

Existing interpretations appear in black type.

Additions to existing interpretations and new interpretations appear in red underlined type.

Deletions of portions or all of existing interpretations appear in ~~red strikethrough type~~.

Thin vertical lines along the left margin of the page denote any change.

Code Section: 204.1

Subject: Accessory uses, ABC licenses in R Districts

Effective Date:

Interpretation:

This Section regulates accessory uses for dwellings in R and NC Districts. The Planning Department is called upon to review applications to the Alcoholic Beverage Commission (ABC) for liquor, wine and beer licenses to ensure that the establishments or uses for which they are issued conform to the zoning regulations. Nonconforming grocery and liquor stores, restaurants and bars are naturally entitled to the type of ABC license that permits their legal nonconforming activity. Most other establishments in residential districts that need an ABC license are allowed only under very limited circumstances. The various types of ABC licenses have their own restrictions which are enforced by the ABC and some of these restrictions would automatically ensure compliance with zoning provisions. Other ABC license restrictions would not make the establishment conform to zoning, in which cases, the Planning Department would need to ensure that the establishment conforms to applicable zoning controls. The following situations are some in which have gained the Planning Department has recommended approval of ABC licenses. ~~Some ABC licenses require Board of Supervisors approval in addition to ensuring zoning compliance.~~

1/88: The Planning Department can approve the issuance of ABC license number 51 (a club license) in an R District to a lawfully existing club or time share condominium since the ABC enforces the provision of this type of license that alcoholic beverages be sold only for consumption on the premises and only to bona fide members of the club and their bona fide guests.

4/89: An unrestricted ABC license (which requires premises to be open to the public and to sell off sale) was allowed for a bar as an accessory to the University Club (an NCU) as long as the accessory use has no signs or advertising announcing the bar to the public so the change would not increase activity.

12/87 (revised 1/14): The Planning Department can approve the issuance of ABC license numbers 9 (beer and wine importer), ~~and~~ 17 (beer and wine wholesaler) and/or 20-Limited

(containing conditions imposed by ABC limiting sales to internet, phone, and/or other non-in-person sales) in residential districts for an importer, wholesaler and/or on-line merchant operating out of an office conforming to the accessory use provisions of a home office (including the stock-in-trade prohibition) provided the licensee files a Notice of Special Restriction containing the restrictions of the accessory use provisions and submits to the Planning Department floor plans of the entire premises, noting that portion to be devoted to accessory office space. Enforcement of the provisions of this Section would remain with the Planning Department. Note that a use including a Type 20 license without such limitations would be considered a liquor store that could typically not be approved in residential districts.

Code Section: 703.2(b)(1)(C)

Subject: Accessory uses, ABC licenses in NC Districts

Effective Date: 1/14

Interpretation:

See Interpretation 204.1

Code Section: 803.2(b)(1)(C)

Subject: Accessory uses, ABC licenses in Chinatown Mixed Use Districts

Effective Date: 1/14

Interpretation:

See Interpretation 204.1

Code Section: 803.3(b)(1)(C)

Subject: Accessory uses, ABC licenses in Eastern Neighborhoods and South of Market Mixed Use Districts

Effective Date: 1/14

Interpretation:

See Interpretation 204.1

Code Section: 790.22

Subject: Wine and Beer Tasting, Liquor Stores, Bars

Effective Date: 8/05 (revised 1/14)

Interpretation:

