

*Code Violations Encountered by PRMD Staff  
in the Course of Routine Duties*

**PURPOSE**

Establish policy and procedures for PRMD staff when code violations or suspected code violations are encountered during the course of routine, non-code enforcement work assignments. Unless otherwise indicated in this policy, the term “staff” refers to PRMD staff outside of the Code Enforcement Division.

**GENERAL**

Most suspected code violations investigated by PRMD’s Code Enforcement Division are the result of public complaints and referrals. In addition, PRMD staff often become aware of code violations not apparent to the general public due to their professional training and field work. The objective of this policy is to establish criteria for when suspected code violations observed by PRMD staff are referred to the Code Enforcement Division.

Staff should report to Code Enforcement only those violations that constitute an immediate hazard; i.e., unpermitted construction in progress or a change of occupancy without a permit, consistent with this Policy and Procedure. Staff are neither required nor expected to investigate or report suspected violations except in accordance with this Policy. The fact that staff is unaware of whether permits have been issued for construction in progress or a change of occupancy is not sufficient to conclude that a violation has occurred; staff should not assume that these activities are unpermitted unless they have specific knowledge that the work is unpermitted.

Code Enforcement staff have a greater responsibility since their assigned duties consist primarily of investigating and obtaining resolution of code violations. Nonetheless, Code Enforcement staff should focus primarily on the specific complaint under investigation. Additional code violations (i.e., those not identified in the complaint) may be documented by Code Enforcement staff where such violations become apparent while investigating the complaint. However, Code Enforcement staff are not expected to conduct a complete inspection of the entire property or structure unless such an inspection is warranted by the nature of the complaint. With regard to properties and structures that are not the subject of a specific complaint, Code Enforcement staff are expected to follow the guidance in the preceding paragraph.

**AUTHORITY**

Sections 103 and 104.2.4 of the California Building Code  
Section 1-7 of the Sonoma County Code

## **FORMS**

ORDER TO STOP WORK NOTICE (Red Tag) ENF-005.cdr  
Violation Complaint Form CDE-001

## **DEFINITIONS**

*Unpermitted construction in progress* means construction that is occurring or is partially completed at the time of observation.

*Change of occupancy without permit* means an unpermitted change of occupancy classification under the building code, or a use commenced without obtaining permits required under the zoning code.

*Immediate hazard* means any situation where harm to people, property, or the environment is very likely to occur within a short time. Examples of an immediate hazard include but are not limited to: a failing or undermined structure, water heater vented directly into living space, charred wood wall adjacent to a wood stove, bare, live conductors accessible by occupants, a sump pump dumping raw sewage into a stream or roadside ditch, a NPDES violation or a vacant-unsecured residential structure. The existence of a code violation is not in and of itself an immediate hazard.

## **PROCEDURE**

1. Staff should limit their scrutiny to the portions of the project that they are called upon to inspect or evaluate. For example, building inspectors should limit their observations to the permitted work and planners should evaluate the site of the proposed project. Staff should not take time from their normal work assignment to search for violations.
2. Staff should assume that completed construction was done with permits. Staff shall not report completed construction to Code Enforcement unless they observe an immediate hazard or they have specific knowledge of a change of occupancy without permit, as those terms are defined in this Policy.  
*Exception:* Where the plot plan identifies a structure as other than a dwelling unit, but staff observes that the structure is obviously being used as a dwelling unit, whatever process is underway should be stopped until the matter is resolved either through permitting the dwelling unit or converting the structure to its approved use.
3. When construction in progress is observed, staff should limit their investigation to their area of expertise. For example, if a building inspector sees a room addition being constructed, he or she probably knows whether it has a permit. Inspectors should be knowledgeable of

permits issued for their assigned geographical area and expertise. However, if a building inspector sees a septic system being installed, it is unlikely that he or she knows the permit status, and should assume that the work has a permit.

4. Staff should not report violations observed during their off duty hours with the following exceptions:
  - a. State law enacted by Proposition 65 requires reporting of hazardous materials discharges observed by public officials whether on duty or off duty.
  - b. Imminently hazardous conditions, such as a collapsing building, should be reported to management personnel as soon as possible. Call 9-1-1 in any life-threatening emergency.
5. Upon observing unpermitted construction in progress, change of occupancy without permit or an immediate hazard as defined in this policy, the staff person observing the violation shall take the following steps:
  - a. If the property owner or a responsible party is present, advise them to stop work and apply for appropriate permit(s). Staff should avoid any discussion of penalties that may or may not apply. All questions regarding penalties or other enforcement issues should be referred to Code Enforcement staff. The staff member will schedule a reinspection of the project within 5 days to verify that work has stopped or, if work has resumed, that the necessary permits were obtained. If such inspections are outside of the staff member's normal duties, coordination should be made with Code Enforcement staff.
  - b. For staff authorized to post an *ORDER TO STOP WORK NOTICE* (Red Tag), if there is no one present at the site or if the person on the site appears unwilling to voluntarily stop work, an *ORDER TO STOP WORK NOTICE* (Red Tag) shall be posted in a conspicuous location at the site.
  - c. In all cases, a referral shall be made to Code Enforcement when violations are observed, consistent with the procedures above. This referral shall be accomplished by using a *Violation Complaint Form* and a copy shall be provided to the referring staff's supervisor. This form will be completed as soon as possible but no later than the next working day after observing the violation. If an *ORDER TO STOP WORK NOTICE* (Red Tag) was posted pursuant to paragraph (b), that shall be noted on the Code Enforcement referral. The results of any reinspection shall be reported to Code Enforcement.
  - d. All referrals to Code Enforcement shall include a clear description of the nature of the violation with careful documentation of your observations. This should include what types of work were observed, what portions of the structure or site were affected, and what types of permits are necessary to correct the violations. Photographs should be included where available.

6. Violations encountered during interactions with property owners or their representatives in the office.
  - a. If a person who is making an application for a permit acknowledges having a code violation, or if a violation is shown in the permit tracking system, the applicant shall be referred to the Code Enforcement cubicle before approval of their application(s).
  - b. If a person who is not making a permit application acknowledges having a code violation, staff should encourage him to discuss the situation with Code Enforcement. However, until an application is made, no notation regarding the violation shall be entered into the permit tracking system or any other departmental records unless the violation constitutes an immediate hazard as defined in this Policy.

**Approved by:**

/s/ Pete Parkinson

**Pete Parkinson, Director**

Lead Author: Ben Neuman, John deCourcy, Pete Parkinson

Replaces:

7-0-1 Procedures for Violations of Codes Enforced by PRMD When Encountered by PRMD Staff, dated 10-03-01

07/07/06

12/11/08

Intranet       Intranet and Internet