

	STANDARD OPERATING POLICY AND PROCEDURE Community Development and Public Works	Number: 1-8
Subject: VIOLATION PROCEDURE		Approval Date: December 31, 2008
Approval: Chuck King, Building Official		Effective Date: December 31, 2008

1.0 PURPOSE

Establish the Town’s violation procedures. A violation of the “Building Code” includes all codes as amended and adopted by the Town and listed in the Town Code, Chapter 6, Building.

2.0 DISTRIBUTION

Public, Community Development and Public Works (CDPW) Personnel, Town Attorney

3.0 REVISION HISTORY

January 2011
 August, 2015

4.0 CODE REFERENCE

5.0 POLICY

All reports of violations will be investigated. Upon receipt of a reported violation, the Inspection and Compliance Division will generate an “Investigative Inspection” and a building inspector will inspect the premises to determine if a violation of currently adopted codes exists. Violations discovered will be reported to the Inspection and Compliance Manager and considered validated.

Upon determination of a valid violation, a violation file will be established. This will be a “V”-numbered file in the permitting system. The starting date of the violation will be the date that the complaint was determined to be valid.

The Town’s violation procedures are based upon the type of violation and the risk of hazard due to unsafe conditions. There are several categories of code violations that commonly occur. Each violation will be evaluated to determine the nearest category description based on the severity of the violation. The code violation categories and definitions are as follows:

1. Life-Safety Violation

A violation that has imminent potential to cause physical harm to an occupant or to an individual who may be visiting the premises. Examples of this type of violations may include issues related to means of egress, fire suppression, damaged or removed swimming pool enclosures or guardrails, electrical shock hazards, or a lack of structural integrity. Life-safety violations must be remediated in an expeditious manner.

2. Work without a Permit Violation

A violation where construction is done or has started without required permit(s) as identified in adopted codes. This includes continuation of work after a “Stop Work Order” has been issued. The Town has an obligation to ensure that permits are acquired in accordance with adopted codes, that plans are reviewed for compliance with codes, and inspected to ensure proper installation. Some instances of unpermitted work may create a life-safety issue, moving this violation in to category one (1) as noted above.

3. Expired Permits

Although a permit was issued, work was not performed, or required inspections were not scheduled or performed, or items noted to be corrected were not approved. The Town has an obligation to ensure that work that is performed under a permit meets all minimum code requirements and leaves the structure in a safe condition for current or future occupants.

Each violation category has a specific process to follow. These processes are intended to inform the owner of violations and to encourage action to correct violations in a timely and reasonable manner. Legal action should only occur if an owner chooses to disregard requests to correct a clear code violation.

The processes for the three categories are described as follows:

Life-Safety Violation

1. Once the inspector validates that a Life safety violation exists, immediate action is required to mitigate the problem. At the conclusion of the initial inspection, the inspector shall post a notice of unsafe condition on the property, provide a written notice that is provided to the property owner describing the violation, and ask for immediate mitigation of the violation. A copy of the report will also be attached to the violation file in the permitting system. The Owner shall submit a plan of action to the *building official* on the day that the violation is discovered. This plan shall clearly identify means of protection from, or abatement of the hazard.
2. If the inspector is unable to make contact with the owner on the day of the violation, or if the owner refuses or is unable to mitigate the violation, the *building official* will immediately prepare a written notice of the violation and send it to the owner, via overnight certified mail, return receipt requested. This violation notice shall specify the expected means of abatement of the violation. The owner, upon receipt of the letter, shall declare to the *building official* the acceptance or rejection of the terms of the order.
3. If the recommendation requires an action by the Town to secure the building or disconnect services, the owner shall be notified as prescribed by the Building Code in Section 116.3 for unsafe structures and equipment, or by Section 112.3 for disconnection of utilities.
4. The *building official* may order the building to be secured or revoke an issued Certificate of Occupancy in accordance with Section 111.4 of the Building Code, or have the utility services disconnected per Section 112.3 of the Building Code. Where the *building official* orders a building or other structure secured and the Town is required to take this action, a lien may be attached to the property in accordance with applicable laws.
5. If the owner does not reply after receipt of the letter, a Summons and Complaint (S and C) will be prepared by the Legal Department.
 - a. Legal sends S and C to the *building official* for review and signature.
 - b. Inspection and Compliance Division (I and C) takes the S and C to the Magistrate Court and the Magistrate Court assigns a court date for the violator.
 - c. I and C sends a copy of the signed S and C with court date assigned to Legal for placement of the date and violator information on the Chief Civil Deputy Town Attorney's calendar.
6. I and C has a Process Server serve the S and C to the owner. As soon as the S and C is delivered by the process server, I and C will notify Legal of the service. The process server will file an Affidavit with the Court and provide I and C and Legal with a copy. If the Process Server is unable to serve the S and C, go to step seven (7).
7. If the process server is unable to serve the S and C, I and C will notify Legal and Legal will file appropriate motions with the court. I and C will take action to condemn or secure the property if deemed appropriate.
8. Just prior to the court date I and C will inspect the property to verify that the violation still exists.