This Section states that within NC Districts, establishments that serve liquor with ABC License Types 42, 47, 49, 61, or 78 are considered "bar" uses. An interpretation rendered in November 1986 had asserted that "a wine tasting room as part of the retail sales of wine is treated as a bar in the Neighborhood Commercial Districts." **It was noted that an exception to this interpretation involves cases in which intermittent and/or occasional wine and/or beer tasting is offered.** This minor and related activity is analogous to the dispensation of sample-sized portions of food items by many grocers. Much as those grocers are not considered to be restaurant uses, liquor stores which provide incidental wine tastings are not considered to be bar uses, rather such tasting would comprise a permitted accessory use. Any such tasting would (1) occur entirely during regular operating hours only, (2) take place no more than twice each week for no more than four hours each occurrence and on a further occasional appointment-only basis, (3) not occur on a premises on which any type of permit from the Entertainment Commission is held, (4) not occur in an area physically separated from the main liquor store retail area by full-height partitions or partitions that otherwise prevent clear visual access to and from the main retail area and (5) be limited to one ounce servings and three servings per individual customer per day. Should the liquor store establishment not adhere to each of these five conditions it would be considered a "bar." ~~It was also noted that, pursuant to Ordinance 260-00 which became effective in May of 2000, "retail sales of wine" is now considered to be a liquor store.~~ It was also noted that conditions 4 and 5, above, reflect ABC and Police Department policies at the time of this interpretation, and may be modified should those regulations change.

Code Section: 790.22

Subject: ABC Type-86 (Instructional Tasting) License as an accessory use

Effective Date: 1/14

Interpretation:

An interpretation was made in August 2005 permitting intermittent and/or occasional wine and/or beer tasting as an accessory use to a liquor store. Since that time, ABC has developed a new Type-86 (Instructional Tasting) License which can be issued to businesses which also hold off-sale retail licenses and either (a) contain at least 5,000 square feet or (b) earn at least 75 percent of their total gross sales from the sale of alcoholic beverages. While a Type-86 License is

issued to a retail business, it generally requires the participation of a qualified manufacturer or wholesaler. Consistent with the August 2005 interpretation, **a Type-86 License can be issued to a grocery store, liquor store or other similar establishment as an accessory use so long as all of the following criteria are met:** (1) instructional tasting events take place between 10 a.m. and 9 p.m, (2) instructional tasting events take place in an area at least temporarily separated from the remainder of the retail space, (3) no more than three tastings of distilled spirits, each no more than one-fourth of one ounce, are provided to any one person per day, (4) no more than three tastings of wine, each no more than one ounce, are provided to any one person per day, and (5) no more than eight ounces of beer are provided to any one per person per day. It was noted that the foregoing conditions reflect ABC policies at the time of this interpretation and may be modified should those policies change.

Code Section: 136(c)(17)

Subject: Permitted obstructions, fences in required front setbacks, garbage receptacle screening

Effective Date: 1/14

Interpretation:

This Section allows fences up to three feet in height within required front setbacks. In 2007, pursuant to Article 5.1 of the Public Works Code and Department of Public Works (DPW) Order Number 176,964, DPW began to require that all garbage receptacles be screened from public view. Because garbage receptacles are taller than three feet in height, any fence or other enclosure in a required front setback that meets DPW's screening requirements would require a variance from the Planning Code. Because compliance with recent DPW screening requirements would be significantly encumbered by much older Planning Code provisions, and because of the relatively small size and visual impact of such screening, **a fence or other enclosure designed exclusively to provide screening of garbage receptacles will be considered a permitted obstruction in a required front setback** so long as it (1) is freestanding and not affixed to a building, (2) does not require a permit from the Department of Building Inspection and (3) meets the guidelines set forth by DPW.

Code Section: 607(b) & 607(g)

Subject: Roof Signs in Industrial and Commercial Districts

Effective Date: 12/09

Interpretation:

Section 607(g) applies to all signs in Commercial and Industrial Districts and restricts (1) height and (2) extension above roofline. Because specific regulations for roof signs are contained in Section 607(b), the question arose as to the applicability of Section 607(g) to roof signs. ~~;~~

Height. Section 607(g) distinguishes signs attached to buildings from freestanding signs. Section 602.2 defines "attached to a building" as "supported, in whole or in part, by a building." Therefore, if a roof sign is supported by a building then it is subject to the height limits for "signs attached to buildings" contained in Section 607(g)(1). Section 602.5 defines "freestanding" as "in no part supported by a building." Similarly, if a roof sign is in no part supported by a building, such as one affixed to an independent structural frame, then it is subject to the height limits for "freestanding signs" contained in Section 607(g)(2). ~~;~~

Extension above roofline. Section 607(g)(1) requires that signs not "extend or be located above the roofline." While Section 607(b) contains exceptions to this requirement, it does not provide relief from the height limits of Section 607(g)(1), which cannot be exceeded "under any circumstance," or the maximum heights set forth under Section 607(g)(2). ~~;~~

Therefore, a roof sign may extend above a roofline so long as it does not exceed a total height of 40 feet in a C-1 District, 100 feet in a C-3 District, or 60 feet in any other C, M, or PDR District.

