



# ZONING ADMINISTRATOR BULLETIN NO. 4

## Public Notification for Building Permits in Residential and Neighborhood Commercial Districts

Section 307 of the City Planning Code mandates the Zoning Administrator to issue and adopt such rules, regulations and interpretations as are in the Zoning Administrator's opinion, necessary to administer and enforce the provisions of the Planning Code. [Section 7.502 of the San Francisco Charter charges the Zoning Administrator with the responsibility of administering and enforcing the Planning Code.]

<b>Date:</b> OCTOBER 2002	<b>Relevant Code Sections:</b> 311 (Residential Permit Review Procedures for RH and RM Districts)
<b>Reprinted:</b> OCTOBER 2018	312 (Neighborhood Commercial Permit Review Procedures for all NC Districts)
Formerly known as: Zoning Administrator Bulletin No. 2002-01	

Planning Code Section 311, adopted March 4, 1996, requires notice to neighbors and property owners for permits involving new construction, change of use, or building expansions in RH/RM Districts. This initiates a 30 day notification period for neighborhood review and comment to the Planning Department. Per Section 311, all building permit applications for new construction and alteration of residential buildings in RH and RM Districts are subject to this notification, with alteration defined as most changes of use in a residential building or an increase to the exterior dimensions of a residential building, except those features listed in Planning Code Section 136(c)(1) through 136(c)(24) and 136(c)(26). On January 15, 2001, Planning Code Section 312 extended similar notice requirements to projects in Neighborhood Commercial (NC) Districts.

The Zoning Administrator has issued a number of determinations intended to clarify what type of work on residential structures constitute "alterations" as intended by the section since its adoption in 1996. The Zoning Administrator issued a determination in the same month the ordinance was adopted that stated the general principal that "This subsection states that the notification requirement of this section shall apply to those residential building permits to change use or increase the exterior dimension of a residential building in RH and RM districts except for those features listed in Section 136(c)1 through 136(c)24 and 136(c)26. The Section 136 features referenced are minor additions, representing relatively small or no building volume, or are visually hidden by existing features such as parapets, etc. Since it appeared to be the intention of Section 311, and later 312, to exempt minor building features from notification, other features that don't increase the "envelope" of a building or other minor features may also be exempt from notification though not expressly mentioned as exempt by Sections 311/312. [A building's "envelope" is the theoretical cube into which the building would fit.]"

Since that time the Zoning Administrator has issued a series of interpretations addressing specific cases where it was not obvious under the language of the Code or the general principal expressed above, as to whether certain proposed work on residential buildings in an RH or RM district would constitute an “alteration” under Section 311 and 312. This Zoning Administrator Bulletin gathers together all such determinations made up to its publication date to provide further guidance to the public as to what type of alterations to existing residential structures might be deemed exempt from the notification requirement of Sections 311/312. This bulletin also provides information regarding notice requirements for 311/312 projects where other formal discretionary actions are to be taken with respect to the project such as conditional use authorization, variances, or discretionary review hearings.

Please note: but for two exceptions noted below, this Bulletin contains only a summation of previously adopted interpretations of the Zoning Administrator and is provided for the convenience of the reader. Further, the language presented in the Interpretations section of the Planning Code in full is controlling in the event of any apparent inconsistency between this summary and the original text.

Where prior interpretations have been superseded, we have listed only the currently “operative” interpretations.

*Explanatory language that has been added to the Interpretation language as part of this bulletin is presented in italics.*

## 311 and 312: Recent Legislation and Future Amendments

**Code Section:** 311/312

**Subject:** Notification Requirements in NC Districts in Supervisorial Districts 4 and 11.

**Effective Date:** 9/18

Ordinance 179-18, approved 7/27/2018, effective 8/27/2018, included amendments to Section 311 and the repeal of Section 312 that will become operative on 1/1/2019.

Ordinance 199-18, approved 8/10/2018, effective 9/10/2018, included additional amendments to Section 311, as amended by Ord. 179-18, regarding temporary notification requirements in NC Districts in Supervisorial Districts 4 and 11.

In accordance with Ord. 179-18, the Planning Code will not reflect the amendments to Section 311 or the repeal of Section 312 until 1/1/2019, and the provisions of these amendments will not be operative until that date. However, the substance of the amendments to Section 311, that are contained in Ord. 199-18 are in effect as of 9/10/2018, and upon that date the requirements of Section 312 shall be modified as stated below:

Notwithstanding subsection 312(c)(1), for NC Districts **in Supervisorial Districts 4 and 11, building permit applications for a change of use to the following uses shall not be subject to the provisions of subsections 312(d)(2)-(3) and 312(e):**

- Bar
- General Entertainment
- Limited Restaurant
- Liquor Store
- Massage Establishment
- Nighttime Entertainment
- Outdoor Activity Area
- Private Community Facility
- Public Community Facility
- Restaurant
- Tobacco Paraphernalia Establishment

These exceptions in Districts 4 and 11 will be in effect September 10, 2018 and will sunset on September 10, 2020 unless extended by the Board of Supervisors.

