

ADMINISTRATIVE BULLETIN**NO. AB-009**

DATE : September 18, 2002 (Updated 01/01/2008 for code references)

SUBJECT : Fire and Life Safety

TITLE : **Local Equivalency for Approval of New Openings in New and Existing Building Property Line Walls**

PURPOSE : The purpose of this Administrative Bulletin is to provide standards and procedures for the application and case-by-case review of requests for a modification based on local equivalency to allow openings in exterior walls closer to property lines than are permitted by the 2007 San Francisco Building Code (SFBC).

This bulletin permits the continuing application of code provisions of former editions of the SFBC regarding property line openings. In conformance with current State law, requests for approval of openings closer to the property line than permitted under the SFBC will be considered on a case-by-case basis when reasonable equivalency is proposed.

REFERENCE : 2007 San Francisco Building Code
- Section 104A.2.7, Modification
- Section 104A.2.8, Alternate materials, alternate design and methods of construction
- Section 704.8 Allowable Area of Openings
DBI Administrative Bulletin AB-005, Procedures for Approval of Local Equivalencies.
San Francisco Administrative Code Article 5, Section 23.47, Lot Line Window Agreements

DISCUSSION : Project sponsors may request the application of this local equivalency allowing openings in building walls closer to property lines than allowed by SFBC Section 704.8 when it can be demonstrated on a case-by-case basis that there are practical difficulties in meeting the provisions of the code, that the modification is in conformance with the intent and purpose of the code, and that reasonable equivalency is provided in fire protection and structural integrity.

Such proposed modification may conform with the below listed standard provisions. The Department of Building Inspection (DBI) and other City departments may impose additional requirements in the approval of any request for a code modification or alternate based upon individual building and property conditions. Other City agencies that may review such requests include the San Francisco Fire Department, the Planning Department and, for buildings adjoining City-owned property, the Department of Real Estate.

If a project sponsor wishes to propose methods of opening protection different than those listed below, proposals for the use of alternate materials, designs, or methods of construction may be submitted for review in the same manner as for this local equivalency. The Department of Building Inspection may require that additional substantiation be provided supporting any claims made for such proposals.

Procedure for Application of Local Equivalencies

Project sponsors wishing to apply local equivalencies must fill out and submit the Request for Approval of Local Equivalency form (Attachment A). Fees to be paid and scheduling of review of requests are as noted on that form. Following DBI review, each request will either be approved, approved with conditions, disapproved, or placed on Hold pending submittal of additional information.

Further details of procedures for the review of local equivalencies may be found in AB-005, Procedures for Approval of Local Equivalencies.

Conditions of Local Equivalencies

Openings in new building walls and new openings in existing building walls in Groups B, M, and R occupancies that are closer to property lines than permitted under SFBC Section 704.8 and Table 704.8 may be permitted on a case-by-case basis when the following provisions or approved equivalent provisions are met and the project sponsor provides documentation of the practical difficulties involved in carrying out the provisions of the regular code.

The standard provisions for this Local Equivalency include all of the following:

1. The openings may not be used to provide required light and ventilation, required egress, or for required emergency rescue.
2. The openings shall be fixed (non-operable) unless more than 50 feet above the roof of any adjoining building or more than the distance prescribed for protected openings in Table 704.8 in any direction from an adjoining building.
3. The openings shall be located entirely above any adjoining roof or at least six feet laterally beyond any wall of an adjoining building.
4. The openings shall be protected with fire assemblies, such as fire shutters or rated window assemblies, having a rating of at least 3/4 hour. Openings in walls which have a fire-protection rating of greater than 1-hour shall be protected by a fire assembly having a three-hour fire-protection rating in four-hour fire-resistive walls, a two-hour fire-protection rating in three-hour fire-resistive walls, and one-and one-half hour fire-protection rating in two-hour fire-resistive walls. Fire shutters, if provided, shall be actuated by smoke detectors located inside and by fusible links or other approved devices on the outside of the protected openings.
5. The opening shall be protected by a fire sprinkler system having ordinary temperature, quick-response type heads installed within 18" of the openings and spaced at 6 feet on center or at the manufacturer's recommended minimum spacing, whichever provides the closer spacing.

Exception: Openings in Group R Division 3 occupancies.

6. If the adjoining building contains R occupancy uses, proposed openings shall not be located closer than six feet measured in any direction to any existing opening on the adjoining building unless the adjoining owner gives written consent. A copy of the statement giving such consent shall be attached to the permit application.

