File No	180778	Committee	Item	No.		3	
-		Board Item	No.		4		

### COMMITTEE/BOARD OF SUPERVISORS

COMMITTIEL/BOARD OF	
AGENDA PACKET CON	HENISLISI
Committee: Land Use and Transportation Comm	ittee Date November 26, 2018
Board of Supervisors Meeting	Date VOUSUR 4, JUS
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Motion	
Resolution Ordinance	
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Department/Agency Cover Letter	and/or Report
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Grant Information Form	
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Form 126 – Ethics Commission	
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Referral BIC 073118	
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H H. ——————————————————————————————————	
Completed by: Erica Major D	ate November 9, 2018
	ate 117618

NOTE:

[Building Code - Penalties for Constructing an Impervious Surface in the Front Yard Setback Without the Required Permit]

Ordinance amending the Building Code to modify the penalty for constructing an impervious surface in the front yard setback without a permit; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk of the Board of Supervisors to forward the Ordinance to the California Building Standards Commission upon final passage.

Unchanged Code text and uncodified text are in plain Arial font.

Additions to Codes are in single-underline italics Times New Roman font.

Deletions to Codes are in strikethrough italics Times New Roman font.

Board amendment additions are in double-underlined Arial font.

Board amendment deletions are in strikethrough Arial font.

Asterisks (\* \* \* \*) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Findings.

- (a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 180778 and is incorporated herein by reference. The Board affirms this determination.
- (b) On September 19, 2018, the Building Inspection Commission considered this ordinance at a duly noticed public hearing pursuant to Charter Section D3.750-5.

Section 2. California Health and Safety Code Section 17958.7. No findings under Section 17958.7 of the California Health and Safety Code are required for this ordinance

because it is not amending a "building standard," as defined in Health and Safety Code Section 18909.

Section 3. The Building Code is hereby amended by revising Section 106A.1.13, to read as follows:

106A.1.13 Permits and fees for construction of an impervious surface in a front yard setback; *penalties for violation of requirements*.

- (a) 1. General. It shall be unlawful for any person, firm, or corporation to commence or proceed with the construction of an impervious surface in a front yard setback area, other than a driveway as defined in ##e Planning Code Section 136(c)(30), unless a permit is first obtained. See Section 110A, Table 1A-F Specialty Permit Fees for applicable fee.
- (b) 2. Referral to Planning Department. The Department shall refer all applications for a permit pursuant to this <u>s</u>Section <u>106A.1.13</u> to the Planning Department for a determination regarding the proposed construction's compliance with Sections 132(g) and 136(c)(30) of the Planning Code. The Department may not issue the permit unless Planning determines the proposed construction to be compliant <u>with the Planning Code requirements.</u>
- (c) Verification of compliance during inspections. In performing the inspections required under Section 108A.1 of this Code, the inspector shall also verify that an impervious surface has not been constructed in the front yard setback area in violation of this Section 106A.1.13. If the inspector finds that there is a violation of Section 106A.1.13, the violation shall be required to be corrected under that existing permit.

## (d) 3. <u>Penalties</u> <del>Penalty</del> for violation.

1. Notice of Municipal Code Violation ("NOV"). The Department shall issue an NOV pursuant to Section 102A.4 of this Code to Any person, the owner of the property firm or corporation determined to be in violation of violating the provisions of subsection (a) above this Section shall be

guilty of an infraction. Every violation determined to be an infraction is punishable by (1) a fine not exceeding \$100 for a first violation, (2) a fine not exceeding \$200 for a second violation within one year, and (3) a fine not exceeding \$500 for a third violation within one year. The NOV shall require the owner or the owner's authorized representative to apply for and obtain a permit to bring the existing surface in the front yard setback area into compliance with current Municipal Code requirements, including but not limited to the Building and Planning Codes.

- 2. Investigation Fees. Violations of this Section 102A.1.13 shall be subject to the fees set forth in Table 1A-K of this Code for either work without permit or work exceeding the scope of the approved permit.
- 3. Civil and criminal penalties. Any person, including the owner or the owner's authorized representative, who violates, disobeys, omits, neglects, or refuses to comply with, or resists or opposes the execution of the provisions of this Section 106A.1.13 shall be subject to the civil penalty of up to \$500 per day and the criminal penalties that are set forth in Section 103A of this Code.
- 4. Costs of Abatement. In addition to any monetary penalties authorized by Section

  103A of this Code, the Department shall be entitled to recover its costs of abatement pursuant to

  Section 102A.7(d).

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

Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

Section 6. Directions to Clerk. The Clerk of the Board of Supervisors is hereby directed to forward a copy of this ordinance to the California Building Standards Commission upon final passage.

