

1 [Planning Code - New Rooftop Floor Area or Building Volume on Noncomplying Structure  
2 Designated as a Significant Building - Assessor's Parcel Block No. 37075 Third Street]

3 **Ordinance amending the Planning Code to permit new floor area or building volume on**  
4 **the rooftop of a noncomplying structure that is designated as a Significant Building**  
5 **under Planning Code, Article 11, located on Assessor's Parcel Block No. 3707 (5 Third**  
6 **Street), provided that the rooftop has an existing parapet at least 17 feet in height along**  
7 **the primary building frontage; affirming the Planning Department's determination**  
8 **under the California Environmental Quality Act; making findings of consistency with**  
9 **the General Plan, and the eight priority policies of Planning Code, Section 101.1; and**  
10 **making findings of public necessity, convenience, and welfare under Planning Code,**  
11 **Section 302.**

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

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

19 Section 1. Findings.

20 (a) The Planning Department has determined that the actions contemplated in this  
21 ordinance comply with the California Environmental Quality Act (California Public Resources  
22 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
23 Supervisors in File No. 190702 and is incorporated herein by reference. The Board affirms  
24 this determination.  
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1 (b) On April 25, 2019, the Planning Commission, in Resolution No. 20435, adopted  
2 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
3 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
4 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
5 Board of Supervisors in File No. 190702, and is incorporated herein by reference.

6 (c) Pursuant to Planning Code Section 302, the 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. 20435 and the Board incorporates such reasons  
9 herein by reference, as though fully set forth herein. A copy of Planning Commission  
10 Resolution No. 20435 is on file with the Clerk of the Board of Supervisors in File No. 190702.

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12 Section 2. The Planning Code is hereby amended by revising Section 188, to read as  
13 follows:

14 **SECTION. 188. NONCOMPLYING STRUCTURES: ENLARGEMENTS,**  
15 **ALTERATIONS, AND RECONSTRUCTION.**

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

23 \* \* \* \*

24 ~~(g) Notwithstanding subsection (a) of this Section 188, Terrace Infill, defined as new~~  
25 ~~floor area or building volume located within an existing terrace that is already framed by no~~

1 less than one wall, may be permitted to be enclosed on a noncomplying structure, as defined  
2 in Planning Code Section 180, that is designated as a Significant Building under Article 11 of  
3 this Code, notwithstanding otherwise applicable height, floor area ratio and bulk limits, where  
4 the noncomplying structure is designated as a Significant Building under Article 11 of this  
5 Code as follows: on Assessor's Block 0316, Terrace Infill may be permitted to be enclosed  
6 within an existing terrace that is already framed by no less than one wall; and is located on  
7 Assessor's Block 03163707, Terrace Infill may be permitted within an existing rooftop terrace  
8 that is behind a parapet at least 17 feet in height along the primary building frontage. An  
9 application for Terrace Infill shall be considered a Major Alteration under Section 1111.1 of  
10 this Code and shall be subject to the applicable provisions of Article 11 of this Code, including  
11 but not limited to the requirement to apply for and procure a Permit to Alter. As part of the  
12 Historic Preservation Commission's consideration of such application, in addition to other  
13 requirements set forth in this Code, the facts presented must establish that the Terrace Infill  
14 (1) would not be visible from the primary building frontage, and (2) would not exceed 1,500  
15 net new square feet per building. Unless the Board of Supervisors adopts an ordinance  
16 extending the term of this Subsection 188(g), it shall expire by operation of law on January  
17 31, 201928. After that date, the City Attorney shall cause this Subsection 188(g) to be  
18 removed from the Planning Code.

19 (g) Notwithstanding subsection (a) of this Section 188, Terrace Infill, defined as new  
20 floor area or building volume located within an existing terrace may be permitted on a  
21 noncomplying structure, as defined in Planning Code Section 180, that is designated as a  
22 Significant Building under Article 11 of this Code, notwithstanding otherwise applicable height,  
23 floor area ratio, and bulk limits, as follows: on Assessor's Block 0316, Terrace Infill may be  
24 permitted to be enclosed within an existing terrace that is already framed by no less than one  
25 wall; and on Assessor's Block 3707, Terrace Infill may be permitted within an existing rooftop

1 terrace that is behind a parapet at least 17 feet in height along the primary building frontage.  
2 An application for Terrace Infill shall be considered a Major Alteration under Section 1111.1 of  
3 this Code and shall be subject to the applicable provisions of Article 11 of this Code, including  
4 but not limited to the requirement to apply for and procure a Permit to Alter. As part of the  
5 Historic Preservation Commission’s consideration of such application, in addition to other  
6 requirements set forth in this Code, the facts presented must establish that the Terrace Infill  
7 (1) would not be visible from the primary building frontage, and (2) would not exceed 1,500  
8 net new square feet per building. Unless the Board of Supervisors adopts an ordinance  
9 extending the term of this subsection (g), it shall expire by operation of law on January 31,  
10 2028. After that date, the City Attorney shall cause this subsection to be removed from the  
11 Planning Code.

12  
13 Section 3. Effective Date. This ordinance shall become effective 30 days after  
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
16 of Supervisors overrides the Mayor’s veto of the ordinance.

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

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the official title of the ordinance.

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

By:   
CHRISTOPHER T. TOM  
Deputy City Attorney

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# City and County of San Francisco

## Tails Ordinance

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 190702

**Date Passed:** September 10, 2019

Ordinance amending the Planning Code to permit new floor area or building volume on the rooftop of a noncomplying structure that is designated as a Significant Building under Planning Code, Article 11, located on Assessor's Parcel Block No. 3707 (5 Third Street), provided that the rooftop has an existing parapet at least 17 feet in height along the primary building frontage; 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.

July 29, 2019 Land Use and Transportation Committee - AMENDED, AN AMENDMENT  
OF THE WHOLE BEARING NEW TITLE

July 29, 2019 Land Use and Transportation Committee - RECOMMENDED AS AMENDED

September 03, 2019 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani,  
Walton and Yee

September 10, 2019 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani,  
Walton and Yee

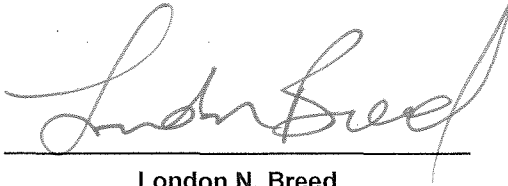
File No. 190702

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 9/10/2019 by the Board of Supervisors of the City and County of San Francisco.



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Angela Calvillo  
Clerk of the Board



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London N. Breed  
Mayor

9.20.19

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Date Approved