

Unpermitted Construction

Legalizing Unpermitted Construction

What is “Unpermitted Construction”

Building projects that have been constructed without a valid Building Permit are known as “Unpermitted Construction.”

Why do I need a permit?

- It's the law. California State Building Code requires permits be obtained for most types of work. (**CBC Sec. 105.1; CRC R105.1**)
- Permits protect you, the occupants, structure, and your financial investment against work that might be substandard.
- Inspections ensure that work is done safely and meets the minimum code requirements. Incorrect installations can result in house fires, flood damage and/or structural problems.
- When selling a property, the buyer, realtor or lender may require that unpermitted work be properly permitted, corrected and inspected before closing. Otherwise, the seller or realtor must disclose that work has been done illegally.
- Unpermitted work may not be covered by homeowners' insurance.

Statute of Limitations & Change of Ownership

- Work that was done without obtaining a permit is a violation of the State and City building code and is therefore considered illegal and shall be considered as “unpermitted construction”.
- There is no statute of limitations on unpermitted construction.
- Unpermitted construction completed in the past, or under prior ownership, does not make the unpermitted construction legal. There is no “grandfather clause” for unpermitted construction.

What are my options?

When legalizing unpermitted construction, there are two options a property owner has:

You may choose to restore the building to its previous condition by first obtaining a demolition permit.

OR

Start the process of legalizing the unpermitted work. This document will help guide the owner through the legalization of illegal construction work.

How do I legalize unpermitted construction?

STEP 1 – MEET WITH PLANNING DIVISION

Meet with the Planning Division to see if your addition or alteration is allowed within the existing zoning codes. The planner will require a site plan to be provided. The site plan is a drawing that shows the entire project site and all structures, existing and proposed. The site plan must be drawn to scale and contain building dimensions, property lines and setback measurements. In addition, before and after floor plans drawn to scale and containing critical dimensions shall also be provided. The planner will verify if the use is permitted, and if the unpermitted work complies with the maximum square footage for lot coverage, setbacks, and other local zoning ordinances. If the unpermitted work complies with all Planning regulations, a planner may then require documents for Design Review. If unpermitted work does not comply with zoning requirements and/or constitutes a “change of use” of the property, a Use Permit may be required.

STEP 2 – DEVELOP PROFESSIONALLY DRAWN PLANS AND SUPPORTING DOCUMENTATION PREPARED BY AN ARCHITECT OR DESIGNER.

- **NON-RESIDENTIAL PROJECTS REQUIRE DOCUMENTS PREPARED BY A LICENSED DESIGN PROFESSIONAL (ARCHITECT OR ENGINEER)**

Typically, the City will require a site plan, floor plans, elevations, sections, structural drawings, plumbing, mechanical, and electrical plans, and a Title 24 Energy Compliance report. Other drawings and documents may be required depending on the nature and scope of the work involved. The plans should show the before and after conditions of the structure. It is important the drawings be accurate as possible. A complete set of plans will expedite the plan check process and make your project approval easier. Plan submittal documentation shall include as a minimum as applies to the scope of work:

- Legible plans, drawn to scale: Indicate the scale on each plan. Plans should be drawn to 1/4" = 1'-0" scale on paper 18" x 24" minimum size and must be of sufficient clarity to indicate the nature and extent of the work. Building designs must meet current building codes (California Building, Residential, Electrical, Mechanical, Plumbing Code and Energy Code). A full plan submittal is required for all work, identifying the full scope of all work that is proposed to be legalized.
- Site plan - showing the entire lot, with all existing structures and new unpermitted structures, and the distances from each structure to other structures and property lines. If project is in the hillside area, 2' topo contours shall also be provided.
- A floor plan of the existing structures and the new structures, including room dimensions, locations and sizes of windows and doors. The plans should show the locations of new electrical receptacles, light fixtures, switches, and plumbing fixtures. The locations and sizes of existing and/or new main electrical service panels and furnace or heating appliances should be shown.
- Elevation Drawings (If exterior changes are made.), cross section(s) and construction details of the building. Show the appearance of all exterior walls, roofs, doors, windows, indicate the materials being used.
- A foundation plan and details. Show foundation sizes, reinforcing steel and anchor bolts.
- Framing plans and details of roof and floor(s) showing the size, spacing and materials of all beams, floor joists, wall framing, headers, bracing, rafters, roof and floor sheathing, and

structural hardware. Framing plans should include location of shear walls and tie downs.