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By:

JUDITH A. BOYAUAI Deputy City Attorney

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#### **LEGISLATIVE DIGEST**

[Building Code - Penalties for Constructing an Impervious Surface in the Front Yard Setback Without the Required Permit]

Ordinance amending the Building Code to modify the penalty for constructing an impervious surface in the front yard setback without a permit; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk of the Board of Supervisors to forward the Ordinance to the California Building Standards Commission upon final passage.

#### **Existing Law**

Building Code Section 106A.1.13 requires a permit and establishes a fee for the construction of an impervious surface in a front yard setback. Applications for construction of an impervious surface in the front yard setback are required to be referred to the Planning Department for a determination whether the proposed construction complies with Sections 132(g) and 136(c)(30) of the Planning Code. Violation of the permit requirement is an infraction that can result in a criminal penalty of up to \$100 for a first violation, up to \$200 for a second violation within one year, and up to \$500 for a third violation within one year.

## Amendments to Current Law

This ordinance provides the following additional enforcement tools to achieve compliance with the front yard setback permit requirements:

- The civil penalty of up to \$500 per day and criminal penalties that are set forth in Section 103A of the Building Code will apply;
- The Department will issue a Notice of Municipal Code Violation (NOV) pursuant to Section 102A.4 of the Building Code that requires the owner or owner's agent to apply for and obtain a permit to bring the existing surface in the front yard setback area into compliance with current Municipal Code requirements, including but not limited to the Building and Planning Codes.
- Violations are expressly subject to the Building Code's investigation fees for work
  without permit or work exceeding the scope of an approved permit, and the Department
  will be entitled to recover its costs of abatement pursuant to Section 103A of the
  Building Code.
- During inspections required for work performed under permits issued by the Department, the inspector will verify compliance with the front yard setback permit

requirements, and any violation will be required to be corrected under that existing permit.

#### Background Information

Planning Code Section 132(g) sets forth the requirements for landscaping and permeable surfaces in the front setback area. It provides that the front setback shall be appropriately landscaped, meet any applicable water use requirements of Chapter 63 of the Administrative Code, and in every case not less than 20% of the required setback area shall be and remain unpaved. These requirements are triggered by (1) construction of a new building, (2) the addition of a new dwelling unit, garage, or additional parking; (3) any addition to a structure that would result in an increase of 20% or more of the existing gross floor area; (4) a residential merger; or (6) paving or repaving more than 200 square feet of the front setback. Pursuant to Section 132(h), the front setback area shall be at least 50% permeable so as to increase stormwater infiltration. Section 136(c)(30), also referenced in Building Code Section 106A.1.13, allows driveways meeting specified requirements as obstructions in required setback areas.

In Chapter 63 of the Administrative Code (the "Water Efficient Irrigation Ordinance"), the Board of Supervisors found that irrigated landscapes contribute significantly to the quality of life of the people of San Francisco. They provide areas for active and passive recreation and as an enhancement to the environment by cleaning air and water, and add to the natural beauty of San Francisco's commercial, industrial, and residential neighborhoods. This ordinance will provide additional tools to enforce the Code requirements.

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#### BUILDING INSPECTION COMMISSION (BIC)

Department of Building Inspection Voice (415) 558-6164 - Fax (415) 558-6509 1660 Mission Street, San Francisco, California 94103-2414

September 20, 2018

London N. Breed Mayor

Ms. Angela Calvillo Clerk of the Board

COMMISSION

Board of Supervisors, City Hall

Angus McCarthy President 1 Dr. Carlton B. Goodlett Place, Room 244

Debra Walker

San Francisco, CA 94102-4694

Debra Walker Vice-President Dear Ms. Calvillo:

Kevin Clinch John Konstin Frank Lee Sam Moss James Warshell RE: File No.180778

Sonya Harris

Ordinance amending the Building Code to modify the penalty for constructing an impervious surface in the front yard setback without a permit; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk of the Board of Supervisors to forward the Ordinance to the California

Secretary

Building Standards Commission upon final passage.

Tom C. Hui Director

The Building Inspection Commission met and held a public hearing on September 19, 2018 regarding File No. 180778 on the proposed amendment to the San Francisco Building Code referenced above. The Commissioners voted unanimously to support this proposed amendment.

The Commissioners voted as follows:

President McCarthy
Commissioner Clinch

Yes

Vice-President Walker

Yes

Commissioner Clinch

Excused

Commissioner Konstin

Yes

Commissioner Lee

Yes

Commissioner Moss

Yes

Commissioner Warshell

Excused

Should you have any questions, please do not hesitate to call me at 558-6164.

