



## MEMO TO FILE

January 20, 2026

**Subject:** Zoning Administrator Interpretations

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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, and topical bulletins are issued separate from the Code (e.g., neighborhood notice, bicycle parking, affordable housing, etc.).

### Interpretations

The attached document details numerous ZA interpretations to be deleted, amended, or added due to various Planning Code amendments related primarily to neighborhood notice. However, this update also includes various miscellaneous deletions and revisions that are necessary to respond to other legislative amendments over the years.

### 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.

### Attachments:

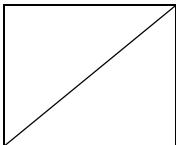
Amendments to Zoning Administrator Interpretations of the Planning Code – Issued January 20, 2026

cc: Planning Commission  
Elizabeth Coolbrith, Office of the City Attorney  
Citywide Neighborhood Groups

## Amendments to Zoning Administrator Rules, Regulations, and Interpretations of the Planning Code – January 20, 2026

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

Note to publisher: illustrations proposed for deletion are shown with a diagonal strikethrough and rectangular border as follows.



Note to publisher: illustrations proposed for addition are shown with a rectangular border as follows.



### INTERPRETATIONS BY CODE SECTION

#### Code Section: 134

Subject: Rear yards, dwelling added to noncomplying building

Effective Date: 1/89

Interpretation:

See Interpretation 188(a)

#### Code Section: 134(d)(1)

Subject: NC 1 noncomplying, add residential

Effective Date: 8/91; Moved & Revised 9/25

Interpretation:

This Section requires a rear yard at ground level and above for the NC 1 District whether or not residential use exists on the lot. In the case where a nonresidential building zoned NC 1 existed in the required rear yard and a dwelling unit was proposed to be added to that building, a variance would be required for an exception from the rear yard requirements. This is consistent with the established

practice of requiring a variance to introduce residential use to a noncomplying accessory building in the rear yard of a residential district. This is done on the basis that the introduction of residential use exacerbates the noncomplying situation since one reason for the rear yard requirement is to provide an amenity for the occupants of the noncomplying structure as well as providing open space to the block.

Code Section: 135

Subject: Usable open space

Effective Date: 12/85

Interpretation:

See Interpretation 188 Alteration of noncomplying building

Code Section: 136(c)(20)-(23)

Subject: Permitted obstructions

Effective Date: 3/89

Interpretation:

A kiln whose main unit was eight feet high and whose flue was another 10 feet was not a permitted obstruction in the rear yard. It was questionable whether it could be included in the category of structures commonly used in gardening activities. Also, its chimney, which would not be attached to the house, would make the structure more than eight feet high. Eight feet would be the maximum structure height if the use could have been considered a gardening use.

Code Section: 136(c)(20)-(23)

Subject: Sauna as a permitted obstruction

Effective Date: 12/90

Interpretation:

These Paragraphs permit certain obstructions in the required open areas. The paragraphs list such obstructions as normal outdoor recreational and household features, gazebos and "other structures commonly used in gardening activities, such as greenhouses and sheds for storage of garden tools." Given the fact that the purpose of the Planning Code is to protect the amenities of adjoining and surrounding properties rather than giving preference to any specific personal use of the yard area, a sauna structure limited to the same dimensions as the greenhouses and tool sheds permitted in the rear yard shall be permitted in the rear yards but not in required side yards or front setbacks. Such sauna

shed would not be permitted to have toilet facilities. Previous interpretations have determined that the plural construction of the description of these features does not imply that more than one such roofed structure described by a single paragraph is allowed.

Code Section: 136(c)(20) (23)

Subject: Sauna as a permitted obstruction

Effective Date: 2/10

Interpretation:

An interpretation made in 12/90 stated that a sauna structure, limited to the same dimensions as a greenhouse and tool shed, is permitted in the rear yard, but not in the side yards. The permitted obstructions listed in Planning Code Section 136 have historically been organized in the following four areas: streets and alleys, setbacks, yards, and usable open space.

Yards include both side yard and rear yard areas. There is no evidence as to why a sauna structure would be specifically prohibited in a side yard nor is there precedent for similar structures (i.e. spa or kiln).

Therefore, a sauna limited to the same dimensions as a greenhouse and/or tool shed is permitted in all yard areas (including side).

Code Section: 136(c)(22), (23)

Subject: Permitted obstructions, height limit

Effective Date: 9/90 & Revised 1/26

Interpretation:

Thisese Paragraphs Section allows in the required open areas, certain features with given height limits within certain areas. For purposes of measuring height limits for features listed in this Section, the entire structure must be contained within the limit. The feature's height is NOT measured to the midrise of a sloped roof or stepped roof or similarly sculptured roof form as indicated by Section 260(a)(2). Section 260(a) refers to the height limits indicated by the Zoning Map and states that the form of measurement it prescribes shall apply to these mapped limits. The limits imposed by Section 136 on permitted obstructions are not such MAPPED limits.