Note that as of January 1, 2019 the above modifications to notification procedures in NC Districts will be incorporated, along with the entirety of the provisions of Section 312, into an amended Section 311, and Section 312 will be repealed. **At that time, this interpretation shall no longer be in effect.**

## 311 Notification Exemptions

**Code Section:** 311(b)

**Subject:** Building permit notification, exemptions

**Effective Date:** 3/1996

This subsection states that the notification requirement of this section shall apply to those residential building permits to change use or increase the exterior dimension of a residential building in RH and RM districts except for those features listed in Section 136(c)1 through 136(c)24 and 136(c)26. The Section 136 features referenced are minor additions, representing relatively small or no building volume, or are visually hidden by existing features such as parapets, etc. Since it appeared to be the intention of Section 311 to exempt minor building features from notification, other features that don't increase the "envelope" of a residential building or other minor features may also be exempt from notification though not expressly mentioned as exempt by Section 311. [A building's "envelope" is the theoretical cube into which the building would fit.] Such features are listed below. These exemptions refer only to the initial notification of a building permit application required by Section 311(b)2. They do not exempt notification of parties for any public hearing to consider the project. [Note: bold print has no significance other than as an aid in finding the appropriate feature.]

4/1996: Since many building features listed in Section 260 are similar to the exemptions of Section 136,<sup>1</sup> certain Section 260 features will also be exempt from the notification requirement. They are:

- Mechanical equipment and appurtenances necessary to the operation or maintenance of the building or structure 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.
- Skylights and dormer windows unless they are large, or a size that effectively increases ceiling heights and building volumes.
- 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.
- Railings, parapets and catwalks, with a maximum height of four feet.
- Open railings, catwalks and fire escapes required by law, wherever situated.
- Unenclosed seating areas limited to tables, chairs and benches and associated open railings up to 42" high.
- Flagpoles and flags, clothes poles and clotheslines, and weather vanes. (Radio and television antennae where permitted as accessory uses if less than 3 meters in diameter.)

## DORMERS & WINDOWS

Dormer windows are exempt from the neighborhood notice requirements of Sections 311 and 312 if they conform to the criteria established in Zoning Administrator Bulletin No. 3, which is based on an interpretation from April 1996 stating 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% of the roof area; and when each dormer is limited to a plan dimension of 8 feet by 8 feet, is setback at least 3 feet from the side property line and 10 feet from the front building wall 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. All dormer windows, even if exempt from neighborhood notification, must be consistent with relevant design guidelines (i.e. Residential Design Guidelines).

## "FILL-INS"

4/1996: 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. The exemption does not apply to space immediately under a deck nor to space under a room known to be illegal.

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<sup>1</sup>The list of Section 260 features exempt from 311/312 notification is selective rather than all inclusive. Thus, features that are specifically identified in Section 260 but excluded from the list of 311 exemptions should be assumed to require notification unless otherwise noted.

### GENERAL RULE EXEMPTION

4/1996: Anything not visible from any off-site land or structure is exempt from 311 notification except that which constitutes a “change of use” which 311 includes in the definition of an “alteration” subject to this Section.

### EXACT REPLACEMENT

4/1996: The replacement of a legally existing structure with a structure within the same envelope and locations 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.

### NOT “EXACT” REPLACEMENT

4/1996: A stairway conforming to Paragraph 136(c)14 is exempt from notification by Section 311(b). The exemption will also apply to a replacement stairway that is required by the Building Code for egress, 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. The exemption shall not apply if the replacement stairway includes a firewall while the replaced stairway wasn’t enclosed, unless the firewall in its entirety adjoins a blank wall or is no higher than a permitted fence.

10/96: The replacement of a legally existing feature or portion of a building with that of a feature that is the same size or smaller is exempt from the notification requirement provided the replacement structure is within the same footprint and envelope as the 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 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.

### RENEWAL OF EXPIRED PERMITS

4/1996: No notice is required to renew a permit or issue 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.

## DECKS

7/1996: 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.

*The above interpretation regarding treatment of decks under 311 was further refined in April 1998 as follows:*

4/1998: 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 Sections 136(c)(25); or when
- (2) Multi-level decks or decks more than 10 feet above grade, are supported by columns or walls other than the building wall to which it is attached; or when
- (3) The deck is more than 10 feet above grade; or when
- (4) 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.]*

*\*New interpretation: The 4/1998 interpretation above is further refined to eliminate the conflict between items 2 and 3 to read as follows:*

9/2002: 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 Sections 136(c)(25); or when
- (2) They are decks that are supported by columns or walls other than the building wall to which it is attached and are multi-level or more than 10 feet above grade ; or when
- ~~(3) The deck is 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.

*\*New interpretation (This interpretation formally authorizes long-standing Department practice and does not constitute a change in policy.)*

## LIGHTWELLS

For infill of lightwells, the following procedures apply only to notification requirements pursuant to Planning Code Sections 311 and 312. Please be aware that all proposals to infill a lightwell must also meet all other relevant Planning Code requirements and be consistent with the Residential Design Guidelines:

1. If the proposed lightwell infill is visible from any off-site location other than an adjoining lightwell, 311/312 notice is required.
2. If the plans (and accompanying photos, if necessary) clearly establish that the infill is against a blank neighboring wall at the property line and not visible from any off-site location, it may be approved with no 311/312 notification.
3. If the proposed lightwell infill is at the first floor where there is a matching lightwell, such permits may be approved with no 311/312 notification if the applicant produces evidence documenting that the lightwell infill is not higher than 10 feet above the grade of the adjacent property (measured at property line). The applicant must also submit a set of reduced plans signed off by the property owner and occupants of units with windows that directly abut the proposed lightwell infill.
4. For lightwell reductions at any level that match the adjacent lightwell in exact dimensions (both length and width), such permits may be approved over-the-counter with no 311/312 notification if the applicant also submits a set of reduced plans signed off by the property owner and occupants of units with windows that directly abut the proposed lightwell infill.
5. If the proposed lightwell infill is visible only from an adjacent property and does not meet the criteria of 2-4 listed above, the applicant must either: a) submit a set of reduced plans signed by the property owner and occupants of units with windows that directly abut the proposed lightwell infill; or, b) submit the plans with labels for owner/occupants (of that adjacent property). If Option (b) is selected, the permit will be routed to a Current Planner for review against the Residential Design Guidelines and a "10-day" letter will be sent to the affected owner/occupants to allow them an opportunity to voice any concerns, similar to a Block Book Notification.

**Code Section:** 312(b)

**Subject:** Notification of Change of Use in NC Districts

**Effective Date:** 12/2001

An earlier interpretation requires Section 311 notice for any change in the number of dwelling units. Code Section 312(b) requires notification for all building permit applications involving Demolition, New Construction, Alteration which expand the exterior dimensions of a building, or changes of use per use categories of Article 7. In a situation where there is a reduction or an addition of a dwelling unit(s) to the subject property within NC districts, with or without any changes to the existing building envelope, the project shall be subject to the notification process required by this code section.

## Non-Exempt Projects by Department Policy

Stair and elevator penthouses on buildings in RH, RM, and NC districts, are considered under Sections 311 and 312 respectively, to be building expansions requiring notification.

However, less obtrusive roof exemptions permitted in Section 260, and listed in a well-known interpretation dated 4/96 (see above), are exempt from Section 311 (and by extension) 312 notice.

## Non-Exempt Projects

### **Merger of Dwelling Units**

**Code Section:** 311/312

**Subject:** Dwelling Unit Additions/Reductions

**Effective Date:** 04/2001

Section 311 and 312 require notice for changes of use. While the addition or removal through demolition of legal dwelling units may not literally constitute a change of use, the Department's recent practice has been to send out notice for increases in the number of dwelling units. Recent Commission practice has also made any dwelling unit merger subject to staff-initiated discretionary review. Therefore, the reduction or increase in the number of legal dwelling units (either through merger or demolition), although not necessarily a change of use, shall require 311 or 312 notice, as applicable.

## Notification Requirements for Multiple Approvals

**Code Section:** 311/312

**Subject:** Notification Requirements

**Effective Date:** 02/2001

Sections 311 and 312 allow for the elimination of duplicate notices where there is a Conditional Use or Variance hearing. However, Sections 311 and 312 notice occupants within 150 feet of the subject property, while Conditional Uses and Variances only notice owners within 300 feet. In order for a Conditional Use or Variance notice to substitute for a 311 or 312 Notice, the Conditional Use or Variance notice must (1) acknowledge that the notice covers the 311 or 312 Notice and (2) be sent to the occupants within 150 of the project.





**San Francisco  
Planning**

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