordinance in Board File No. _____, following which the City Attorney is authorized to cause
23 it to be removed from the Planning Code.

1 Section 4. Chapter 1A of the Building Code is hereby amended by adding Section
2 106A.6, consisting of Sections 106A.6.1 to 106A.6.6, to read as follows:

3 **106A.6 Internal Quality Control Audit Amnesty Program.** *This Section 106A.6 applies to*
4 *Notices of Violation (“NOV”) Properties, as defined in Planning Code Section 187. Planning Code*
5 *Section 187 creates an amnesty program for properties subject to NOV’s resulting from the*
6 *Department’s Internal Quality Control Audit (“Audit”) by exempting those NOV Properties from strict*
7 *compliance with the Planning Code, provided that the property owner obtains certification from the*
8 *Department documenting the status of the noncomplying conditions. The Department shall implement*
9 *the amnesty program outlined in this Section 106A.6 to document the noncomplying conditions, and*
10 *expedite the abatement of NOV’s associated with Audit.*

11 **106A.6.1 Certification of Existing Conditions and Necessary Repairs: No New Construction**
12 **or Intensification of Non-Conformity.** *The Department shall provide a streamlined process to verify*
13 *existing conditions and abate any Building Code issues; provided that the application for certification*
14 *of existing conditions shall be consistent with the Information on Plans and Specification requirements*
15 *provided in Section 106A.3.3, and require the property owner to designate an architect or engineer of*
16 *record. The amnesty program shall not authorize new construction, additions, or any intensification of*
17 *structural non-conformity beyond what is determined by the Planning Department to be a*
18 *noncomplying structure and/or nonconforming use pursuant to Planning Code Section 187.*

19 **106A.6.2 Abatement of Notices of Violation.** *A certification pursuant to this Section 106A.6*
20 *shall be sufficient to abate a pending NOV related to failure to comply with the Planning Code.*
21 *Building Code violations must be brought into compliance with all applicable building standards.*

22 **106A.6.3 No Relaxation of Building Standards.** *The certification process in this Section*
23 *106A.6.3 may be used to abate a NOV based on failure to comply with the Planning Code, but nothing*
24 *in this Section 106A.6 relaxes or suspends any building standards or the obligation to obtain a Building*
25 *Permit to abate a NOV premised upon violations of the Building Code.*

1 **106A.6.4 Waiver of Fees.** *Notwithstanding any other provision of the Building Code, the*
2 *Department shall waive all fees for applications and inspections necessary to obtain a certification*
3 *pursuant to this Section 106A.6 and building permits necessary to abate any NOV issued pursuant to*
4 *the Audit, including the application fee for plan review, permit issuance fee for inspections, and any*
5 *enforcement fees and penalties, such as inspection fees required under Section 107A.5 for work without*
6 *a permit. The Department shall refund any permit fees and any related enforcement fees and penalties*
7 *associated with abating a NOV for failure to comply with the Building Code issued pursuant to the*
8 *Audit, regardless of whether the fees were paid prior to the effective date of the ordinance in Board*
9 *File No. _____.*

10 **106A.6.5 Streamlined Application Process.** *The Department shall develop a streamlined*
11 *application process to facilitate and expedite review of applications filed under this Section 106A.6.*

12 **106A.6.6 Sunset.** *This Section 106A.6 shall expire by operation of law five years after the*
13 *effective date of the ordinance in Board File No. _____, following which the City Attorney is*
14 *authorized to cause it to be removed from the Building Code.*

15
16 Section 5. Effective Date. This ordinance shall become effective 30 days after
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
18 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
19 of Supervisors overrides the Mayor's veto of the ordinance.