Code Section: 136(c)(23)

Subject: Permitted obstruction in rear yard

Effective Date: 3/21

Interpretation:

The interpretation of Planning Code Section 136(c)(23) dated 1/88 is hereby revoked and superseded by this interpretation. Section 136(c)(23) allows “Other structures commonly used in gardening activities, such as greenhouses and sheds for storage of garden tools, if no more than eight feet in height above grade and covering no more than 100 square feet of land.” The previous interpretation found that despite the plural construction of the language in this paragraph, only one shed or structure allowed by this paragraph will be allowed per lot. On October 6, 2020, the Board of Appeals released a Notice of Decision and Order in Appeal No. 20-010 that overruled a Zoning Administrator Letter of Determination citing the previous interpretation. In its findings, the Board of Appeals determined that Section 136(c)(23) does not specify the number of structures that are allowed and ruled that more than one structure is allowed provided that the structures are contiguous with a maximum area of 100 square feet.

Code Section: 136(c)(25)

Subject: [Alteration] of noncomplying building

Effective Date: 1/86

Interpretation:

See Interpretation 188 Alteration

Code Section: 172(b)

Subject: Noncomplying building in rear yard

Effective Date: 3/88

Interpretation:

This Section prohibits any building legally existing in the rear yard from being expanded in such a manner as would increase the discrepancy. An increase in the building envelope of a building in the required rear yard would constitute an increase in discrepancy. Section 188(a) would allow the building to remain and be renovated and maintained. Therefore, such noncomplying building could be raised temporarily for the purpose of gaining access to construct a new foundation and thereafter returned to its former legally existing elevation.

Code Section: 180

Subject: Noncomplying residence, relocation of

Effective Date: 1/93

Interpretation:

This Section defines noncomplying structures and states that they are incompatible with the purposes of this Code and that noncomplying situations should be brought into compliance with the Code. In the case where a large garage existed in the buildable area of a lot and a small residence existed at the rear of the lot, the dwelling could be removed from the rear yard building and built on the top of the garage, provided that the noncomplying building at the rear not become more noncomplying.

Code Section: 181

Subject: Alteration of a nonconforming use

Effective Date: 12/85 (Revised 3/21 & 1/26)

Interpretation:

This Section governs the enlargement, alteration, and reconstruction of nonconforming uses and says that generally, nonconforming uses may not be enlarged, intensified, or moved to another location but that alterations may be allowed for “any portion of the structure that will not thereafter be occupied by the nonconforming use.” A building was nonconforming because it legally contained four units which is one more unit than would be permitted in the current zoning district. The owner wanted to enlarge three of the units by moving one to a noncomplying building in the rear yard and expanding existing units into its space. This was allowed provided the owner thereafter designated one unit as the nonconforming unit which would not be able to be enlarged beyond the existing building’s envelope or moved for as long as there were nonconforming units on the lot. (Previous rulings stated that noncomplying structures in the rear yards can be converted to dwellings provided there is no expansion of the structure.) Also, the owner must seek and justify a variance if the rear, noncomplying building does not already contain a dwelling unit because making such building a dwelling exacerbates the rear yard deficiency (see Interpretation 188(a) below). Further, the owner may not always have the option of which unit to designate as the nonconforming unit. In this case, after the unit proposed to be in the noncomplying building is established in the noncomplying building, it would have to be considered the nonconforming unit under principles established by other Zoning Administrator determinations.

Code Section: 181(d)

Subject: Reconstruction of nonconforming uses

Effective Date: 8/87

Interpretation:

This Paragraph states that a nonconforming use cannot be voluntarily razed unless replaced by a conforming use. A three-unit dwelling is served by only a one-stall garage and no other parking. This situation does not make the one-stall garage a nonconforming structure. Rather, the situation makes the dwelling a noncomplying structure which Section 188 says may be altered as long as there is no increase in discrepancy. Therefore, the garage maybe voluntarily razed and replaced with a one-stall garage without having to make up the parking deficiency.

Code Section: 182(b)

Subject: Conversion of NCU to dwelling, no rear yard

Effective Date: /94

Interpretation:

This Subsection states that a nonconforming use may be changed to a use more widely permitted than the existing use. However, Subsection 172(b) states that no NCU may be altered in such a way as to increase a Code discrepancy or create a new discrepancy. In the case where an NCU with no rear yard was the sole use on a residentially zoned lot, it could be converted to residential use without a rear yard variance.

In districts requiring a rear yard for all buildings, such nonresidential building without a rear yard is already noncomplying and would not be made noncomplying by adding a dwelling. However, in districts which require a rear yard only for dwellings, a nonresidential building without a rear yard is not noncomplying but would be made so by the addition of a dwelling, thus requiring a variance. Usable open space, on the other hand, is normally not required for uses other than dwellings so a variance may be necessary for such open space if it cannot be provided when introducing residential use.

Code Section: 188

Subject: Noncomplying structure, no permit evidence

Effective Date:

Interpretation:

This Section prohibits the expansion of a legally noncomplying structure but allows such legal structure to be maintained and repaired. A shed was non-complying because it existed in a required rear yard. The owner wanted to know if a permit to reroof the shed could be approved. There is no permit history for the shed. It does not show up on any of the historical land use or Sanborn maps. Because reroofing is critical to the integrity of a structure (which may be proven to be legal) reroofing permits to simply replace the roof surface will be granted in these circumstances. However, a permit to replace the roof structure if voluntarily removed, could not be granted until the structure was determined to be legal.