- Roof plans showing roof size, configuration, roof covering materials.
- Architectural details including insulation, wall coverings, cabinetry and finishes.
- Grading and Drainage Plan (If applicable): Show all proposed earthwork, estimated cut and fill quantities, existing and proposed elevations, drainage patterns and stormwater mitigation and protection.
- Plans shall be signed by project designer: If prepared by an engineer or architect, they must be stamped and signed.

Additional Supporting Documentation (as applies):

- Title 24 Energy Compliance forms and calculations. If HERS Verification is required, submit registered watermarked copies of report.
- Structural Engineering calculations and details.
- Geotechnical Report
- Signed Waste management Form.

STEP 3 – APPLY FOR A BUILDING PERMIT

All permit applications are submitted electronically online to the City's Permit Center. There are clear instructions on the City's website on how to get a building permit.

We have a Residential Permit Application and a Non-Residential Permit Application. Please visit our website to access all of our forms at:

[Forms, Guides, Consumer Alerts & Policies | City of Novato, CA](#)

All applications are to be submitted via email at permitcenter@novato.org

STEP 4 – PLAN CHECK REVIEW

Once the application including all the drawings and pertinent supporting documentation are deemed complete, the submittal then goes through the Plan Check process, in which the City Building, Planning, Public Works, and Code Enforcement (if the application is due to a code enforcement case) Departments will review the drawings to see if they meet minimum respective codes or standards. Submittal documents may also be routed to other outside agencies including (as applicable) the Fire District, The Water District, the Sanitation District, and Marin County Environmental Health Department for review. Each department and agency will review and issue plan review comments, if necessary, which may require plan revisions and resubmittal.

STEP 5 – ISSUANCE OF BUILDING PERMIT

Once the approvals are granted from each of the departments and outside agencies, the building permit is ready to be issued. The owner or contractor will complete the permit application and pay for all outstanding issuance fees.

STEP 6 – INSPECTIONS

Once the permit has been issued an initial evaluation inspection shall be scheduled. The inspector will check whether all the elements on the submitted plans and documentation match the actual construction. Typically, the inspector will review and inspect foundations, framing, electrical, mechanical, plumbing, insulation, roof coverings, floor coverings, egress and ingress, site grading and drainage, utility service connections, and other elements. In existing unpermitted construction many elements that would normally require inspection and approval before covering have been completed and covered. During the initial evaluation inspection, the inspector will determine the extent and location where covered construction needs to be exposed for verification of code compliance and safety. Items that are subject to uncovering and verification may include:

- Foundation footing section excavation to verify size and depth.
- Selected areas of drywall or other wall coverings to verify framing, electrical, plumbing and insulation.
- Removal of electrical receptacles or light switches to verify proper wiring sizing and termination methods.
- Material Testing for structural elements placed without verification including anchor bolts, seismic anchorage hardware, foundation or floor slab concrete, masonry retaining walls or other structural elements.
- Site fill material supporting structures, roadway, driveways, ponds or other structures.
- Utility service connection panels, valves, switches, piping, conduits.
- Septic Tanks, leech fields, combiner and distribution boxes, and piping.

The inspector performing the initial evaluation inspection shall determine based upon experience and visual evidence (or lack thereof) the extent and location of all items required to be uncovered for further evaluation. A specific written list of these requirements will be developed and issued to the contractor/owner as requirements to verify the existing unpermitted construction. Once these areas have been exposed, the owner/contractor shall call for a follow up inspection to review and inspect these opened areas. If the inspector determines all components are compliant, they will approve and authorize repair and re-covering of opened elements. If inspector determines some or all elements are non-compliant then the inspector may require additional areas be opened for review and evaluation. Inspector will issue written correction lists itemizing all non-compliant elements that require repair or replacement. When all non-compliant construction has been repaired or replaced to the satisfaction of the inspector, removed elements shall be replaced and re-inspected. When all non-compliant work has remediated and coverings restored, the inspector shall be scheduled for a final inspection. Once finalized a certificate of occupancy can be issued to allow full legal occupancy of the previously unpermitted construction. Specific procedures for inspection of covered unpermitted construction are attached as Exhibit A to this policy.

