

***Regular Meeting
of the
Building Inspection Commission
May 21, 2025
Agenda Item 11***



May 16, 2025

Building Inspection Commission
49 South Van Ness Avenue
San Francisco, CA 94103

Re: Proposed ordinance amending the San Francisco Building Code to exempt accessory structures up to 120 square feet from building permits. (File No.250284)

At the May 14, 2025 regular meeting of the Code Advisory Committee, a discussion around the differences between the proposed changes to the Planning and Building Codes with respect to exemption of accessory structure up to 120 square feet from building permits ensued. The difference between Planning Code 120 square feet of land and Building Code 120 square feet of floor area are in conflict with each other. It was also pointed out the common use of accessory structures for gardening activities, greenhouses, and storage garden tools found in the Planning Code does not mirror the Building Code uses of tool and storage sheds, playhouses and other similar uses.

The full Code Advisory Committee 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. Therefore, they voted unanimously refer back to Supervisor Engardio for revisions to make the Building Code and Planning Code are consistent while aligning with California State Building Code.

Respectfully submitted,

A handwritten signature in blue ink that reads "Thomas Fessler".

Thomas Fessler
DBI Technical Services
Secretary to the Code Advisory Committee

cc. Patrick O'Riordan, C.B.O. Director
Mary Wilkinson-Church, Acting Deputy Director
Christine Gasparac, Assistant Director
Tate Hanna, Legislative Affairs Manager
J. Edgar Fennie, Chair, Code Advisory Committee

Attach: File No.250284

Technical Services Division
49 South Van Ness Avenue – San Francisco CA 94103
Office (658) 652-3720 – www.sfdbi.org

[Planning, Building Codes - Noncomplying and Accessory Structures]

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.

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

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

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

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

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

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

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

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

21
22 Section 2. Articles 1.2 and 1.7 of the Planning Code are hereby amended by revising
23 Sections 136 and 188, and adding Section 188.1, to read as follows:

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

Streets and Alleys	Set- backs	Yards	Usable Open Space	
* * * *				
				(c) The permitted obstructions shall be as follows:
* * * *				
	<u>x</u>	x	<u>x</u>	(23) Other structures commonly used in gardening activities, such as greenhouses and sheds for storage of garden tools, if no more than <u>10eight</u> feet in height above grade and covering no more than <u>120100</u> square feet of land;
* * * *				

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

(a) Within the limitations of this Article 1.7, and especially Sections 172 and 180 hereof, a noncomplying structure as defined in Section 180 may be enlarged, altered, or relocated, or undergo a change or intensification of use in conformity with the use limitations of this Code, provided that with respect to such structure, its above grade dimensions do not increase, other than to the degree necessary to comply with current Building Code requirements. Interior alterations including the structure's use for different purposes do not constitute an intensification for the purposes of this Section. For any structure that is partially noncompliant, these rules shall only apply to the portions of the structure that are noncomplying; portions of the structure

1 within the buildable area shall be subject to rules governing building within the buildable area of the
2 lot elsewhere in this Code. ~~there is no increase in any discrepancy, or any new discrepancy, at any~~
3 ~~level of the structure, between existing conditions on the lot and the required standards for new~~
4 ~~construction set forth in this Code, and provided the remaining requirements of this Code are met.~~

5 * * * *

6 **SEC. 188.1. EXCEPTIONS FOR PRE-EXISTING NONCOMPLYING STRUCTURES IN**
7 **RH, RM, AND RTO DISTRICTS FROM RESTRICTIONS ON REPLACEMENTS.**

8 (a) Noncomplying accessory structures that were constructed prior to the year 2003 may be
9 replaced in-kind with the same dimensions without the need for a variance. In-kind replacements may
10 deviate from the original noncomplying structure's dimensions only to the degree necessary to comply
11 with current Building Code requirements.

12 (b) The Planning Department shall refund any permit fees incurred by applicants who sought a
13 variance determination from Section 136(c)(23) after January 1, 2021 and prior to the effective date of
14 the ordinance enacting this Section 188.1, to repair or replace a noncomplying structure that was
15 constructed prior to the year 2003.

16
17 Section 3. Chapter 1A of the Building Code is hereby amended by revising Section
18 106A.2, to read as follows:

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

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

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

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

17
18 APPROVED AS TO FORM:
19 DAVID CHIU, City Attorney

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

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File No. 250284 – Accessory Structures

Department of Building Inspection
May 21, 2025

Existing Law

Currently, the California Building Code (CBC) exempts one-story accessory structures that have a floor area of 120 square feet or less from requiring a permit.

These structures are allowed to be used as “tool and storage sheds, playhouses, and other similar uses” per CBC 105.2.

San Francisco Amendments

San Francisco adopted local amendments that alter this provision, changing the eligibility from 120 square feet of floor area to 100 square feet of projected roof area.

Aside from limiting the capacity of authorized work without a permit, these amendments cause pre-fabricated storage sheds built to comply with state codes to be prohibited in San Francisco without a building permit.

Proposed Ordinance

File No. 250284 seeks to revert San Francisco's amendments back to state code, increasing the eligible space to 120 square feet and reverting from projected roof area back to floor area.

Additionally, this ordinance proposes an inclusion of CBC language ensuring that these structures are still subject to relevant requirements in Section 710A, despite not needing a permit.

Lastly, the ordinance amends the Planning Code's requirements regarding noncomplying accessory structures.

CAC Recommendation

On May 14, the Code Advisory Committee reviewed File No. 250284 and unanimously recommended approval without modifications.

DBI recommends approval of the ordinance.



THANK YOU