[NOTE TO PUBLISHER: The following interpretation is extremely lengthy. Only the first paragraph is shown below because changes are to be made only to that paragraph. The remainder of the current interpretation is to remain as-is, despite it not being shown below.]

Code Section: 311(b)

Subject: Building permit notification, exemptions

Effective Date: 3/96 (revised 1/14)

Interpretation:

This Subsection states that the notification requirement of this Section shall apply to those residential building permits to change use or increase the exterior dimension of a residential building in RH and RM Districts except for those features listed in Section 136(c)(1) through 136(c)(24) and 136(c)(26). The Section 136 features referenced are minor additions, representing relatively small or no building volume, or are visually hidden by existing features such as parapets, etc. Since it appeared to be the intention of Section 311 to exempt minor building features from notification, other features that do not increase the "envelope" of a residential building or other minor features may also be exempt from notification though not expressly mentioned as exempt by Section 311. ~~[A building's "envelope" is the theoretical cube into which~~

~~the building would fit.]~~ Such features are listed below. These exemptions refer only to the initial notification of a building permit application required by Section 311(b)(2). They do not exempt notification of parties for any public hearing to consider the project. [Note: bold print has no significance other than as an aid in finding the appropriate feature.]

Code Section: 181(a)

Subject: Moving ~~of an~~ ~~14CU-NCU~~ within a building

Effective Date: 1/97

Interpretation:

This Subsection states that a nonconforming use (NCU) "shall not be enlarged, intensified, extended, or moved to another location..." **The prohibition against moving shall not apply to relocation within the same building**, provided it occupies the same or less area and is not intensified in some other way. It is logical that relocation of an NCU to some other lot should not be allowed because it shifts the negative impacts of an NCU to a different environment which would be unfair to its unsuspecting neighbors. However, the same logic does not apply to relocation (without intensification) within the same building where its unsuspecting neighbors would only be other building tenants. Generally, other City Codes such as the Building or Housing Codes govern or protect the environment within a building while the Planning Code is intended to control the impacts of a building on surrounding properties and population. The zoning lot (as defined by "Lot" in Planning Code Section 102) is normally the basic unit to which most zoning regulations apply. Therefore, it is reasonable to assume that relocation to another lot is what was meant by this prohibition.

Code Section: 183 and 121.1

~~Subject: Priority policies, change of use~~

Subject: Nonconforming Uses: Discontinuance and Abandonment as ~~it they~~ ~~Relates~~ to Use Size

~~Effective Date:~~

Interpretation:

This Interpretation memorializes a long-standing Department practice.~~;~~

Section 183 restricts the re-establishment of a use that has been changed to a conforming use, or discontinued for a continuous period of three years, or whenever there is otherwise evident a clear intent on the part of the owner to abandon a nonconforming use and the use of the property

thereafter shall be in conformity with the use limitations of the Planning Code for the district in which the property is located.~~;~~

The intent of this Section relates solely to the discontinuance and abandonment of the nonconforming use or "activity" *not* the size. Pursuant to Section 180, a "nonconforming use" is defined as a use which existed lawfully at the effective date of this Code or of amendments thereto and which fails to conform to one or more of the use limitations under Articles 2, 6, 7, and 8 of this Code. Use size is regulated in Article 1.2, and is more analogous to a noncomplying structure, pursuant to Section 180(a)(2). Noncomplying structures are not deemed abandoned and forced to become Code-complying if they are left vacant for more than three years, but only when they are removed. Therefore, a nonconforming use size that is discontinued and abandoned for a period three years and has not been reduced in size by a new tenant may be reoccupied by a new use at its original size, without seeking a new Conditional Use authorization.~~;~~

This interpretation does not supersede any provisions for a replacement use that requires conditional use authorization for the district in which the property is located, nor does it supersede Sections 186.1(4) for the North Beach NCD and 186.1(5) for the Castro Street NCD, where the Code specifically restricts any changes of use to occupy a space that does not conform to the use size restrictions without a new conditional use regardless of discontinuance and abandonment.