Code Section: 188

Subject: Alteration of noncomplying feature, except in yards

Effective Date: 7/85 & Revised 1/26

Interpretation:

Section 188(a)(1) provides guidance for the replacement of noncomplying structures within yards. However, This Section 188 says that noncomplying structures in other locations may be enlarged, altered, relocated or intensified provided there is no increase in discrepancy but prohibits their complete replacement except in conformity with the Code. Nevertheless, because of the life safety importance of such features, noncomplying stairs which are required egress under the Building Code may be completely removed and replaced within the same footprint if there is no increase in discrepancy between the feature and the Code requirement. The replacement structure, while remaining in the same general footprint area, can increase the footprint to the degree necessary to conform to current Code requirements. A fire wall required by Code would be considered an increase in discrepancy if the original stairs had none unless the fire wall is the minimum required by Code and would abut without extending above or beyond, a blank neighboring wall or fence.

Code Section: 188

Subject: Deck on noncomplying structure

Effective Date: 12/85 & Revised 3/2001 & 1/26; Consolidated with related interpretations of Section 188 1/26 (Original 12/85)

Interpretation:

A deck is permitted on the flat roof surface of a noncomplying structure provided its open railing is no higher and no more enclosed than required by the Building Code. A solid fire or other wall, even if required by the Building or other Code, is not permitted as part of a deck on a noncomplying structure and would be considered an expansion contrary to the Planning Code. The An existing deck with property line open railings of such deck could not be made into a solid, "one-hour" wall even though to do so would be to make it more complying with the Building Code.

Non-complying structures are, by definition, located within portions of lots that would normally not be developable and, decks are generally constructed to provide space for outdoor activities, some of which may have associated impacts, such as noise, on neighboring properties. Therefore, the addition of a deck or its access on any non-complying portion of the roof of a structure requires that a 10-day notice "ten day" letter, similar to that provided for a Block Book Notation, be sent to owners/occupants of all properties which that border the subject property, to allow them an opportunity to voice any concerns.

Code Section: 188

Subject: Alteration of noncomplying building

Effective Date: 12/85

Interpretation:

This Section says that noncomplying structures may be enlarged, altered, relocated or intensified provided there is no increase in discrepancy. An apartment building is both nonconforming due to

~~density and noncomplying for various reasons among them being rear yard encroachment and deficiency of usable open space. It had window "light well" indentations from the side property lines. Balconies were allowed to be built within those indentations located within the area that would be required to be the rear yard under today's Code because they would make the development more closely comply with, the usable open space provisions. An internal light well at a level even with the lowest occupied floor was also permitted as "outdoor" usable area because it would also partially meet the usable open space requirements. Filling in a higher level of the light well was not allowed, nor was the expansion of the indoor living area of any level into the interior light well nor the roofing over of the top of the internal light well with a glass skylight.~~

Code Section: 188

Subject: Alteration of noncomplying building

Effective Date: 1/86

Interpretation:

~~This Section says that noncomplying structures may be enlarged, altered, relocated or intensified provided there is no increase in discrepancy. Decking may be placed upon the flat roof of a noncomplying structure provided it is placed virtually flat against thereof and below any parapet. A railing may surround this deck provided it does not exceed the minimum height required by the Building Code for deck railings. This rule applies to both height and "footprint" noncompliance. The addition of a penthouse would not be a permitted obstruction so this deck would only be allowed without a variance if sufficient access to it were already present or available in the buildable area of the lot.~~

Code Section: 188

Subject: Alteration of noncomplying deck

Effective Date: 1/87

Interpretation:

~~This Section says that noncomplying structures may be enlarged, altered, relocated or intensified provided there is no increase in discrepancy. A deck was noncomplying because it existed in the required rear yard in excess of the provisions of Section 136. The existing property line open railing of such deck could not be made into a solid, "one hour" wall even though to do so would be to make it more complying with the Building Code.~~

Code Section: 188

Subject: Intensification of noncomplying structure

Effective Date: 11/94

Interpretation:

This Section allows the intensification of a non-complying structure provided there is no increase in any discrepancy between existing conditions and Code standards. A shed built with permit in the required rear yard before the rear yard requirement went into effect, could not be converted to a garage without a variance as such conversion, with the constituent Building Code upgrading, driveways, noise, occasional parking on driveways and other auto related activities, would constitute an increase in discrepancy from the rear yard standards.

Code Section: 188

Subject: Noncomplying carport

Effective Date: 12/00

Interpretation:

The following Interpretation is hereby revoked:

"Noncomplying carport, demolition 6/90. This section prohibits changing a noncomplying structure in such a way as to create a new discrepancy or exacerbate an existing one. There was a proposal to demolish a carport located in the required rear yard while continuing to park a car there. It was noted that removing the carport would eliminate one rear yard obstruction and that leaving the automobile exposed exacerbated its presence in the rear yard. Since one consideration canceled out the other, the "tie" went to the owner who was allowed to demolish the carport. In such situations, we will encourage screening by landscaping. This determination could be overturned by the application of the Residential Design Guidelines which could result in replacing the garage or requiring the parking to be located in the buildable area of the lot."

This Interpretation should not be used as a precedent. In the cases where there is an increase in nonconformity on one issue and a decrease on another issue, these cases will be reviewed on a case by case basis by Zoning Administrator to determine if they are permissible.

