



## MEMO TO FILE

February 28, 2024

**Subject:** Zoning Administrator Interpretations  
Planning Code Section 311  
**Staff Contact:** Corey Teague, Zoning Administrator – (628) 652-7328  
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### Background

Pursuant to Planning Code Section 307(a), the Zoning Administrator (ZA) issues rules, regulations, and interpretations they deem necessary to administer and enforce the provisions of the Code. Formal interpretations are listed within the Planning Code, as well as a series of topical bulletins (e.g., neighborhood notice, bicycle parking, affordable housing, etc.).

Ordinance No. 248-23 took effect on January 14, 2024. This ordinance made numerous amendments to the Planning Code designed to increase the speed and volume of housing production. More specifically, it amended Section 311 to effectively create two different sets of neighborhood notice triggers for areas within and outside the Priority Equity Geographies Special Use District.

Department of Building Inspection (DBI) Information Sheet No. EG-02 was issued on January 15, 2024, and addresses the requirements for Emergency Escape and Rescue Openings (EEROs) and local equivalencies when an EERO opens to a yard or court that does not open to a public way for R-3 occupancies. Compliant EEROs or permitted alternative equivalencies are required for certain projects to meet minimum life and safety standards under the Building Code.

### Interpretations

The attached document details several new ZA interpretations deemed necessary to implement the new provisions of Planning Code Section 311 and to adequately respond to DBI's Information Sheet No. EG-02.

### Appeals

Each individual ZA interpretation in the attached document is separately appealable to the Board of Appeals within 15 days of issuance. A single appeal may not be filed to encompass two or more separate interpretations.

**Zoning Administrator Interpretations**  
**February 28, 2024**

**Attachments:**

Amendments to Zoning Administrator Interpretations of the Planning Code – Issued February 26, 2024

cc: Tina Tam, Deputy Zoning Administrator  
Elizabeth Watty, Director of Current Planning  
Planning Commission  
Board of Appeals  
Odaya Buta, Office of City Attorney  
Citywide Neighborhood Groups

## **Amendments to Zoning Administrator Rules, Regulations, and Interpretations of the Planning Code – February 28, 2024**

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

### **INTERPRETATIONS BY CODE SECTION**

#### **Code Section: 136 and 311**

#### **Subject: Alternatives to EEROs required by the Building Code**

**Effective Date: 02/24**

#### **Interpretation:**

Department of Building Inspection (DBI) Information Sheet No. EG-02 was issued on January 15, 2024, and addresses the requirements for Emergency Escape and Rescue Openings (EEROs) and local equivalencies when an EERO opens to a yard or court that does not open to a public way for R-3 occupancies. Compliant EEROs or permitted alternative equivalencies are required for certain projects to meet minimum life and safety standards under the Building Code.

EG-02 Alternative 2 calls for compliant stairs and landings to provide roof access for rescue in certain scenarios, and EG-02 Alternative 3 calls for compliant stairs and landings to provide access to a qualifying yard. Therefore, EEROs pursuant to Alternatives 2 and 3 that meet all the following requirements shall be considered equivalent to a Code-complying fire escape per Planning Code Section 136(c)(4), shall be exempt from neighborhood notice per Section 311, and shall not require a rear or side yard variance if located within a required yard:

1. The project is an alteration to an existing building that does not include a horizontal addition expanding the building deeper into the lot; **and**
2. Except for the prescribed width limitations, the EERO otherwise meets the requirements of Planning Code Section 136(c)(4) for fire escapes, which allows a depth up to 4 feet 6 inches.

EERO stairs and landings that are greater than 4 feet 6 inches deep, but no more than 6 feet deep, and would otherwise require neighborhood notice per Section 311, must submit a set of reduced plans signed by the property owner and occupants of units on adjacent lots, or otherwise be subject to a 10-day mailed notice to such owners and occupants. Such EEROs are also subject to standard variance requirements.

All EEROs other than those addressed above shall be subject to the standard requirements for neighborhood notification and variances. Additionally, this interpretation does not apply to any firewall proposed in conjunction with any such EERO, or to any other applicable Planning Code requirement.

**Code Section: 311(b)(3)**

**Subject: Exemptions for Adding Dwelling Units**

**Effective Date: 02/24**

**Interpretation:**

Ordinance No. 248-23 added Section 311(b)(3) to create specific triggers for neighborhood notice for building permits outside the Priority Geographies SUD. These triggers included an exception from neighborhood notice if at least one new dwelling unit is added. This exemption applies per building permit, which means it also applies per building. Therefore, the building with the proposed alteration that would otherwise trigger notice must also be proposed to contain an additional dwelling unit to be exempted from neighborhood notice.