[NOTE TO PUBLISHER: The following interpretation appears in the Code TWICE. One instance of it should be deleted and the following changes should be made to the single remaining instance.]

Code Section: 124(f) and ~~315~~415

Subject: Exemption of affordable units required per Sec. ~~315~~415 from base floor area ratio limits

Effective Date: 11/04 (clerically revised 1/14)

Interpretation:

Section 124(f) permits additional square footage above the base floor area ratio limits in C-3-G and C-3-S districts for construction of dwellings on the site of the building affordable for 20 years to households whose incomes are within 150% of the city's median income. Section ~~315~~415 requires that a certain percentage of all units constructed on a project site be affordable for fifty years to qualifying households earning ~~100~~110% of the city's median income for ownership projects, and ~~60~~55% of the city's median income for rental projects. In C-3-G and C-3-S districts, units required under Sec. ~~315~~415 technically qualify for the floor area exemption provided under Sec. 124(f), because they meet the minimum affordability requirement of 150% of the city's median income. Thus, affordable units provided to meet the requirements of Sec. ~~315~~415 are exempted from the base floor area ratio limit in C-3-G and C-3-S districts.

Code Section: 144

Subject: Treatment of ground story on street frontages

Effective Date: 3/98 ([clerically revised 1/14](#))

Interpretation:

This Interpretation replaces a previous interpretation (12/85).

This Section limits parking entrances for dwellings in certain districts at the building's front facade. Subject to the ~~1989~~ Residential Design Guidelines that require facades appropriate to the neighborhood's character, the treatment of ground story frontages shall apply to all public streets and alleys, but not private easements. Therefore, "through lots" must comply with this Section of the Code on both street and/or alley frontages.

[Code Section: 136\(c\)\(2\)](#)

[Subject: Corner Bay Windows](#)

[Effective Date: 1/14](#)

[Interpretation:](#)

[This Section allows a bay window to project over streets and other required open areas so long as it fits within a specific theoretical envelope. Such envelope begins at the "line establishing the required open area" and narrows along 45-degree angles drawn inward as projection increases. It was suggested that this Section did not address corner parcels where a bay window might extend over parts of a street corner not within a 90 degree projection of either of the parcel's street frontages.](#)

[While a "required open area" itself exists only within a parcel, the "line establishing" the required open area is a theoretical marker that extends beyond a parcel and, in the case of corner lots, onto a right-of-way. Therefore, bay window envelopes on corner lots may begin along any part of the line establishing the open area, including those parts of the line which are beyond the bounds of the lot. **As such, bay windows may extend over parts of a street corner not within a 90 degree projection of either of the parcel's street frontages.** Such bay windows must nonetheless comply with the three-foot restriction on projection applicable to *both* street frontages.](#)