Code Section: 188

Subject: Deck on non-complying structure

Effective Date: 2/08

Interpretation:

Under previous interpretations of Planning Code Section 188, a deck is permitted to be constructed upon the flat roof surface of a non-complying structure provided its open railing is no higher and no more enclosed than required by the Building Code. Previous interpretations of Section 311 exempt the addition of such decks from the notification requirements. Non-complying structures are, by definition, located within portions of lots that would normally not be developable and, decks are generally constructed to provide space for outdoor activities, some of which may have associated impacts, such

~~as noise, on neighboring properties. Therefore, the addition of a deck or its access on any non-complying portion of the roof of a structure requires that a "ten day" letter, similar to that provided for a Block Book Notation, be sent to owners/occupants of all properties which border the subject property, to allow them an opportunity to voice any concerns.~~

Code Section: 188 and 305

Subject: Variances for Noncomplying Structures

Effective Date: 1/14 & Revised 1/26

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.

Code Section: 188(a)

Subject: Noncomplying building in rear yard

Effective Date: 3/88

Interpretation:

—See Interpretation 172(b)

Code Section: 188(a)

Subject: Intensification of a nonconforming structure

Effective Date: 3/88

Interpretation:

This Section says that noncomplying structures may be enlarged, altered, relocated or intensified provided there is no increase in discrepancy. Therefore, a noncomplying garage in the required rear yard can have stalls added to it provided there is no expansion of the structure and there is no parking beyond the amount that is accessory.

Code Section: 188(a)

Subject: Alteration of noncomplying structure

Effective Date: 3/88

Interpretation:

Previous policy has been to allow the enclosure of the area under an enclosed portion of a building which extends into the rear yard but is supported on columns. This policy does not extend to allowing the enclosure under an open noncomplying deck in the required rear yard.

Code Section: 188(a)

Subject: Conversion of noncomplying structure

Effective Date: 1/89

Interpretation:

This Section states that a noncomplying building may be altered or have a change of use provided that with respect to such structure there is no increase in any discrepancy, or any new discrepancy. One reason for requiring rear yards is to provide an amenity for the residents of a building. Placing residents in a building with a deficient rear yard exacerbates the deficiency with respect to this reason for the rear yard requirement. Therefore, a noncomplying rear yard building could not be converted to residential use without seeking and justifying a variance from the rear yard requirements. However, noncomplying rear yard buildings already having legal residential occupancy, need not seek and justify a rear yard variance to add another dwelling unit provided all the other Code provisions requisite for a dwelling unit are met.

Code Section: 204.1

Subject: Recreation use as accessory to dwelling

Effective Date: 9/89

Interpretation:

A use that is accessory to a dwelling can be placed within a legally noncomplying separate structure in a rear yard (in this case, a recreation room without bathroom plumbing for a fourplex.)

Code Section: 311

Subject: Demolition, replacement

Effective Date: *4/96 & Moved from related interpretation in alphabetical section 1/26*

Interpretation:

*See "Demolition" in the Interpretations Alphabetical  
(see previous version at pages 8544 – 856)*

Pursuant to Planning Code provisions, demolition or conversion to another use of a dwelling unit (apartment) in some districts, is either prohibited or requires conditional use authorization from the City Planning Commission. For Residential Districts, the Code states that a permit to demolish a residence cannot be issued until the replacement structure is approved. However, vacant lots anywhere in the City reduce the tax base, can harm the local economy by reducing the locations available for potential businesses, can be unsightly, can lower surrounding property values and can present a public health and safety hazard. Therefore, a permit to demolish a building anywhere in the City shall not be approved by the Planning Department until the replacement structure is also approved unless the Zoning Administrator finds that the public health, safety, and welfare would be jeopardized if the building remained.

*Code Section: 311*

*Subject: Upper floor voids*

*Effective Date: 1/07*

*Interpretation:*

*Section 311 requires notification for any expansion of a building envelope in RH and RM Districts. There are recognized exemptions from Section 31 notification for fill-ins under existing rooms subject to a total height restriction from grade. There is a common condition (see figure below) where an upper level building space has a roof and is walled in on three sides, typically a balcony. The Zoning Administrator has determined that such fill-ins would not require notice under Section 311 as the building 'envelope' would not expand, i.e. the roof and walls of the building would not extend beyond boundaries set by the existing roof and the walls that now bracket the existing void.*



Code Section: 311

Subject: Notification, Change of use for nonconforming/limited conforming uses in nonresidential buildings

Effective Date: 11/08 (Amended 06/09)

Interpretation:

Planning Code Section 311 requires notification for certain projects in RH and RM districts. Projects subject to the notification requirement include "all building permit applications for demolition and/or new construction, and/or alteration of residential buildings. For the purposes of this Section, an alteration shall be defined as any change in use or change in the number of dwelling units of a residential building, removal of more than 75 percent of a residential building's existing interior wall framing or the removal of more than 75 percent of the area of the existing framing, or an increase to the exterior dimensions of a residential building except those features listed in Section 136(e)(1) through 136(e)(24) and 136(e)(26)." Technically then, uses which are non-residential could be demolished (as defined), expand or change use without notification if they constitute the sole occupancy of a structure in RH and RM districts'. (It is possible that the original legislation did not contemplate this exception to the notification requirements as most allowable nonresidential uses in RH and RM districts, such as schools and churches, are separately subject to discretionary approvals with associated notice, most often Conditional Use approval, for change of use or significant expansions.)

