

## Planning Code Interpretations Update – October 26, 2017

NOTE: Additions are single-underline italics Times New Roman;  
Deletions are ~~strike through italics Times New Roman~~.

### INTERPRETATIONS BY CODE SECTION

~~Code Section: 102~~

~~Subject: "Family"~~

~~Effective Date: 7/86~~

~~Interpretation:~~

~~—In a letter dated 7/24/86 the City Attorney opined that, "number of unrelated individuals living together in a single household may no longer be regulated under the Planning Code. Such opinion was based upon decision handed down by the California Supreme Court. See Interpretation 102. 9/91 for criteria that define people living as a family versus roomers."~~

~~Code Section: 102~~

~~Subject: "Family"~~

~~Effective Date: 9/91~~

~~Interpretation:~~

~~—This Section defines "family" as a group related by blood and also as a group of not more than five persons unrelated by blood. Because the number limit on this latter version has been brought into question legally, a larger group could be considered to be a family if it functions as a single unit. Therefore, the following additional version of "family" is recognized by the Zoning Administrator. "A group of more than five persons unrelated by blood, marriage or adoption or such legal guardianship when such group (1) has control over its membership and composition, (2) purchases its food and prepares and consumes its meals collectively and (3) determines its own rules or organization and utilization of the residential space it occupies."~~

~~Code Section: 145.1(c)(3)(A)~~

~~Subject: Required above grade parking setback~~

~~Effective Date: 5/09~~

*Interpretation:*

~~—In order to promote an active and attractive streetscape, the Eastern Neighborhoods Plan requires that ground floor off street parking be set back 25 feet from a building facade. However, Section 151.1(c) establishes that all parking spaces, including those in tandem arrangements, count toward parking maximums and that the Zoning Administrator may count any garage area of adequate size as an off street parking space if it could practically be used as a parking space. It is reasonably foreseeable that, in a circumstance where only one or two parking spaces are permitted and are proposed, the required parking setback would lead to an empty drive aisle within the first 25 feet of the building. This area, in turn, could be considered an additional tandem parking space in excess of the permitted number of spaces. As such, the literal application of these two Code standards would conflict with off street parking maximums and require the devotion of additional ground level space for off street parking. Therefore, the following shall apply to projects subject to this Section:~~

- ~~—1) When only one parking space is permitted, should a space be proposed it must be within the first 25 feet of the building.~~
- ~~—2) When two or more parking spaces are proposed, one space may be within the first 25 feet of the building.~~
- ~~—3) When three or more parking spaces are proposed, all parking spaces must be set back at least 25 feet from the front of the development.~~

~~Code Section: 145.2(b)(1)(A)~~

~~Subject: Setbacks for ATMs~~

~~Effective Date: 8/89~~

*Interpretation:*

~~—This Section requires ATMs located in NC Districts to be set back from the street line a distance of at least three feet. However, the policy of the Zoning Administrator is to generally encourage such setback (through DR, if necessary) on ATMs located in ANY zoning district.~~

~~Code Section: 150, 151~~

~~Subject: Parking in district with 1:4 ratio~~

~~Effective Date: 9/85~~

*Interpretation:*

~~—Section 150(c) which regulates parking for additions to buildings built prior to the parking requirement and requires parking for such additions only in the quantity required for the major addition. It defines a major addition as one which increases the required number of stalls for dwellings by one or more. Table 151 requires~~

~~a parking stall to dwelling unit ratio of 1:4 for certain high density districts. In such district, adding one dwelling unit would not require the addition of a parking stall.~~

~~Code Section: 150(d)~~

~~Subject: Size of parking spaces to be retained~~

~~Effective Date: 2/68~~

~~Interpretation:~~

~~—This Subsection states that once any off street parking has been provided which wholly or partially meets the requirements, such space must be retained for parking. Although the Code requires spaces to be 160 square feet in area, an existing space only 156 square feet in area and 16½ feet long must be retained, as it can accommodate a compact car despite its deficient size.~~

~~Code Section: 150(d)~~

~~Subject: Tandem parking~~

~~Effective Date: 11/86~~

~~Interpretation:~~

~~—This Subsection states that any parking that wholly or partially meets the requirements of the Code must be retained unless it represents parking in excess of the requirement. Tandem parking would partially meet a remaining off-street parking requirement because it meets the parking stall requirements even though it doesn't conform to the access requirements of the Code and is still usable. Such parking, therefore, cannot be removed unless the required parking for the use is otherwise met.~~