Sincerely,

Sonya Harris

**Commission Secretary** 

Donga Haro

CC:

Tom C. Hui, S.E., Director Mayor London N. Breed Supervisor Ahsha Safai Board of Supervisors

#### **BOARD of SUPERVISORS**



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

September 24, 2018

File No. 180778

Lisa Gibson Environmental Review Officer Planning Department 1650 Mission Street, Ste. 400 San Francisco, CA 94103

Dear Ms. Gibson:

On July 24, 2018, Supervisor Safai introduced the following proposed legislation:

File No. 180778

Ordinance amending the Building Code to modify the penalty for constructing an impervious surface in the front yard setback without a permit; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk of the Board of Supervisors to forward the Ordinance to the California Building Standards Commission upon final passage.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Erica Major, Assistant Clerk

Land Use and Transportation Committee

Attachment ·

c: Joy Navarrete, Environmental Planning Laura Lynch, Environmental Planning Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c) (2) because it does not result in a physical change in the environment.

Joy

Disconsology Navarrete, osious Environmental Planni emallsioy.navarrete@sfgc

To: Subject: BOS Legislation, (BOS)

RE: Public Comment: File 180778

From: Board of Supervisors, (BOS) Sent: Monday, July 30, 2018 8:26 AM

To: BOS-Supervisors < bos-supervisors@sfgov.org>; BOS Legislation, (BOS) < bos.legislation@sfgov.org>

Subject: FW: Public Comment: File 180778

From: Thomas Busse [mailto:tjbussesf@gmail.com]

Sent: Saturday, July 28, 2018 11:29 PM

To: Board of Supervisors, (BOS) < board.of.supervisors@sfgov.org >

Subject: Public Comment: File 180778

This proposal is yet another feel-good False Green Flag.

San Francisco is already one of the most energy-efficient cities in the country, and some environmentalists have seen an eyesore in certain blocks in the Avenues for paved-over driveways. They need to get over it. This impact is so negligible, the cost of this proposal is so out of proportion it's undefined, as you cannot divide by zero environmental gain.

Some disabled individuals benefit from these laws because it increases their mobility. A good friend of mine is a disabled vet, and he requires greater turning radius to maneuver to a garage in his house in the avenues. He purchased the building specifically because the paved over front yard gave both extra room for his special van elevator combined with direct floor-level access through the garage.

Second, San Francisco has a parking shortage, and this has a disproprotionate impact in the Avenues where many working families with two cars park the second in the driveway. MUNI does not cut it. Period. The average bus moves at 7mph in those areas and it takes 75-80 minutes to get across the city. This proposal might get feel-good points for the Environmentalists who have hurt yet another middle class family by forcing them into poverty.

Third, I am concerned about the quality of San Francisco's groundwater given the century of industrial activity over San Francisco's aquifers. We were lied to about Radiological contamination, and how much of that seeps down - giving out school children a healthy dose of strontium?

Finally, let's be honest: this is about the SFPUC's revenue bonds and "spreading grounds" are something that can be taxed for the super sewer, because they blew all the money on Zula Jones.

#### BOARD of SUPERVISORS



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

## MEMORANDUM

TO:

Tom Hui, Director, Department of Building Inspection

Sonya Harris, Secretary, Building Inspection Commission

FROM:

Erica Major, Assistant Clerk

Land Use and Transportation Committee

DATE:

July 31, 2018

SUBJECT:

LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Safai on July 24, 2018:

File No. 180778

Ordinance amending the Building Code to modify the penalty for constructing an impervious surface in the front yard setback without a permit; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk of the Board of Supervisors to forward the Ordinance to the California Building Standards Commission upon final passage.

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: <a href="mailto:alisa.somera@sfgov.org">alisa.somera@sfgov.org</a>.

c: William Strawn, Department of Building Inspection Carolyn Jayin, Department of Building Inspection

#### **BOARD of SUPERVISORS**



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

September 24, 2018

File No. 180778

Lisa Gibson Environmental Review Officer Planning Department 1650 Mission Street, Ste. 400 San Francisco, CA 94103

Dear Ms. Gibson:

On July 24, 2018, Supervisor Safai introduced the following proposed legislation:

File No. 180778

Ordinance amending the Building Code to modify the penalty for constructing an impervious surface in the front yard setback without a permit; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk of the Board of Supervisors to forward the Ordinance to the California Building Standards Commission upon final passage.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Erica Major, Assistant Clerk

Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning Laura Lynch, Environmental Planning

rom: Sent: To: Cc: Subject:	Westside = best side! <westsidebe Monday, November 26, 2018 1:26 Tang, Katy (BOS); Safai, Ahsha (BO Summers, Ashley (BOS); Ho, Jessic 11/26 LUTC</westsidebe 	PM PS); Kim, Jane (BOS)	1ajor, Erica (BOS)
This message is from outsic	de the City email system. Do not open	links or attachments from ι	untrusted sources.
Dear Members of the Land U	Use and Transportation Committee	•	
abundant housing and aweso	n Westside = best side!, a community of the Sunset, Parkside, ke to express our SUPPORT for two	Lakeshore, and West of	Twin Peaks
Required Permit": it is about concrete, almost always for This not only results in water extending past the property I	for Constructing an Impervious Sut time property owners face real countries the sole reason of using their front or not being able to percolate into the line and into the sidewalk/pedestriaty issue. For this reason we SUPPC cing this legislation.	nsequences for covering or yard as parking, which is the ground anymore but of an right of way. This is no	open/green space with s an unpermitted use. ften also parked vehicles ot only an eyesore but
years to act in order to limit is not only outdated policy, anymore, parking to be built Additionally, for the same b expensive to build, this will	the devastating impacts of climate it is also completely irresponsible.  This is a great first step towards ruilding envelope, less parking will help in making those homes affordment. A no brainer for us to SUPPO on this.	change, having minimun This legislation would sti reducing our City's addict mean more homes, and b lable "by design". This le	n parking requirements ill allow, but not require tion to private cars. because parking is really gislation is pro-housing.
Thanks for your consideration	on.		
Jimmy La  Westside = best side! comm	unity organizer and District 4 resid	lent	
×			

2309 Noriega Street PMB 67 San Francisco, CA 94122

From: Sent: To: Cc: Subject:	Westside = best side! <westsidebestsides Monday, November 26, 2018 1:26 PM Tang, Katy (BOS); Safai, Ahsha (BOS); Kim, Summers, Ashley (BOS); Ho, Jessica (BOS); 11/26 LUTC</westsidebestsides 	Jane (BOS)	Major, Erica (BOS)	
This message is from outside	the City email system. Do not open links or	attachments from	n untrusted sources	S.
Dear Members of the Land Us	se and Transportation Committee,			
abundant housing and aweson	Westside = best side!, a community organe transit in the Sunset, Parkside, Lakesle to express our SUPPORT for two properties.	nore, and West o	f Twin Peaks	for
Required Permit": it is about to concrete, almost always for the This not only results in water extending past the property linguist also a safety and accessibility Supervisor Safai for introducing - "Planning Code - Off-Street years to act in order to limit the is not only outdated policy, it anymore, parking to be built." Additionally, for the same built expensive to build, this will he	Parking Requirements": in a transit-first the devastating impacts of climate change is also completely irresponsible. This legalist is a great first step towards reducing lding envelope, less parking will mean relp in making those homes affordable "bent. A no brainer for us to SUPPORT and	nces for covering parking, which anymore but of of way. This is a sordinance and way, having minimulation would so our City's addition ore homes, and by design". This is a sordinance and way of the covering the co	g open/green space is an unpermitted often also parked not only an eyeso would like to that orld that only has am parking requirestill allow, but no ction to private cabecause parking egislation is pro-	ce with I use. vehicles re but nk 12 rements t require ars. is really housing,
Thanks for your consideration			·	
Jimmy La  Westside = best side! commun	nity organizer and District 4 resident			
≥ 2309 Noriega Street PMB 67	San Francisco. CA 94122			

Print Form

# **Introduction Form**

By a Member of the Board of Supervisors or Mayor

BOARD OF SAME	CETY ED SUPERVISORS D'ANCISCO	
2018 JUL	Time stamp or meeting date	
5Y	AK	-

hereby submit the following item for introduction (select only one):	ZUIN JUL Formee	ing date 9
1. For reference to Committee. (An Ordinance, Resolution, Motion or Cha	arter Amendment).	
2. Request for next printed agenda Without Reference to Committee.		
3. Request for hearing on a subject matter at Committee.		
4. Request for letter beginning: "Supervisor		inquiries"
5. City Attorney Request.		a.
6. Call File No. from Committee.		
7. Budget Analyst request (attached written motion).		•
8. Substitute Legislation File No.		
9. Reactivate File No.		
10. Topic submitted for Mayoral Appearance before the BOS on		
☐ Small Business Commission ☐ Youth Commission ☐ Planning Commission ☐ Building Insp  Note: For the Imperative Agenda (a resolution not on the printed agenda)	☐ Ethics Commis  pection Commission  perative Imperative I	
Sponsor(s):		
Supervisor Ahsha Safai		,
Subject:		
Building Code - Penalties for Constructing an Impervious Surface in the Fron Permit	t Yard Setback Withou	at the Required
The text is listed:		
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Signature of Sponsoring Supervisor:		A fr
Clerk's Use Only		