Section 307 of the Planning Code states the Zoning Administrator may "with the expressed standards, purposes and intent of this Code and pursuant to its objectives, issue and adopt such rules, regulations and interpretations as are in the Zoning Administrator's opinion necessary to administer and enforce the provisions of this Code." In this instance, the ZA believes that it is not logical, nor

consistent with the intent of the Code, for conforming uses within residential districts, for example residential buildings that add or subtract units, to be subject to notification requirements while demolitions, expansions or changes in occupancy of non-residential uses, which are generally non-conforming or conditional uses, would not. Therefore, the ZA has determined that notice shall be required under section 311 for all demolitions, expansions and changes of use in RH and RM districts, including those in non-residential buildings.

Code Section: 311(b)(4)

Subject: Building permit notification, exemptions Definition of Alteration for the Purpose of Section 311

Effective Date: 3/96 {Revised 1/14 & 1/26; Consolidated with related interpretations of Section 311 1/26}

Interpretation:

This subsection states that for the purposes of Section 311, an "alteration" is defined as an increase to the exterior dimensions of a building except those features listed in Section 136(c)(1) through 136(c)(26), regardless of whether the feature is located in a required setback. 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(e)(1) through 136(e)(24) and 136(e)(26). Other than obstructions permitted by Section 136(c)(25), 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, The following other features that do not increase the "envelope" of a residential building or other minor features listed below are not considered an "alteration" for the purpose of Section 311 and are therefore may also be exempt from notification though not expressly mentioned as exempt by Section 311. Such features are listed below. These exemptions refer only to the initial notification of a planning entitlement 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.]

4/96: Since Because many building features listed in Section 260 are similar to the exemptions of Section 136, certain Section 260 features will be also exempt from the notification requirement definition of alteration. They are:

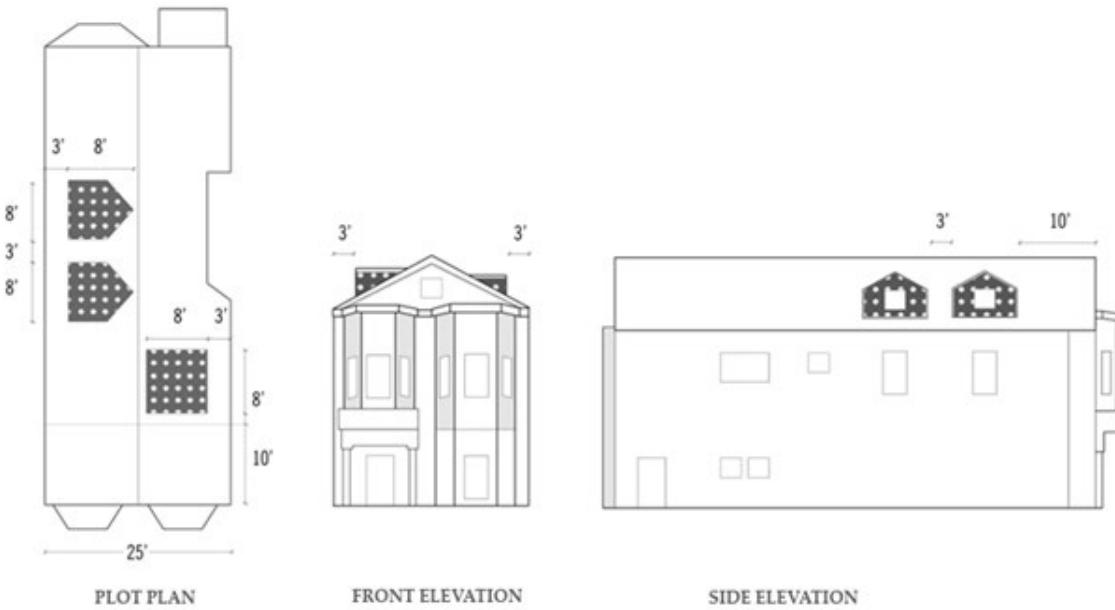
- (1) **Mechanical equipment** and appurtenances necessary to the operation or maintenance of the building or structures itself, including chimneys, ventilators, plumbing vent stacks, panels or devices for the collection of solar or wind energy and window-washing equipment, together with visual screening for any such features.
- (2) **Skylights and dormer windows** unless they are large, or a size that effectively increases ceiling heights and building volumes.
- (3) **Stage and scenery lofts** if they are part of a project that has recently required notice under conditional use authorization.
- (4) **Ornamental and symbolic features** of public and religious buildings and structures, including towers, spires, cupolas, belfries and domes, if they are part of a project that has recently required notice under conditional use authorization. NOTE: Items 3 and 4 would probably never occur in residential buildings. They are listed to illustrate the kind of features that would be exempt.
- (5) **Railings, parapets and catwalks**, with a maximum height of four feet.
- (6) **Open railings, catwalks and fire escapes** required by law, wherever situated.

(7) Unenclosed seating areas limited to tables, chairs and benches and associated open railings up to 42 inches high.

(8) Flagpoles and flags, clothes poles and clotheslines, and weather vanes.