7. The owner of a building with such openings shall provide a recorded statement that these openings will be closed or protected with approved fire resistive wall construction in the event that the adjoining property is improved in such a manner that the openings no longer comply with the provisions of this Administrative Bulletin. A copy of a Declaration of Use Limitation (Attachment B) shall be submitted to the plan reviewer prior to completion of Department of Building inspection plan review.
8. Property line openings which open onto property owned by the City and County of San Francisco shall meet the requirements of San Francisco Administrative Code, Article VI, Sections 23.27 through 23.30 (Attachment C). An approved and executed a "Lot Line Window Agreement" shall be submitted as part of the documents required under Item 9 (below).
9. A permit application and related submittal documents shall detail all construction which is approved as a result of this request for local equivalency.

Approved by the Building Inspection Commission on September 18, 2002

Originally signed by:
Gary Massetani, Fire Marshal
October 9, 2002

Frank Y. Chiu, Director
October 3, 2002

Attachment A: Request for Approval of Local Equivalency
Attachment B: Assessor/Recorder's Office Document - "Declaration of Use Limitation"
Attachment C: SF Administrative Code

ATTACHMENT A



DEPARTMENT OF BUILDING INSPECTION
City & County of San Francisco
1660 Mission Street, San Francisco, California 94103-2414

REQUEST FOR APPROVAL OF LOCAL EQUIVALENCY FOR MODIFICATION
OR ALTERNATE MATERIALS, DESIGN OR METHODS OF CONSTRUCTION

DATE SUBMITTED _____

[Note: This form shall be recorded as part of the permanent construction records of the property]

If no permit application has been filed, a Preapplication Review Fee is required for review of a request for local equivalency or modification, per SFBC Table 1-B, Item 8. Additional fees may be required by Fire Department and other City review agencies.

If a permit application has been filed, no additional fees are required for this review.

Permit Application # _____

Property Address: _____

Block and Lot: ____/____ Occupancy Group: _____ Type of Construction: _____ No. of Stories: _____

Describe Use of Building _____

Under the authority of the 2007 San Francisco Building Code, Sections 104A.2.7 and 104A.2.8; the 2007 San Francisco Mechanical Code, Section 108.7; the 2007 San Francisco Electrical Code, Section 089.16; and the 2007 San Francisco Plumbing Code, Section 108.7; the undersigned requests modifications of the provisions of these codes and/or approval of alternate materials, designs or methods of construction. Two copies of supporting documents, including plans showing the proposed modifications or alternate materials, design or methods of construction, are attached.

Regular Code Requirement (specify Code and Sections)

Proposed Modification or Alternate

Case-by-Case Basis of Request - Describe the practical difficulties presented in meeting the specific conditions of the code and how the proposed modification or alternate meets the intent of the code. A separate form should be filled for each requested modification or alternate. Attach copies of any Administrative Bulletin, Code Ruling, reference, test reports, expert opinions, etc., which support this request. The Department may require that an approved consultant be hired by the applicant to perform tests or analysis and to submit an evaluation report to the Department for consideration.

Requested by:	PROJECT SPONSOR	ARCHITECT/ENGINEER	
Print Name:	_____	_____	
Signature:	_____	_____	[PROFESSIONAL STAMP HERE]
Telephone:	_____	_____	

ATTACHMENT B

Recording Requested By And When Recorded

**Return To: DIRECTOR, DEPARTMENT OF BUILDING INSPECTION
1660 MISSION STREET, SAN FRANCISCO, CA 94103-2414**

or

_____ DIVISION

DECLARATION OF USE LIMITATION

I/We, _____, owner/s of the herein described property Commonly known as _____ in San Francisco, Assessor's Block No. _____, Lot No. _____ hereby consent to the within described limitations that:

In the event that the property located at _____ commonly known as Block No. ____, Lot No. __ is improved in such a matter that the openings in the building located at _____ no longer comply with the San Francisco Building Code, then said openings shall be closed off or protected as required by the **Director of the Department of Building Inspection.**

The herein limitations shall be binding on me/us until amended by conforming to the San Francisco Building Code Requirements.

Signed: _____
OWNER/S

Date of Execution: _____

NOTARY ACKNOWLEDGMENT:

Title or type of document _____
Number of pages _____ Date of document _____

STATE OF CALIFORNIA Signer(s) other than named below _____

County of _____

On _____ before me, _____ personally appeared

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon behalf of which the person(s) acted executed the instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

Notary Public in and for said Country and State

ATTACHMENT C**San Francisco – Administrative Code****ARTICLE V: LOT LINE WINDOW AGREEMENTS**

- Sec. 23.45. Authority of Direction of Property.
 Sec. 23.46. Determination of Value.
 Sec. 23.47. Requirements for Lot Line Window Agreements.
 Sec. 23.48. Fees and Fee Payments.

SEC. 23.45. AUTHORITY OF DIRECTOR OF PROPERTY.