~~Code Section: 151~~

~~Subject: Parking for accessory dwelling units~~

~~Effective Date: 3/90~~

~~Interpretation:~~

~~—The parking table describes a parking requirement of one stall per 2,000 square feet of occupied floor area. Such requirement overrides a Zoning Administrator ruling made prior to the adoption of the codified requirement that there must be one parking stall per live/work unit. However, the codified requirement applies only to live/work units that are principal uses as authorized by Sections 209.9(f), (g) and (h) and 227(p), (q) and (r). Live/work units which do not fully meet these sections need to provide parking at a ratio of 1:1.~~

~~Code Section: Table 151~~

~~Subject: Service, repair, etc. use~~

~~Effective Date: /96~~

~~Interpretation:~~

~~—This table presents the formulae for determining the required off street parking for various use categories. One such category is, "Service, repair or wholesale sales space, including personal, home or business service space in South of Market Districts." The reference to the South of Market (SOMA) Districts applies only to the uses listed after the word, "including." Therefore, the formula provided by this category applies to service, repair or wholesale sales space in all districts. Personal service space in districts other than SOMA Districts will normally be classified as "other retail."~~

~~Code Section: 151~~

~~Subject: 1:4 Parking, rounding~~

~~Effective Date: 4/97~~

~~Interpretation:~~

~~—Table 151 states that in several districts, the parking ratio for dwelling units shall be one stall for every four dwelling units. In these districts, the first parking stall is required for two units and the second stall is required for six units, three for ten, etc. This is because Paragraph 153(a)(5) states that, when calculating the parking requirement (dividing the number of units by four) a fraction of 1/2 or more is rounded up.~~

~~Code Section: 151.1(c)~~

~~Subject: Required above grade parking setback~~

~~Effective Date: 5/09~~

~~Interpretation:~~

~~—See interpretation 145.1(c)(3)(A)~~

~~Code Section: 154(a)(1)~~

~~Subject: Parking stall dimension~~

~~Effective Date: 12/00~~

*Interpretation:*

~~—The following interpretation was added in 1998, replacing a previous interpretation:~~

*Section:*

~~154(a)(1)~~

~~-~~

~~—Parking stall dimension~~

*Date:*

~~3/98~~

~~-~~

~~—Section requires a standard parking stall equal to 160 square feet and a compact stall equal to 127.5 square feet. These minimum areas do not include space for all maneuvering areas required for independently accessible off-street parking spaces. Therefore, this Section of the Code shall be interpreted to require new parking stalls with minimum depths of 18.5 feet (for a standard stall) and 17 feet (for a compact stall). The minimum widths shall be 8 feet and 7.5 feet, respectively. Planning Department staff encourage the following standard dimensions:~~

~~—Standard stall = 8 feet X 20 feet~~

~~Compact stall = 8 feet X 16 feet~~

~~—The interpretation is inconsistent as to whether a compact is 7.5 X 17 or 8 X 16 feet in dimension. The Interpretation is hereby revised to allow either:~~

~~—This Section requires a standard parking stall equal to 160 square feet and a compact stall equal to 127.5 square feet. These minimum areas do not include space for all maneuvering areas required for independently accessible off-street parking spaces. Therefore, this Section of the Code shall be interpreted to require new parking stalls with minimum depths of 18.5 feet (for a standard stall) and 16 feet (for a compact stall). The minimum widths shall be 8 feet and 7.5 feet, respectively. Planning Department staff encourage the following standard dimensions:~~

~~—Standard stall = 8 feet X 20 feet~~

~~—Compact stall = 8 feet X 16 feet or 7.5 feet X 17 feet~~

~~Code Section: 155(e)~~

~~Subject: Parking, independent access~~

~~Effective Date: 8/66~~

*Interpretation:*

~~—This Subsection says that every required off street parking space shall have adequate means of ingress and egress and shall be independently accessible. Parking requirements are satisfied if a space is located on a hoist in order to permit access to adjacent spaces provided no car in another required stall has to be moved in order to gain ingress to and egress from such stall. NOTE: This ruling has been modified by Interpretation 155(c) 2/93.~~

~~Code Section: 155(c)~~

~~Subject: Required parking, car elevator for access to~~

~~Effective Date: 2/93~~

*Interpretation:*

~~—This Section states that every required parking stall shall have adequate means of independent ingress and egress. Access dependent upon mechanical apparatus may not always be acceptable. Mechanical devices for moving cars (such as elevators) are not as well tried, cannot be operated manually, have more costly and more complicated mechanisms and are less widely used so repair is more problematical. Therefore, the acceptability of car elevators for access will be reviewed on a case by case basis. They have been allowed in "up-seale" multi-unit developments where user pressure and resources may ensure timely repair and where the impacts of emergency alternative parking scenarios were adequately addressed. They have also been allowed in single-family dwellings where the impacts of emergency alternative parking would not be great.~~