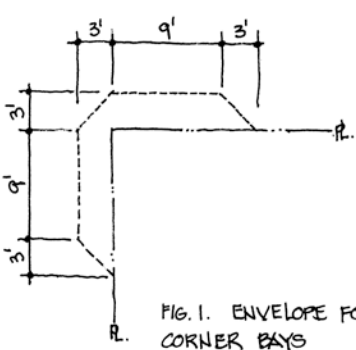


FIG. 1. ENVELOPE FOR CORNER BAYS

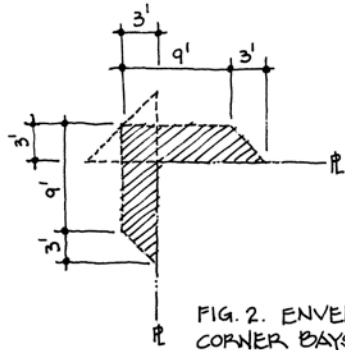


FIG. 2. ENVELOPE FOR CORNER BAYS

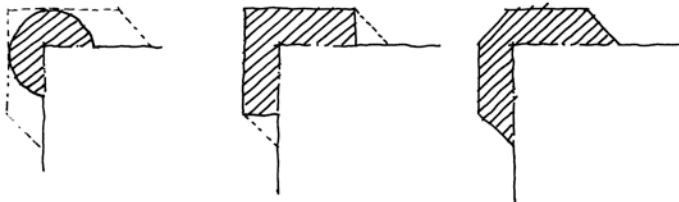


FIG. 3. POSSIBLE BAY CONFIGURATIONS

Code Section: 188 and 305

Subject: Variances for Noncomplying Structures

Effective Date: 1/14

Interpretation:

If a project sponsor is seeking to expand or intensify an existing legal noncomplying structure, he or she should only file for a variance from the Planning Code provision under which the proposal is noncomplying. He or she does not need to apply for a variance from Section 188 for the noncomplying structure. For example, if a building extends into a required rear yard and the proposal would expand the structure even further into that yard, the sponsor should apply for a rear yard variance only (for expanding the noncomplying structure within the required rear yard). Alternatively, if a storage structure within the required rear yard is proposed for conversion into a residential use, the sponsor should apply for a rear yard variance only (for intensifying a noncomplying structure within the required rear yard).

This determination is based on the fact that Section 305 only allows variances from the “strict application of quantitative standards” of the Planning Code (excluding those sections specifically listed in Section 305, including height, uses, signs, affordable housing requirements, etc.). In both of the cases outlined above, the rear yard requirement is the underlying “quantitative standard” of the Planning Code that requires a variance under Section 305. Section 188, like

other provision of Article 1.7, regulates compliance and generally does not include “quantitative standards” that require a variance under Section 305.

[NOTE TO PUBLISHER : The following 2 interpretations are to be completely deleted.]

Code Section: 150(e)

Subject: Major addition, application only to "grandfathers"

Effective Date: 10/94

Interpretation:

~~This Subsection states that parking needs to be provided for additions to certain buildings only if the addition or change of use constitutes a "major addition." Subsection (e) applies only to buildings and uses that were legally established prior to the effective date of the off-street parking requirement (12/26/55 for residential and 5/2/60 for commercial uses). Therefore, any building built or use established after these dates must provide the full amount of off-street parking required by Table 151 (subject to other exceptions provided by the Code) whether or not the requirement constitutes a "major addition."~~

Code Section: 144

Subject: Treatment of ground story on-street frontages

Effective Date: 3/98

Interpretation:

~~This Interpretation combines two previous interpretations into one (12/85 and 2/88).~~

~~This Section limits parking entrances for dwellings in certain districts to 30 percent of the building's front facade, but allows a single door of at least 16 feet in width. Since its adoption, the Planning Department has implemented the 1989 Residential Design Guidelines that further restrict the width of garage doors to that which is appropriate to the neighborhood's character, with 12 feet as the garage door width and a 10-foot curb cut. When the neighborhood's character allows for one 16-foot garage opening, the owner may choose to create two eight-foot garage openings no more separated than necessary to accommodate the finished structural post between the two garage openings rather than the six-foot separation required by this Section of the Code.~~

[NOTE TO PUBLISHER : The following interpretations are brand new interpretations for the Planning Code, however they have effective dates during 2009 and 2011 because they were previously published in a stand-alone Bulletin, which we are rescinding as soon as they are included in the Code.]