An owner of Real Property adjoining Real Property of the City may request that the City consent to openings in building walls on the owner's Real Property that are closer to the common property line than the distances prescribed in the San Francisco Building Code by filing with the Director of Property an original and two copies of a written application, together with plans, specifications and other supporting documents, and paying the required application fee. Upon such filing, the Director of Property shall investigate the application and consult with the department that has jurisdiction over the Real Property. Copies of the application and its supporting documents shall be delivered by the Director of Property to the Department of City Planning and the Bureau of Building Inspection for review and comment as that department and that bureau may deem appropriate. If the department having jurisdiction over the Real Property approves and the Director of Property concludes that it is in the best interest of the City to give the requested consent, the Director of Property is authorized to approve and execute a lot line window agreement which complies with all of the provisions of this Article. (Formerly Sec. 23.27; added by Ord. 559-85, App. 12/27/85; amended and renumbered by Ord. 15-01, File No. 001965, App. 2/2/2001)

SEC. 23.46. DETERMINATION OF VALUE.

The Director of Property shall determine a monthly fee for the privilege of installing the openings in building walls that are made possible by the City's consent. The monthly fee shall be based upon an appraisal by the Director of Property of the enhancement in fair market value of the building owner's Real Property that will result from installation of the proposed openings in building walls.

If the original monthly fee based upon the Director of Property's appraisal is more than \$50 the agreement shall provide for payment by the building owner, in advance, of the monthly fee so determined by the Director of Property. The monthly fee may, at the Director of Property's discretion, be payable monthly, quarterly, semiannually or annually. The agreement shall contain a provision for annual adjustment of the monthly fee to reflect increases or decreases in the Consumer Price Index for all Urban Consumers for the San Francisco-Oakland Metropolitan Area and a provision for a redetermination of the monthly fee by the Director of Property, upon the same appraisal basis as the original fee determination, at the end of each five-year period.

If the original monthly fee based upon the Director of Property's appraisal is \$50 or less, a one-time fee of \$1,000 shall be paid by the building owner and no monthly fees shall be payable. (Formerly Sec. 23.28; added by Ord. 559-85, App. 12/27/85; amended and renumbered by Ord. 15-01, File No. 001965, App. 2/2/2001)

SEC. 23.47. REQUIREMENTS FOR LOT LINE WINDOW AGREEMENTS.

All lot line window agreements shall comply with the following requirements:

1. The building to which the agreement relates shall comply with the Building Code and all other applicable codes, ordinances and regulations of the City and with all applicable federal and State laws and regulations.

2. The building shall be constructed or remodeled in conformity with the plans and specifications submitted with the application for a lot line window agreement and shall be used for the purposes stated in the application.

3. The agreement shall be terminable at any time, with or without cause and without penalty, by either party. The termination will not be effective, however, unless the terminating party gives at least 90 days prior written notice of termination which is mailed or delivered to the other party. The notice of termination shall contain the legal descriptions of both properties and shall be acknowledged by the terminating party. The notice of termination may be recorded by either party at any time and, after the termination date, the recorded notice shall be conclusive proof of termination of the agreement.

4. The building owner shall agree that, in the event the agreement is revoked, the openings consented to by the agreement shall be protected or closed, as required by the Building Code, and the building otherwise modified as may be necessary to comply with those Building Code requirements that become applicable because of protecting or closing the openings.

5. The building owner shall indemnify the City, its officers, employees and agents, against all liabilities that may result from or be connected with the agreement.

6. During the life of the agreement, the building owner shall maintain comprehensive personal liability insurance with limits satisfactory to the Risk Manager of the City and with the City, its officers, agents and employees named as additional insureds.

7. The agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

8. The agreement shall be executed by both parties and shall contain the legal descriptions of both properties. The Director of Property shall execute the agreement for and on behalf of the City, provided the agreement has been previously approved by the City

Attorney and the head of the department having jurisdiction over the City's Real Property. The agreement shall be acknowledged by both parties and the Director of Property shall cause the agreement to be recorded. (Formerly Sec. 23.29; added by Ord. 559-85, App. 12/27/85; amended and renumbered by Ord. 15-01, File No. 001965, App. 2/2/2001)

SEC. 23.48. FEES AND FEE PAYMENTS.

The application fee which is to accompany each application shall be \$2,500 unless changed by appropriate action of the Board of Supervisors. If the Director of Property determines, after his investigation of the application, that the application fee is inadequate to cover the cost of preparing and processing an agreement, the Director of Property shall notify the building owner of the additional amount that is required. The additional amount shall be paid by the building owner as a prerequisite to preparation and processing of an agreement by the Real Estate Department.

The Real Estate Department is authorized to collect the fees due under lot line window agreements and shall deposit such fees to the credit of the department having jurisdiction over the City's Real Property.

The application fees and any additional amounts required to cover the cost of preparing and processing agreements shall be deposited to the credit of the Real Estate Department. (Formerly Sec. 23.30; added by Ord. 559-85, App. 12/27/85; amended and renumbered by Ord. 15-01, File No. 001965, App. 2/2/2001)

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