Work without a Permit Violation

1. The Inspection and Compliance Division will send a letter via regular mail to the owner informing them of the violation and granting no more than ten (10) business days from the date of the letter to contact the department. Necessary action shall be taken, which shall include obtaining a permit to correct the violation. When determined by the *building official* to be an intentional avoidance of permit(s), double permit fees may be applied.
2. If the violation is not corrected, CDPW will send the file and request issuance of a correction letter from the Legal Department. Legal will send this letter via regular mail and the owner will be given ten (10) business days from the date of the letter to correct the violation.
3. If the owner does not reply after receipt of the letter, a summons and complaint shall be prepared by the Legal Department as follows:
 - a. Legal sends S and C to CDPW for review and signature by the *building official*.
 - b. CDPW takes the S and C to the Magistrate Court and the Magistrate Court assigns a court date for the violator.
 - c. CDPW sends a copy of the signed S and C with court date assigned to Legal for placement of the date and violator information on the Chief Civil Deputy Town Attorney's calendar.
 - d. CDPW sends the original S and C to the violator(s) via certified mail, return receipt requested.
 - e. As soon as the signed return receipt is received by CDPW, verification shall be sent to Legal in form of the original signed card that may be used as evidence in court proceedings.
 - f. If the S and C comes back and the recipient refused the letter, CDPW shall notify Legal. Legal will then notify the Court that service has not been completed and shall file a Motion to Dismiss the case without prejudice.
 - g. Legal sends a copy of the signed Motion to Dismiss to CDPW and the process restarts, beginning with Step 5 a. in the *Process for Life Safety Violation above*.

In addition to the Step eight (8) field inspection, a permit check will be done and notification given to Legal, stating whether work is continued or if a permit was applied for or obtained. A permit application may not stop legal proceedings but the Legal Department shall be informed of any action by the owner prior to these proceedings.

Expired Permit Violation

1. On a weekly basis the Inspection and Compliance Division will review permits with pending expiration dates within 30 calendar days, in an attempt to provide owners and permit applicants with courtesy notification that their permit is about to expire. This provides a period where the permit may be extended by the *building official* on an application provided by the Town, or to schedule inspections if work has progressed (see SOP 1-7 for full description of the process for expiration and renewal).
2. If the owner or applicant allows the application to expire, CDPW will notify them that the permit is expired by means of a violation letter sent by regular mail. Ten (10) business days from the date of the letter will be granted to resolve the expired permit.
3. If the owner does not reply after having received the letter, a violation letter shall be sent by the Legal Department.
4. If there is no response to the letter from the Legal Department, a summons and complaint shall be initiated in accordance with *Process for Work without a Permit Violation* as noted above, beginning with Step 3.a.