(9) Radio and television antennae where permitted as accessory uses if less than three meters in diameter.

4/96: (10) Dormers: *A dormer is usually a gabled extension of an attic room through a sloping roof to allow for a vertical window opening into the room. Dormer windows tend to serve two purposes: (1) to allow light and ventilation by incorporating vertical windows into a roof structure, and (2) to increase occupiable floor area by raising the vertical clearance of a room. Dormers are not considered an "alteration" The exemption applying to dormers was further refined by Zoning Administrator Bulletin 96.2 to state that they may be exempt only when they, along with all other features exempt from the height limit and notification on a building collectively do not exceed 20 percent of the roof area; and when each dormer is limited to a plan dimension of eight feet by eight feet, is setback at least three feet from the side property line and 10 feet from the front building wall, is separated by at least three feet from other dormers, and, at its highest point is no higher than the peak of the roof nor 10 feet above the height limit, whichever point is lower. Dormers which do not meet these criteria require special review by the Department to determine if they can be exempt from notification and to determine whether they can even be approved within the terms of City Design Guidelines.*



4/96: (11) "Fill-ins": The filling in of the open area under a cantilevered room or room built on columns is exempt only if the height of the open area under the room does not exceed one story or 12 feet. This exemption does not apply to space immediately under a deck nor to space under a room constructed without required authorization known to be illegal.

(12) "Upper floor fill-ins": Section 311 requires notification for any expansion of a building envelope in RH and RM Districts. There are recognized exemptions from Section 31 notification for fill-ins.

~~under existing rooms subject to a total height restriction from grade. There is a common condition (see figure below) where an upper level building space The filling in of an open area on the upper level of a building only when this open area has a roof and is walled in on three sides, typically a balcony. The Zoning Administrator has determined that such fill ins would not require notice under Section 311 as the building 'envelope' would not expand, i.e. the roof and walls of the building would not extend beyond boundaries set by the existing roof and the walls that now bracket the existing void.~~



~~4/96: (13) "Not visible": "General rule" exemption: Anything not visible from any off-site land or structure, is exempt from the Section 311 notification except that which constitutes a "change of use" which Section 311 includes in the definition of an "alteration" subject to this Section. See interpretation 101.1(e) 9/93 for when an addition of a dwelling unit constitutes a change of use.~~

~~4/96: **Exact replacement:** The replacement of a legally existing structure with a structure within the same envelope and location as the structure being replaced is exempt if the demolition and reconstruction are included in the same permit or done as part of the same continuing project so that there is no significant time lapse between the demolition and reconstruction. This exemption is justified because the resulting structure would not be more obtrusive than the structure replaced. This exemption is from the Section 311 notification not from other Code requirements. If the replacement feature is noncomplying, surrounding owners will receive notice of the variance hearing.~~

~~4/96: **Not exact replacement (14) Required egress stair replacement:** A stairway conforming to Paragraph Section 136(c)(14) is not considered an "alteration" exempt from notification by for the purpose of Section 311(b)(4). Therefore, The exemption will also apply to a replacement stairway that is required by the Building Code for egress is also not considered an "alteration," if it is larger than the stairway it replaces only to the degree required by the Building Code and if the location and coverage are as close as possible to the replaced stairway. This exemption shall not apply if the replacement stairway includes a fire wall while the replaced stairway was not enclosed, unless the fire wall in its entirety adjoins a blank wall or is no higher than a permitted fence, or if the replaced stairway included a firewall of equal size to the new firewall.~~

**10/96: (15) Exact or smaller replacement:** The replacement of a legally existing structure, feature, or portion of a building with that of a structure or feature that is the same size or smaller is exempt from the notification requirement provided the replacement structure or feature is within the same footprint and envelope as the structure, feature, or portion removed and the removal and replacement are approved at the same time. This exemption is justified because the resulting structure would be less obtrusive than the structure replaced. This interpretation exemption is for from the purpose of Section 311 notification and not from other Code requirements. If the replacement feature is noncomplying, surrounding owners will receive notice of the a variance may be required hearing.

**4/96: Renewal of expired permits:** No notice is required to the renewal of a permit or issuance of a new permit to complete a job that has already been substantially completed with permit. "Substantially completed" shall mean that the final envelope of the structure has already been framed in.

**7/96: Deck:** This Section defines an alteration in such a way as to exclude all permitted obstructions of Section 136(c) except the 12 foot extension. Therefore, a deck that can only be approved pursuant to Section 136(c)(25) would be subject to the notification requirements of this Section. If the deck could be approved pursuant to any other paragraph of Section 136(c), it would not be subject to the notice requirements of this Section.

**(16) Decks:** Decks that are 1) cantilevered and not supported by columns or walls other than the building wall to which they are attached, or 2) fit within the envelope of the permitted obstruction described in Section 136(c)(25).

**(17) Firewall:** Firewalls at grade level that meet the parameters of a permitted obstruction pursuant Section 136, such as a fence per Section 136(c)(19).

