

CODE ENFORCEMENT DUE PROCESS AND ENFORCEMENT PROCEDURES

MENDOCINO COUNTY PLANNING AND BUILDING SERVICES

CODE ENFORCEMENT

Code enforcement personnel are responsible for enforcement of building, zoning, and stormwater discharge violations as contained in MCC chapters 18, 20, and 16 respectively. Our goal is to investigate complaints fairly and objectively while making the public's health, safety and welfare a top priority. The authority for code enforcement is contained in the California Constitution, State statutes, regulations in Mendocino County Code (MCC), and civil court law. We receive complaints from many sources, including referrals from other government agencies, members of the public and observations by Planning and Building personnel while conducting work in the field. Our objective is to resolve violations through voluntary compliance; however, the administrative and judicial tools listed in this brochure are often utilized by our officers when necessary to ensure violations are abated in a timely fashion. Typically, a Request for Inspection document is mailed to the property owner of the alleged violation to establish initial communication and schedule a time for the officer to investigate the complaint with the consent of the responsible party.

NOTICE OF VIOLATION

The Notice of Violation (NOV) is an administrative tool that serves as an initial document citing any violation(s) that were confirmed by the code enforcement officer during his visit. The first NOV typically does not include fines or penalties and allows either thirty (30), sixty (60) or ninety (90) days to correct the violation. The responsible party can contest the violation(s) cited in the NOV by following the due process procedures listed in this document itself, or other policies listed within this informative brochure.

NOTICE OF VIOLATION AND INTENT TO FILE A LIEN

The Notice of Violation and Intent to File a Lien process is utilized at the officers' discretion based upon the nature and circumstances surrounding the violation(s). It should be noted that building violation fines differ from zoning violation fines and these differences are highlighted within the NOV and Intent to File a Lien that is mailed to the responsible party. The responsible party is then given thirty (30) days to abate the violation(s) and is fined pursuant to California Government Code Section 25132. The individual can contest the violation(s) cited in the Notice of Violation and Intent to File a Lien document by following the due process procedures listed in the NOV and Intent to File a Lien itself, or other policies listed within this informative brochure.

MCC 8.75 UNIFORM NUISANCE ABATEMENT PROCEDURE

The Notice and Order to Abate (NOTA) is an administrative enforcement tool utilized by code enforcement officers to address the most egregious and long standing violations that have been declared to be a nuisance and may pose an increased threat to public health and safety. It may also be used in cases where alternative methods have not been successful in achieving compliance. Alleged violators cited under MCC 8.75 are given ninety (90) days to achieve compliance by abatement of the violations cited in the Notice and Order to Abate.

Pursuant to MCC 8.75.075 (1), for a first violation, the NOTA may impose administrative civil fines ranging from \$25.00-\$100.00/day for the ninety (90) NOTA period. Any subsequent NOTA for the same violation may impose fines up to \$500.00/day. These fines are totaled for the entire 90 day period.

There is a specific due process/appeal procedure for a NOTA that provides the alleged violator an opportunity to contest the violations cited in the NOTA (MCC 8.75.090). The alleged violator must submit a request for an appeal in writing. The request for appeal must be accompanied by an appeal fee of \$1,040.00 and be filed with the Planning and Building Services within ten (10) days of the date of issuance of the Notice and Order to Abate.

NOTICE OF VIOLATION DUE PROCESS

Building Violations: Any person accused of an activity prohibited by Mendocino County Code Chapter 18 has the right to appeal. The following provides the due process procedures for an NOV:

Administrative Appeals:

- A. A request for a meeting before the Planning and Building Services Department Building Official or Director shall be made by the property owner or interested party to contest any violation, decision, determination, or requirement of the Planning and Building Services Department by filing a notice in writing with the Planning and Building Services Department within ten (10) days from the date of the Notice of Violation.
- B. You may appeal the decision rendered by the Building Official or Director to the Board of Supervisors by submitting a written appeal to the County Executive Office along with the filing fee.

You may also have the right to a hearing in the Superior Court. Consult an attorney if you have questions about your case.

Zoning Violations: Any person accused of an activity prohibited by the Mendocino County Zoning Code Chapter 20 has the right to appeal an adverse decision. Mendocino County Zoning Code, Section 20.208.010, 20.544.010, and 20.728.010 provide the procedures for an appeal.

- A. A request for a hearing before the Planning Commission may be made by the property owner or any interested person from any decision, determination, or requirement of the Planning and Building Services Department by filing a notice in writing with the Planning and Building Services Department within ten (10) days after such decision, determination or requirement is made. Such appeal shall be accompanied by a fee.
- B. The Planning and Building Services Department shall prepare a written report that includes findings which shall be forwarded to the Planning Commission for action. The action of the Planning Commission is final unless appealed to the Board of Supervisors pursuant to Section 20.208.015, 20.544.015, and 20.728.015 by filing an appeal in writing within 10 days of the Planning Commission's decision and shall be accompanied by a fee.
- C. Notification is not necessary for an administrative appeal. (Ord. No. 3639 (part), adopted 1987)

A lien will be recorded with the Mendocino County Recorders Office for any violation of the provisions of this Division that are not cleared within the timeframe set by the officer. The lien will be for the notice of violation and the estimated permit costs (if applicable), penalties (such fees shall be further evaluated at the time of restitution), fines, and administrative costs. The notice shall specify the name(s) of the record owners and particularly describing the real property. The use of these administrative remedies does not preclude the use of other legal remedies prescribed by law to gain compliance.

Stormwater Violations: Any person accused of activity prohibited by the Mendocino County Code Chapter 16 relative to stormwater discharge violations is subject to enforcement through the Notice of Violation and/or Notice and Order to Abate process. The enforcement mechanism used to address violations of this chapter will be at the discretion of the code enforcement officer based upon the relative severity of the violation as determined by the nature and circumstances surrounding the incident.

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*This information is not all-inclusive; to access further information regarding the Uniform Nuisance Abatement Procedure and Summary Abatement Procedure of the Mendocino County Code visit Chapter 8.75 online at www.co.mendocino.ca.us under the Board of Supervisors drop-down menu.