Code Section: 102.29

Subject: Definition of Bedroom

Effective Date: 5/09, revised 1/14

Interpretation:

The Eastern Neighborhoods Plan includes ‘minimum dwelling unit mix’ provisions in Section 207.6 which require a certain number of two- or three-bedroom units in new developments. In order to implement this requirement, it was necessary to define a ‘bedroom’. Section 102.29 defines bedroom as “a ‘sleeping room’, as defined in the Building Code”. However, the Building Code does not contain a single definition of “sleeping room”, rather it – along with the Housing Code – contains several varied definitions, many of which relate to technical issues traditionally dealt with by the Department of Building Inspection (DBI). Therefore, a bedroom shall be defined as any room which meets all of the following criteria and which is subsequently determined by DBI to meet applicable Building and Housing Code standards: (1) contains at least 70 square feet, exclusive of closets, bathrooms, or similar spaces (as approved by DBI under the San Francisco Building and Housing Codes and related Administrative Bulletins), (2) has at least one window opening to an area which leads either to a street, light well, courtyard or rear yard (as approved by DBI under the San Francisco Building and Housing Codes and related Administrative Bulletins), and (3) is clearly labeled as a ‘bedroom’ on submitted plans.

Code Section: 135.3

Subject: Open Space for Non-Residential Uses

Effective Date: 11/11, revised 1/14

Interpretation:

The intent of this Section is to require the provision of useable open space for new non-residential uses. Section 135.3(a)(2) states that the open space provided for projects in Eastern Neighborhoods “may be” provided as publicly accessible, and if so, the amount of open space may be reduced by 33 percent. Subsection (b) describes the required criteria for all open space required by this section, including several criteria that require the open space to be accessible and usable by the public. These criteria conflict with the Eastern Neighborhoods provisions that

encourage the open space to be publicly accessible, but do not require it to be so. Therefore, only those criteria in Subsection (b) unrelated to public accessibility shall be applicable to open space required for projects in Eastern Neighborhoods.

Code Section: 175.6

Subject: Sunset of 'Pipeline' Provisions

Effective Date: 5/09, revised 1/14

Interpretation:

The intent of this Section is to 'provide an orderly transition from prior zoning' [emphasis added] to the new Eastern Neighborhoods controls. While Section 175.9 requires that pipeline projects obtain a site or building permit within 36 months of receiving a final entitlement, there is no initial time limit for such projects to receive required entitlements from the Planning Commission. Nonetheless, it is implicit that the zoning 'transition' in question is not intended to continue in perpetuity. Accordingly, projects which seek authorization under this Section must receive required entitlements from the Planning Commission or Department prior to January 19, 2011, which is two years from the effective date of the Eastern Neighborhoods Plan. This date may be extended by the Zoning Administrator due to circumstances beyond the applicant's controls, as set forth in Section 175.9(e)(2), such as appeals or court challenges. It should be noted that, together with the three-year authorization period set forth in Section 175.9, pipeline projects will be afforded a five-year window to receive required building permits.

Code Section: 179.1(b)(2)(D)(1)

Subject: Legitimization, "Continuous Basis"

Effective Date: 5/09, revised 1/14

Interpretation:

As part of the Eastern Neighborhoods Plan, a "legitimization" program was established to address existing uses which lack the required permits. Specifically, certain uses which were previously allowable but no longer are may seek the required permits under pre-Eastern Neighborhoods zoning controls. A land use may be eligible to be "legitimized" under Section 179.1 if it has been "regularly operating or functioning on a continuous basis" for no less than two years. For purposes of this subsection, this criterion shall be considered satisfied even if such continuous basis was interrupted by a period of vacancy so long as (1) the total period of vacancy was less than one year, (2) the space in question was actively being marketed for occupancy by the land use in question during such vacancy, and (3) the space in question has

been occupied for at least two years by the land use in question. The “legitimization” program expires on January 18, 2012. No new applications will be accepted after that date.