20 ///

21 ///

22 ///

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

7
8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/
11 Austin M. Yang
12 Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning and Building Codes - Amnesty for Properties in the Department of Building Inspection's Internal Quality Control Audit]

Ordinance amending the Planning Code to: create a time-limited amnesty program for properties listed on the Department of Building Inspection's Internal Quality Control Audit and subject to a Notice of Violation; consider those properties as noncomplying structures and nonconforming uses following certification; and waive fees and penalties associated with the Planning Department's review of requests for amnesty, and refund any fees and penalties already paid by amnesty projects; amending the Building Code to: require certification of existing conditions for amnesty projects; prohibit expansion or intensification of non-complying amnesty structures; create a streamlined process for reviewing amnesty project applications; and waive fees associated with amnesty projects, and refund any fees and penalties already paid by amnesty projects; 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 and convenience under Planning Code, Section 302

Existing Law

Article 1.7 of the Planning Code generally requires structures and land to be used only for permitted and approved purposes. Pursuant to Planning Code Section 174, the requirements in the Planning Code, conditions of approval, or other special restrictions are enforceable as requirements. Section 175 also requires project sponsors to obtain permits for uses, and the construction of any structure.

Amendments to Current Law

This ordinance would create a time-limited amnesty program for any project that is issued a notice of violation pursuant to the Department of Building Inspection's (DBI) Internal Quality Control Audit. For such properties, the ordinance would amend the Planning Code to not require strict compliance with the Planning Code, and instead, treat the existing structures and uses as noncomplying structure and/or nonconforming use. Although the properties may receive amnesty, the noncompliance may not be intensified. The Director of the Planning Department would be responsible for determining the degree of noncompliance.

The ordinance would require that the property owner obtain a certification from DBI regarding the degree of noncompliance with the Planning Code. The ordinance would not relax any Building Standard, and require that any notice of violation for failure to comply with the Building Code requires a Building Permit.

The amnesty in this program would sunset five years after the effective date of the ordinance.

Background Information

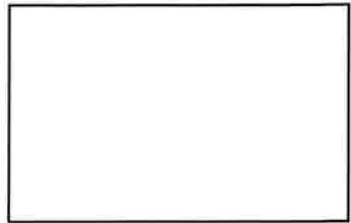
In May 2021, DBI initiated an the Internal Quality Control Audit (“Audit”) – a review of properties that were associated with Rodrigo Santos and former Inspector Bernard Curran. DBI identified 5,445 properties for review (“Audit Properties”). The Audit identified three Tiers of properties: (1) Tier 1: those that were associated with both Santos and Curran – 119 properties; (2) Tier 2: those associated with Santos or Curran and in a slope protection area – 158 properties; and (3) Tier 3: those associated with Santos or Curran but not in a slope protection area – 5,168 properties. Within the scope of the audit, DBI auditors have looked for evidence of work beyond the scope of the permit, unpermitted work, missing inspections, missing slope protection review, missing trade permits, missing special inspections, and complaints that were not investigated. DBI completed the Audit in January 2025, and did not find any imminent life-safety hazards. Most of the Audit Properties, were cleared without DBI issuing a notice of violation, including all Audit Properties in Tier 3. As of January 2025, DBI had issued notices of violation for approximately 100 Audit Properties in Tiers 1 and 2. This ordinance is intended to allow property owners to clear the notices of violation.

Many owners of the Audited Properties that received NOV's purchased the property after renovations had been completed and were unaware that unauthorized work had been done. For some of these properties, the work needed to abate a violation can be costly, leaving these owners responsible for tens of thousands of dollars in unanticipated permit and architectural fees. To provide relief for these property owners, this ordinance amends the Planning and Building Codes to create a time-limited amnesty program for properties that have been issued NOV's pursuant to the Audit.

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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. _____
- 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):

Mandelman

Subject:

[Planning and Building Codes - Amnesty for Properties in the Department of Building Inspection's Internal Quality Control Audit]

Long Title or text listed:

Ordinance amending the Planning Code to: create a time-limited amnesty program for properties listed on the Department of Building Inspection's Internal Quality Control Audit and subject to a Notice of Violation; consider those properties as noncomplying structures and nonconforming uses following certification; and waive fees and penalties associated with the Planning Department's review of requests for amnesty, and refund any fees and penalties already paid by amnesty projects; amending the Building Code to: require certification of existing conditions for amnesty projects; prohibit expansion or intensification of non-complying amnesty structures; create a streamlined process for reviewing amnesty project applications; and waive fees associated with amnesty projects, and refund any fees and penalties already paid by amnesty projects; 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 and convenience under Planning Code, Section 302.

Signature of Sponsoring Supervisor: