

SECTION 5

CODE ENFORCEMENT

Construction without Permits and Inspections

The Permit and Resource Management Department's mission is to provide quality customer service and facilitate the permit process. Although the "one stop" permit center is more "user friendly", it is recognized that there are situations in which permits are not obtained prior to the construction or remodeling of a single family dwelling. To this end, it is important to provide an explanation of the enforcement and abatement procedures for construction without a permit.

The Code Enforcement Division of the Permit and Resource Management Department is responsible for the enforcement of violations of zoning, building and certain health codes. Pursuant to Chapter 7 of the Sonoma County Code, and the referenced codes incorporated therein, unless exempt as specified below, no building or structure regulated by the California Building Code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has first been obtained. In the absence of a building permit, such work is a violation of County and State Codes and subject to abatement, penalties and costs.

See page 1.3 for a list of work exempt from permits.

Notice of a Violation

When construction without a permit is verified by a site inspection, the property owner is advised by letter of the violation. A "Stop Work" notice may be posted on the property to prevent further construction until required permits are obtained.

The "Notice of Violation" letter to the property owner includes a description of the work observed and provides the opportunity to remove the unlawful construction within thirty (30) days thereby avoiding substantial penalties and costs of abatement. A demolition permit will be required if the owner elects to remove the unpermitted improvements. In all cases, property owners are encouraged to contact the Code Enforcement Division and seek a resolution to the violation. The primary goal is to achieve compliance.

Civil Penalties

Permits submitted to legalize construction without a permit are subject to penalties calculated at a minimum of three (3) times and a maximum of ten (10) times the required permit fees. However, if the construction cannot be permitted and the owner does respond to our notices in a timely manner, the county has the ability to impose a daily civil penalty anywhere between \$15 to \$500 for each day the violation exists. The determination of charges by the enforcing officer will take into account the facts and circumstances of the violation including, but not limited to, the length of time the violation has existed; the culpability of the person in violation or the willfulness of the violation; the extent of the violation and its effect on adjoining properties; attempts, if any, to comply with the applicable ordinances; and any other information which might be relevant to the determination of penalties to be imposed.

At the discretion of the enforcing officer, or his/her designee, or upon the appeal of the property owner, the determination of penalties may be referred to a hearing officer.

Exclusions from Civil Penalties

Penalties may be excluded and not charged under the following circumstances:

1. If the property owner establishes that, at the time he or she acquired the property, (i) a violation of the County Code existed on the property, (ii) the property owner did not have actual or constructive notice of the existence of that violation, and (iii) within thirty (30) days after the mailing of notice of the existence of that violation, the property owner initiates and pursues, with due diligence, and good faith efforts, to meet the requirements of the Code by either removing the unlawful construction or obtaining required permits and inspections.

This exclusion is applicable when someone purchases a property with an existing violation and is referred to as “the innocent purchaser” who has no knowledge of the violation prior to purchasing the property. However, it is important to note that the property owner cannot be excluded from penalties if he/she has actual or constructive notice of the existence of a violation. Actual notice of the violation is considered to be the recordation of a notice of abatement proceeding against the title of the property.

Constructive knowledge includes the public record of a violation on the property or circumstances sufficient to put a prudent person upon inquiry as to a particular fact and if by making an inquiry, the person might have learned that a violation existed on the property. Code Enforcement Division staff are available to answer any questions and review County records prior to the purchase of property.

2. If the property establishes that at the time he or she acquired title of the property, the violation existed on the property and the violation was not on record and within six months of acquiring title, the owner initiates and pursues with due diligence and good faith a permit to legalize the violation.
3. If the property owner, within thirty (30) days of the mailing of a Notice of Violation, removes the structure that constitutes a violation.

In all other cases, civil penalties are mandatory and shall be imposed.

Investigation Fees

Under the California Building Code, a investigation fee equal to the amount of the building permit shall be paid whether or not a permit is issued prior to the issuance of a permit for any work done without a permit. The investigation fee may be imposed independently from the civil penalties as noted above.

Obtaining Permits

Permits submitted to legalize unlawful construction are subject to standard permit requirements including but not limited to well and septic, zoning, fire safe standards and road encroachment clearances, the payment of development fees and verification of construction standards. Further, PRMD policy 1-4.2 outlines the procedure to verify concealed construction. This policy is available online at the Sonoma County website.

If plans are required for permit issuance, plans and specifications shall be drawn to scale and should clearly indicate the location, nature, and extent of all as-built construction and show in detail all existing construction and how it conforms to current codes and regulations.

If required clearances cannot be obtained, permits cannot be issued and the unlawful construction shall be removed with a demolition permit and inspection.

Abatement Procedures

If the property owner fails to respond to the notice of violation, or if the situation warrants, a Notice and Order will be issued and posted on the property. The Notice and Order provides the right to appeal the Department's finding of a violation to a Hearing Officer and provides another opportunity to either remove or legalize the unlawful construction and advises the property owner that a civil lawsuit may be filed for failure to comply.

The Code Enforcement Division will continue to work with the property owner to gain voluntary compliance. However, if that is not possible, a "Notice of Abatement Proceedings" will then be recorded against the title of the property. The action adversely affects a property owner in attempts to refinance or sell the subject property. The recordation remains in effect until the violation has been corrected and all applicable penalties and costs are paid.

Failure to comply with the "Notice of Abatement Proceedings" that is recorded can result in an administrative abatement hearing conducted pursuant to Section 1-7.3 of the Sonoma County Code. A full copy of the Sonoma County Code is available online. During the public hearing, enforcement staff will present information to an administrative hearing officer. The property owner will have an opportunity to present oral and documentary evidence proving why the property is not a violation. The hearing officer will provide a written determination within 45 days of closing the hearing. If the hearing officer supports the finding a violation and the responsible party does not take corrective action, the county may file a civil lawsuit in Superior Court to compel compliance.