~~Code Section: 161(c)~~

~~Subject: Parking for live/work~~

~~Effective Date: 2/89~~

*Interpretation:*

~~—The question arose as to whether live/work units located in the C-3-G District have a parking requirement. This Section says that no parking is required for uses in the C-3-G District except for residential uses. Section 102.7 (as amended by the Live/Work Ordinance No. 412-88) specifically states that live/work units will not be considered as dwellings for purposes of this Code. Therefore, no off street parking is required for them in the C-3 Districts.~~

~~Code Section: 181(a)~~

~~Subject: Nonconforming use, intensification~~

~~Effective Date: 4/97~~

*Interpretation:*

~~—This Subsection states that a nonconforming use cannot be intensified. However, floor and counter space devoted to grocery items can be converted to 100 square feet or less for an accessory deli per Section 703.2(b)(1)(C)(iii) without being considered an intensification. This is consistent with another interpretation [181(a) 11195] which stated that an NCU may change to any NC-1 use as authorized by Section 182(b)(1) without being considered an intensification because such change in use is expressly authorized and a more specific provision cannot be overturned by a less specific provision. The accessory deli authorized by Section 703.2(b)(1)(C)(iii) also is more specific than the prohibition against intensification.~~

~~—Whenever a deli is authorized in a nonconforming use and thereafter violates the restrictions of Section 703.2(b)(1)(C)(iii) or any other section of the Code, it is in jeopardy of termination pursuant to Section 182(h). A warning to this effect should be added to approval of such permit applications.~~

~~Code Section: 204.3~~

~~Subject: Wholesaling as part of bakery use~~

~~Effective Date: 10/87~~

*Interpretation:*

~~—A bakery located in a district which prohibits wholesale use may not engage in any amount of wholesale activity. Wholesaling cannot be considered to be accessory to a retail bakery.~~

~~Code Section: 204.3(a)(5)~~

~~Subject: Accessory, amount of production for retail~~

~~Effective Date: 5/88~~

*Interpretation:*

~~—This Section, together with Section 204, regulates accessory uses in C and M Districts and states that accessory uses cannot occupy more than 25 percent of the floor area of the use to which it is accessory. Light manufacturing is not permitted in the C-1 or C-2 District. However, this Paragraph (a)(5) allows the production of goods as an accessory use if such goods are intended primarily for retail. "Primarily" will mean 75 percent or more of gross sales in dollars. This is to be consistent with the percentage of floor area that an accessory use may occupy.~~

~~Code Section: 207.1(a)~~

~~Subject: Fraction rounding of density calculation~~

~~Effective Date:~~

~~Interpretation:~~

~~—This Section says that fractional numbers resulting from the density calculation must be rounded down. The question was, can a variance grant the additional unit which would be allowed if the Code permitted rounding up a major fraction to the next whole number? It is clear from previous City Attorney opinions that a variance cannot grant a privilege which would be tantamount to rezoning, an authority not granted to the Zoning Administrator. The question was whether considering a variance for a major fraction is tantamount to rezoning. The answer was that the Zoning Administrator cannot consider such variance since the remedy of a rezoning is available.~~

~~Code Section: 209.9(e)~~

~~Code Section: 209.9(e)~~

~~Subject:~~

~~Effective Date: 1987~~

~~Interpretation:~~

~~—See Interpretation 218(a) Retail sales of new commodities~~

~~Code Section: 218(a)~~

~~Subject: Retail sales of new commodities~~

~~Effective Date: 1987~~

~~Interpretation:~~

~~—This Subsection prohibits the retail sale of used commodities in the C-1 District and, by application of Section 209.8, in the RC-1 District. The Neighborhood Commercial provisions do not distinguish between new and used commodities. Neither the C-1 District nor the RC-1 District have been mapped since the Neighborhood Commercial District reclassifications eliminated them. By reference to RC-1 Districts in Section 209.9(e) the sale of used commodities would be prohibited in commercial uses in landmarks established pursuant to that section. Otherwise, the issue of new versus used commodities is moot unless and until a C-1 or RC-1 District is again mapped.~~

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

~~Subject: Take-out, accessory to restaurant~~



~~Effective Date: 8/97~~

~~Interpretation:~~

~~—Combining two previous interpretations 3/89 and 3/92; a take-out service is permitted as an accessory use to a full-service restaurant if the area for such service is limited to 100 square feet, as applied to take-out areas in grocery stores. Display cases, fixtures, counters, and queuing areas shall be counted toward the 100-square-foot take-out limit. A maximum length of three feet, exclusive of the counter space occupied by a cash register, shall be used as a guideline for counters. A depth of two feet beyond the counter shall be included as the queuing area, while all other queuing areas shall be credited toward the full-service area of the restaurant. Bathrooms shall not be considered as serving the take-out customers.~~