Code Section: 419.5(a)(2)

Subject: Land Dedication for Affordable Housing

Effective Date: 11/11, revised 1/14

Interpretation:

Total Developable Area

The intent of this Section is to provide alternative means of meeting affordable housing requirements in the UMU and Mission NCT Zoning Districts. The Section states that “Applicants may dedicate a portion of the total developable area of the principal site to the City and County of San Francisco for the purpose of constructing units affordable to qualifying households.” The terms “total developable area” and “total developable site area” were added to the Code as part of the Eastern Neighborhoods Area Plan (Ordinance No. 298-08, effective January 19, 2009). Both of these terms were added as part of what were Sections 319.1 to 319.5, which focused on “Housing Requirements for Residential Development Projects in the UMU Zoning Districts of the Eastern Neighborhoods and the Land Dedication Alternative in the Mission NCT District” and were subsequently moved to Sections 401 and 419.1 to 419.6 (Ordinance 108-10). The term “total developable site area” was added as a definition for terms relevant to Sections 319.1 to 319.5 (as 319.2(a), now 401(a)(121)), and the term “total developable area” was utilized as a technical term in the Land Dedication Alternative subsection of these controls (in 319.4(b)(2), now 419.5(a)(2)). The terms in the Definition section are meant to explain the terms used subsequently within the affiliated Sections, were introduced at the same time, and are not utilized elsewhere in the Planning Code; therefore, it can be considered that the term “total developable area” utilized in the Land Dedication Alternative contained in Section 419.5(a)(2) refers to the definition of “total developable site area” set forth in Section 401(a)(121).

Regarding which areas would be excluded from the calculation of total developable site area, Planning Code Section 401(a)(121) defines “total developable site area” as “that part of the site that can be feasibly developed as residential development, excluding land already substantially developed, parks, required open spaces, streets, alleys, walkways or other public infrastructure.” For purposes of this definition, the term “required” refers to all of the subsequent uses (i.e., open spaces, streets, alleys, walkways, or other public infrastructure). For purposes of this definition, the term “required” also refers to those uses required by the Code or imposed by the Planning Department or Commission as a condition of approval. As such those uses required by Sections 135 (open space), 270.2 (mid-block open space), and other similar sections may be excluded from total developable site area. However, provision of such uses beyond what is required may not be excluded from total developable site area. In addition, any project seeking to utilize the

land dedication alternative must presume that the same requirements applied to the land proposed to be maintained by the applicant will apply to the land proposed to be dedicated to the City. The results of this calculation must be reflected in the determination of both the total developable site area, as well as the developable site area of both the land proposed to be maintained by the applicant and proposed land dedication site, as thereby help determine how the applicant is meeting the requirements of Table 419A.4.

Location of Dedicated Land

Section 419.5(a)(2) allows an applicant to dedicate “a portion of the total developable area of the principal site to the City and County of San Francisco for the purpose of constructing units affordable to qualifying households.” However, the language is unclear as to whether the dedicated land must be a portion of the principle development site, or if it may be a separate property located within a 1-mile radius of the principle development site as described in Subsection (a)(2)(B). It is the intent of this provision to allow the dedicated land to be located within a 1-mile radius of the principle development site as described in Subsection (a)(2)(B).

Code Section: 803.(h)

Subject: Vertical Controls for Office Uses

Effective Date: 11/11, revised 1/14

Interpretation:

The intent of this Section is to “preserve ground floor space for production, distribution, and repair uses and to allow the preservation and enhancement of a diverse mix of land uses, including limited amounts of office space on upper stories” in the UMU and MUG Zoning Districts. This section prohibits new office space on the ground floor of these districts and limits the number of floor that may contain new office space based on the number of floors in the building. Projects adding new office space in these districts must designate all of the building’s “office stories” prior to the issuance of any building permit for new or expanded office uses or along with any associated Planning Commission action, whichever occurs first.

The following interpretations are intended to clarify vertical controls for office uses:

1. Basement levels may contain office uses without counting against the maximum number of stories permitted to contain office in Table 803.9(h).
2. If an existing building already contains legal office uses on one or more stories, those stories are not required to be designated as office stories per this Section. For example, if a 3-story building is permitted to have one story of office, and the second story already contains office uses, the Project Sponsor may designate the third story for office use. Any legally existing office space in the building outside of the third floor would be a legal nonconforming use.