Code Section: 311(b)

Subject: Residential permit review procedures for RH and RM Districts; Decks and 311 notification

Effective Date: 4/98; 9/02

Interpretation:

Unenclosed decks and stairs in RH and RM Districts require the notification of neighbors only when:

- (1) They encroach into the required rear yard via Section 136(c)(25); or when
- (2) They are decks that are supported by columns and walls other than the building wall to which it is attached and are multilevel or more than 10 feet above grade; or when
- (3) The Building Code requires a one-hour wall greater than 10 feet in height for the proposed deck and/or stair. [This provision has been modified by policy to apply only to one-hour walls 10 feet or greater to be consistent with the exemption under Section 136 allowing fences of 10 feet or less in rear yards.]

Since the adoption of Section 311, San Francisco's Planning Department has required the notification of all new decks, deck enlargements, and stairs over three feet above grade in buildable areas and required setbacks to neighbors of the subject property. This delay in the permit review

process has burdened the applicant and Planning Department with added time and costs. Therefore, the Zoning Administrator has reevaluated the need for noticing decks.

Nowhere in Section 311 does it stipulate that decks, as defined by the Planning Code, be noticed.

SECTION 311. RESIDENTIAL PERMIT REVIEW PROCEDURES FOR RH AND RM DISTRICTS.

(b) Applicability. Except as indicated herein, all building permit applications for new construction and alteration of residential buildings in RH and RM Districts shall be subject to the notification and review procedures required by this Section. Subsection 311(e) regarding demolition permits and approval of replacement structures shall apply to all R Districts. For the purposes of this Section, an alteration shall be defined as any change in use of a residential building or an increase to the exterior dimensions of a residential building except those features listed in Section 136(c)(1) through 136(c)(24) and 136(c)(26).

A building is defined by Section 102.3 as: BUILDING. Any structure having a roof supported by columns or walls. A structure is defined by Section 102.26 as: STRUCTURE. Anything constructed or erected which requires fixed location on the ground or attachment to something having fixed location on the ground. Therefore, an unenclosed deck and stair does not require notification under Section 311. An unenclosed deck and stair in the subject property's buildable area is a structure not a building and, by definition, does not increase the "exterior dimensions of a residential building." The subsequent addition of walls and/or roof to an existing deck would then require notification under Section 311. Multi-level decks supported by columns or walls other than the building wall to which it is attached would require notification. Multi-level decks which are freely cantilevered and supported only by the building wall to which the deck is attached would not require notification.

Please note: The Building Department considers decks as "horizontal enlargements" and would notify neighbors prior to issuing the building permit. Therefore, those neighbors who object to the construction of a deck may file an appeal with the Board of Appeals within 15 days after the permit has been issued.

Code Section: 311(b)

Subject: Lightwell infills and 311 Notification

Effective Date: 9/02 & Revised 1/26

(Please note: This Interpretation formally authorizes long-standing Department practice and does not constitute a change in policy.)

Interpretation:

For lightwell infills in any district subject to Section 311, regardless of location within or outside the Priority Equity Geographies Special Use District: if the plans (and accompanying photos, if necessary) clearly establish that the infill is against a blank neighboring wall and not visible from any off-site location, it is approvable over the counter with no 311 notification.

If the proposed lightwell infill is visible only from an adjacent property, i.e., it faces a matching lightwell or equivalent, the applicant must either: submit a set of reduced plans signed by adjacent owner/occupants; or, submit the plans with labels for owner/occupant (of that adjacent party). A "10 day" letter, similar to those

provide for Block Book Notifications would be sent to the affected owner/occupants to allow them an opportunity to voice any concerns.

If the proposed lightwell infill is visible from any off-site location other than an adjoining lightwell, 311 notice is required.

Code Section: 311(b)

Subject: Renewal of Expired Permits and Lapses in Notification

Effective Date: Moved from related interpretation to Section 311 & Revised 1/26

Interpretation:

**Renewal of expired permits:** No notice is required to for the renewal of a permit or issuance of a new permit to complete a job that has already been substantially completed with permit. “Substantially completed” shall mean that the final envelope of the structure has already been framed in.

**Three-year lapse in notice:** Pursuant to long-standing Department practice, if a site or building permit requires updated review and approval by the Planning Department before issuance more than 3 years after its required neighborhood notice per Section 311 was completed, and such neighborhood notice is still required under the Planning Code, then new neighborhood notice must be conducted pursuant to the Planning Code requirements at that time.

Code Section: 311(b)

Subject: Applicability of Section 311 to Neighborhood Agriculture

Effective Date: 3/21

Interpretation:

The interpretation of Section 311 issued 11/08 (Amended 06/09) concerns the notification requirement of non-residential uses and their demolition, expansion, or change in occupancy. The interpretation states that it would be inconsistent with the intent of the Planning Code for conforming uses within residential districts to be subject to Section 311 notification while demolishing, expanding, or changing the occupancy of non-residential uses would not require Section 311 notification given that these non-residential uses are typically nonconforming or conditional uses within residential districts. The interpretation states that all changes of use in RH and RM are subject to Section 311 notification.

While Neighborhood Agriculture is a non-residential use, it is principally permitted in all R districts. This is likely due to the minor nature of such use, and its size limitation. As such, it does not follow the same logic of the prior interpretation that such uses are typically a nonconforming or conditional use. Therefore, a change of use to Neighborhood Agriculture is not subject to Sec. 311 neighborhood notification.