~~Code Section: 790.84~~

~~Subject: Residential conversion~~

~~Effective Date:~~

~~Interpretation:~~

~~—See "Conversion of dwellings" in the Interpretations—Alphabetical~~

~~Code Section: 790.84~~

~~Subject: Residential conversion in NC Districts~~

~~Effective Date: 6/90~~

~~Interpretation:~~

~~—This Section explicitly exempts residential hotels from being subject to the residential conversion controls of the Neighborhood Commercial Districts even though for all other purposes, Section 790.88 makes residential hotels a residential use.~~

~~Code Section: 790.84~~

~~Subject: Residential conversion in NCD~~

~~Effective Date: 10/91~~

~~Interpretation:~~

~~—This Section defines residential conversion as the change in occupancy of any residential use to a nonresidential use. The loss of a dwelling unit through merger into another unit cannot be considered~~

~~residential conversion under this Section since the use is not changed. Therefore, dwelling unit merger is not governed by Article 7 but would be subject to the City Planning Commission's current policy as enforced through discretionary review.~~

~~Code Section: 790.84~~

~~Subject: Residential conversion, defined~~

~~Effective Date: 5/96~~

~~Interpretation:~~

~~—This Section defines residential conversion because such conversion is controlled in the Neighborhood Commercial Districts. It says that conversion is the change in occupancy as defined and regulated by the Building Code of residential use to nonresidential use. Complete physical removal of any of the following components which constitute a dwelling unit under the Building Code will be considered conversion of a dwelling unit: (1) all cooking facilities; (2) all bedroom or sleeping areas; (3) all full baths; (4) all living area. Not all of these areas and facilities need be in separate rooms to be considered a dwelling unit.~~

~~Code Section: 790.90~~

~~Subject:~~

~~Effective Date:~~

~~Interpretation:~~

~~—See "Seating limit, includes sidewalk seating 6/96; 03/08" in the Interpretations—Alphabetical~~

~~Code Section: 790.90, 790.91, 790.102~~

~~Subject: Seating limit, includes sidewalk seating, de minimis exception~~

~~Effective Date: 03/08~~

~~Interpretation:~~

~~—Several types of land uses in Neighborhood Commercial Districts (NCD), such as food service uses and retail coffee stores, are subject to seating limitations and also defined by seat number. The Planning Code is silent as to whether sidewalk seating should be included in this calculation. A prior interpretation had determined that sidewalk seating would be included. However, the Zoning Administrator has revisited that determination in light of several considerations. Sidewalk seating is inherently intermittent, e.g. occurring only during good weather. It involves no physical expansion of the subject use. In moderation, it may be viewed as a~~

~~neighborhood amenity and convenience rather than a detriment. It is a revocable authorization, so that any unforeseen adverse effects can be simply remedied through revocation of the requisite tables and chairs permit.~~

~~—Therefore, the Zoning Administrator has determined that it is reasonable to consider a limited amount of sidewalk seating as a de minimis and incidental change to any existing use. Thus for purposes of seating limitations under the Planning Code, up to a maximum of eight chairs for sidewalk seating will not be counted against these limits. However, if exceeded, any and all proposed seating would be subject to the applicable Code limitations.~~

~~Code Section: 790.91~~

~~Subject:~~

~~Effective Date:~~

~~Interpretation:~~

~~—See "Seating limit, includes sidewalk seating 6/96; 03/08" in the Interpretations—Alphabetical~~

~~Code Section: 790.102~~

~~Subject:~~

~~Effective Date:~~

~~Interpretation:~~

~~—See "Seating limit, includes sidewalk seating 6/96; 03/08" in the Interpretations—Alphabetical~~

~~Code Section: 890.84~~

~~Subject: Residential conversion~~

~~Effective Date:~~

~~Interpretation:~~

~~—See "Conversion of dwellings" in the Interpretations—Alphabetical~~

## **INTERPRETATIONS -- ALPHABETICAL**

~~Subject: Conversion of dwellings~~

~~Subject: Conversion of dwellings~~

~~Effective Date: 1995~~

~~Interpretation:~~

~~—On lots in districts that require a conditional use authorization to convert dwelling units, one may not reduce the square footage of residential space without a CU even though the same number of dwelling units are retained.~~

~~Subject: Residential use, conversion to office use~~

~~Subject: Residential use, conversion to office use~~

~~Effective Date:~~

~~Interpretation:~~

~~—See "Conversion of dwellings"~~