

1 [Planning Code - Measurement of Rooftop Appurtenances and Infill Spaces for Noncomplying
2 Structures in C-3 Zoning Districts]

3 **Ordinance amending the Planning Code, by adding a new Subsection 188(g), to modify**
4 **the measurement methodology for rooftop appurtenances and create a process to**
5 **authorize certain types of infill floor area in existing structures, located in a C-3 Zoning**
6 **District, which exceed the current height limit; affirming the Planning Department’s**
7 **California Environmental Quality Act determination, and making findings of**
8 **consistency with the General Plan, Planning Code, Section 302, and the eight priority**
9 **policies of Planning Code, Section 101.1.**

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

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

18 Section 1. Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. 150456 and is incorporated herein by reference. The Board affirms
23 this determination.

24 (b) On July 23, 2015, the Planning Commission, in Resolution No. 19422, adopted
25 findings that the actions contemplated in this ordinance are consistent, on balance, with the
City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
2 Board of Supervisors in File No. 150456, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
4 amendments will serve the public necessity, convenience, and welfare for the reasons set
5 forth in Planning Commission Resolution No. 19422 and the Board incorporates such reasons
6 herein by reference.

7
8 Section 2. The Planning Code is hereby amended by revising Section 188, to read as
9 follows:

10 **SEC. 188. NONCOMPLYING STRUCTURES: ENLARGEMENTS, ALTERATIONS**
11 **AND RECONSTRUCTION.**

12 (a) Within the limitations of this Article 1.7, and especially Sections 172 and 180
13 hereof, a noncomplying structure as defined in Section 180 may be enlarged, altered or
14 relocated, or undergo a change or intensification of use in conformity with the use limitations
15 of this Code, provided that with respect to such structure there is no increase in any
16 discrepancy, or any new discrepancy, at any level of the structure, between existing
17 conditions on the lot and the required standards for new construction set forth in this Code,
18 and provided the remaining requirements of this Code are met.

19 * * * *

20 (g) Notwithstanding Subsection (a) of this Section 188, a structure that is located within the C-3
21 Zoning District and is a legal non-complying structure with respect to height, shall be subject to the
22 following provisions:

23 (1) The datum for the vertical measurement of those features listed in Planning Code Section
24 260(b) shall be the height of the existing, finished roof of the building located immediately below such
25 feature, rather than the height limit set forth in the Planning Code, as would otherwise be the case.

1 (2) Building Infill, defined as floor area or building volume that is (i) located above the
2 applicable height limit and (ii) entirely covered by an existing ceiling, roof, or other overhang, may be
3 permitted notwithstanding applicable height and bulk limits, provided that the City approves such
4 Building Infill in accordance with the following procedures:

5 (A) An application for Building Infill in a structure that is not designated an Article 10
6 Landmark or an Article 11 Significant or Contributory building shall be considered under the
7 provisions of Section 309(b) of this Code. As part of any administrative or Planning Commission
8 approval of such application, and in addition to other considerations set forth in this Code, the facts
9 presented must establish that the Building Infill (i) would have minimal visual impact and maximum
10 architectural integration, (ii) would not negatively affect the aesthetic qualities and/or character of the
11 building, and (iii) would contribute positively to the overall design quality of the building through
12 attention to the design of the proposed addition and to the enhancement of the design of existing
13 building elements, if appropriate.

14 (B) An application for Building Infill in a structure that is designated an Article 10 Landmark
15 or an Article 11 Significant or Contributory building shall be subject to the provisions of Article 10 or
16 Article 11 of this Code and considered as part of an application for a Certificate of Appropriateness or
17 a Permit to Alter, as appropriate. Any application for Building Infill under Article 10 or Article 11
18 shall not be considered a Minor Alteration under Sections 1006.2(a) or 1111.1 of this Code.

19
20 Section 3. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor's veto of the ordinance.

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

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8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: _____
11 KATE H. STACY
12 Deputy City Attorney

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