Code Section: 311(b)(2)

Subject: Alteration Removal of Framing

Effective Date: 3/21

Interpretation:

This subsection states that for the purposes of this section, an alteration is defined as the removal of more than 75% of a residential building's existing interior wall framing or the removal of more than 75% of the area of the existing framing. In applying this provision, consistent Planning Department practice has been to calculate removal of framing on a linear basis on the floor plans. The question arose about how to handle specific situations where there may be a doorway, window, or pony wall (half height wall). The following describes possible scenarios and whether each constitutes the removal of framing:

- If only removing a door, this would not count as removal (because no framing is being removed);
- If only removing a door and filling in the opening with a new wall, this would not count as removal (because no framing is being removed);
- If removing the door and the door opening is floor to ceiling (i.e., no header above), this would not count as removal (because no framing is being removed);
- If removing the door AND header above the door, this would count as removal (because the header constitutes "framing" per Section 311);
- If removing a wall to add a door or window, this would count as removal (because the wall constitutes "framing" per Section 311);
- If reducing the height of a wall (resulting in a pony wall), this would count as removal (because the wall constitutes "framing" per Section 311);
- If moving a wall, this would count as removal (because the wall constitutes "framing" per Section 311).

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

Subject: Vertical Alterations Outside the Priority Geographies SUD

Effective Date: 02/24 & Revised 1/26

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 considered 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) Any of the following changes to an existing building's roof or height: 1) an increase in the measured height of a building of more than 30 inches, pursuant to Section 260, such as when a flat roof or entire building is raised; or, 2) when some or all of a building's highest roof is physically increased in height by more than 30 inches, such as when a sloped roof is raised on its sides to create a flat roof or when a portion of flat roof is raised to a 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);*

54. An addition of a new stair or elevator penthouse;

65. 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

76. An addition of dormers beyond the limits of *Zoning Administrator Bulletin No. 3. Interpretation of Section 311(b)(4), dated 1/26.*

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 other than* those items exempt from height measurement per Section 260(b) (*i.e.e.g.*, the horizontal expansion of an existing partial floor).

Code Section: 311/312

Subject: Notification Requirements

Effective Date: 04/01

Interpretation:

*Sections 311 and 312 allow for the elimination of duplicate notices where there is a Conditional Use (CU) or Variance (VZ) hearing. However, Sections 311 and 312 notice occupants within 150 feet of the subject property, while CU's and VZ's only notice owner within 300 feet. In the future, in order for a CU or VZ notice to substitute for a Section 311 or 312 hearing, occupants within a 150 radius of the property must be noticed.*

Code Section: 311/312

Subject: Notice for Day Care and Residential Care Facilities

Effective Date: 02/06 (Revised 4/17/2015)

Interpretation:

State Law requires that both family daycare up to 14 children and residential care for up to six people are nondiscretionary. The state requires that family day care and residential care be treated as permitted uses that do not fundamentally alter the nature of the underlying residential uses. Since 311 and 312 notices could potentially lead to Discretionary Review requests that cannot be acted upon, as the permits are nondiscretionary, such day care uses up to 14 children and residential care uses up to 6 people are exempt from such notices. However, if there is an expansion of the site that would require Section 311/312 notice, then the project is still subject to notice.

## INTERPRETATIONS -- ALPHABETICAL

Subject: Deck on non-complying structure

Effective Date: 2/08

Interpretation:

Under previous interpretations of Planning Code Section 188, a deck is permitted to be constructed upon the flat roof surface of a non-complying structure provided its open railing is no higher and no more enclosed than required by the Building Code. Previous interpretations of Section 311 exempt the addition of such decks from the notification requirements. Non-complying structures are, by definition, located within portions of lots that would normally not be developable and, decks are generally constructed to provide space for outdoor activities, some of which may have associated impacts, such as noise, on neighboring properties. Therefore, the addition of a deck or its access on any non-complying portion of the roof of a structure requires that a "ten day" letter, similar to that provided for a Block Book Notation, be sent to owners/occupants of all properties which border the subject property, to allow them an opportunity to voice any concerns.

Subject: Sauna as a permitted obstruction

Effective Date: 2/10

Interpretation:

An interpretation made in 12/90 stated that a sauna structure, limited to the same dimensions as a greenhouse and tool shed, is permitted in the rear yard, but not in the side yards. The permitted obstructions listed in Planning Code Section 136 have historically been organized in the following four areas: streets and alleys, setbacks, yards, and usable open space.

Yards include both side yard and rear yard areas. There is no evidence as to why a sauna structure would be specifically prohibited in a side yard nor is there precedent for similar structures (i.e. spa or kiln).

Therefore, a sauna limited to the same dimensions as a greenhouse and/or tool shed is permitted in all yard areas (including side).

Subject: Upper Floor Voids

Effective Date: 1/07

Interpretation:

Section 311 requires notification for any expansion of a building envelope in RH and RM Districts. There are recognized exemptions from Section 31 notification for fill ins under existing rooms subject to a total height restriction from grade. There is a common condition (see figure below) where an upper level building space has a roof and is walled in on three sides, typically a balcony. The Zoning Administrator has determined that such fill ins would not require notice under Section 311 as the building "envelope" would not expand, i.e. the roof and walls of the building would not extend beyond boundaries set by the existing roof and the walls that now bracket the existing void.