**Code Section: 311(b)(3)(A)**

**Subject: Vertical Alterations Outside the Priority Geographies SUD**

**Effective Date: 02/24**

**Interpretation:**

Ordinance No. 248-23 added Section 311(b)(3)(a) to specify that a building permit proposing a “vertical alteration” outside the Priority Geographies SUD will require neighborhood notice (unless an additional dwelling unit is also provided). However, the Planning Code does not define which scopes of work are defined as a “vertical alteration.” Therefore, a vertical alteration includes each of the following scopes of work:

1. An addition of a fully new floor above the upper most floor of an existing building;
2. An addition of a new upper floor to an existing building where the only existing features at that level are items exempt from height measurement per Section 260(b), such as stair or elevator penthouses, mechanical enclosures, and parapets;
3. An increase in the actual or measured roof height of the existing building (flat or sloped roof);
4. Converting an existing building’s sloped roof to a flat roof where the new flat roof would be higher than the midpoint of the sloped roof (i.e., an increase in measured height);

5. An addition of a new stair or elevator penthouse;
6. An addition of any other building enclosure at the roof level beyond those items exempt from height measurement per Section 260(b), such as a mechanical enclosure larger than what is exempted; or
7. An addition of dormers beyond the limits of Zoning Administrator Bulletin No. 3.

A vertical alteration does **not** include a horizontal expansion at any existing floor, including the upper most floor, so long as that existing upper floor is comprised of enclosed building beyond those items exempt from height measurement per Section 260(b) (i.e., the horizontal expansion of an existing partial floor).

**Code Section: 311(b)(3)(B)**

**Subject: Exemption for Single-Family Home Alterations Outside the Priority Geographies SUD**

**Effective Date: 02/24**

**Interpretation:**

Ordinance No. 248-23 added Section 311(b)(3) to provide a specific size threshold in which a building permit for a single-family home alteration would trigger neighborhood notice. While the language is not explicit, the intent of this provision was to provide the exemption for adding at least one new dwelling unit, as adding at least one new unit would mean the building would no longer be a single-family home. Therefore, regardless of the size of the proposed alteration, an alteration to a building containing only one dwelling unit subject to Sec. 311(b)(3) that also adds at least one new dwelling unit will be exempt from the notice requirement.

**Code Section: 311(b)(3)(B)**

**Subject: Notice Requirements for Single-Family Home Alterations Outside the Priority Geographies SUD**

**Effective Date: 02/24**

**Interpretation:**

Ordinance No. 248-23 added Section 311(b)(3) to provide a specific size threshold in which a building permit for a single-family home alteration would trigger neighborhood notice. However, the Code language is not clear. Therefore, Subsection (3)(B) shall be interpreted as the following 2-step threshold to require neighborhood notice. Any permit for an alteration to a building containing only one dwelling unit that 1) increases the existing building's Gross Floor Area (GFA) by 25% or more, and 2) results in a building of more than 3,000 square feet of GFA will require neighborhood notice

(regardless of how large the building was to begin with, and assuming no new unit will be added). Both conditions must be met in order for notice to be required.

**Code Section: 311(b)(4)**

**Subject: Notice Requirements for Permitted Obstructions**

**Effective Date: 02/24**

**Interpretation:**

Ordinance No. 248-23 amended Section 311(b)(4) to expand which permitted obstructions under Section 136 are excluded from the definition of “alteration.” More specifically, a Code-complying “pop-out” described in Section 136(c)(25) is now excluded from the definition of alteration. The amendment added qualifying language that such permitted obstructions are excluded from that definition “regardless of whether the feature is located in a required setback.” However, that language only refers to permitted obstructions that are over a sidewalk or within a required setback, yard, or open space only to the extent permitted in Section 136(c)(1-26).

It’s important to note that only vertical alterations, single-family home additions of a certain scale, demolitions, and new construction may require neighborhood notice outside the Priority Geographies SUD, and the permitted obstructions described in Section 136(c)(1-26) are highly unlikely to meet any of those thresholds. As such, the issue of when these permitted obstructions will require neighborhood notice mostly relates to permits **within** the Priority Geographies SUD. With that in mind, the following interpretations are designed to clarify when these permitted obstructions are otherwise exempt from neighborhood notice:

1. Features that meet all the criteria for any of the permitted obstructions described in Section 136(c)(1-26) that are otherwise fully within the permitted buildable area do **NOT** trigger neighborhood notice. An example may include an alteration consistent with a permitted bay window, but not located over a sidewalk or within a required setback, yard, or open space.
2. Fully compliant obstructions per Section 136(c)(1-26) over a sidewalk or within a required setback, yard, or open space do **NOT** trigger neighborhood notice.
3. Features that meet all the requirements of Section 136(c)(1-26) for permitted obstructions but are not fully Code-compliance due to the **locational** requirements for that permitted obstruction (e.g., a bay window more than 3 feet into the required rear yard that will trigger a variance, a garden shed greater than 100 square feet that will trigger a variance, etc.):
  - a. **Within** the PEG SUD: Permitted obstructions described in Section 136(c)(1-26) **DO** trigger neighborhood notice because they are not Code-complying, subject to additional exceptions for certain features provided in Zoning Administrator Bulletin No. 4.
  - b. **Outside** the PEG SUD: These features alone do **NOT** trigger neighborhood notice unless they otherwise trigger the requirements for notice in Section 311(b)(3).