How much time do I have to complete my project?

Once the permit has been processed, the permit is active and valid for two years. If you do not finish

the corrective work within two years from the date the permit is issued, the permit will expire and may be forwarded to Code Enforcement Division for action.

If my project is taking longer than expected, may I request an extension?

Permit extensions must be made in writing and approved by the Building Official prior to the permit expiration.

How to restore a building to its previous condition?

Usually a building, plumbing and electrical permit, and zoning check is required to remove the unpermitted construction. If unpermitted construction is to be removed, then a demolition permit is required. In order to apply for a demolition, permit the following documentation is required:

- Site plan - showing the entire lot, with all existing structures and new unpermitted construction proposed for demolition and removal, and the distances from each structure to other structures and property lines. If project is in the hillside area, 2' topo contours shall also be provided.
- Waste Management Form.
- Bay Area Air Quality Management District permit (J number).
- Permit Application Worksheet
- See information under step 3 above for directions on how to apply for a permit.

Mark Setterland, Chief Building Official

Unpermitted Construction Inspection Procedures

EXHIBIT A

The building department often receives building applications for structures which have already been constructed. Permits issued for such structures are based upon approved as-built plans as outlined in the above policy. The inspector hasn't had the ability to observe various stages of construction which can be difficult both for the applicant and inspector. Below are the following procedures for concealed construction and all as-built construction, providing minimum standards through independent verification and selective inspection. Determination of applicability of these procedures shall be determined on a case-by-case basis at the time of initial evaluation inspection as outlined in the above policy.

PROCEDURE

1. Foundation or retaining walls poured without inspection:
 - a. A non-destructive test and report may be required from an independent material testing company and provided at the expense of the responsible party. At a minimum, three locations must be examined and/or at least one enlarged pad for point loads shall be verified.
 - b. Or a licensed professional may propose an alternative method of verification for unconventional construction. This alternative method shall be subject to approval by the Building Official or his/her designee.
2. For seismic anchorage systems or embedded seismic anchorages installed without required inspections:
 - a. A pull test (to verify full design load is achieved) may be conducted by an independent material testing company for a minimum of 25% of all embedded seismic anchorages.
 - b. For commercial projects, in addition to the pull test, a review of approval by the engineer of record and the Plans Examiner shall be required. Any failed pull test will require testing of all embedded seismic anchorages. Or, visual verification may be allowed at the Building Inspectors discretion.
3. For slabs on grade requiring a moisture barrier that have been poured without required inspections, the installation of a listed surface treatment or paint on moisture barrier may be required.
4. For shear walls, metal straps, and connectors concealed without required inspections:
 - a. Visual verification of at least 25% of the concealed construction may be required.

Or a non-destructive test in a minimum of three locations.

Or a licensed professional may propose an alternative method for independent verification of concealed shear walls subject to approval by the Building Official.

5. For wallboard used as a fire rated assembly or bracing:
 - a. Verification may be required via the use of a nail locator magnet or the installation of additional fasteners and compliance with approved assembly.
 - b. Verification of wallboard thickness and material type may be required via removing a portion of the assembly to expose at least one wallboard grade and thickness stamp.
6. For plumbing, mechanical systems concealed without required inspections:
 - a. Testing per the currently adopted building code in effect may be required for the entire system. Sanitary drainage, gas, and water distribution piping testing shall comply with the currently adopted code in effect. Three key locations may be exposed as selected by the Building Inspector for verification of material size and location.
 - b. Visual spot verification may be allowed for partial systems or repairs concealed without required inspections. The Building Inspector may require revealing concealed components if exposed components are not compliant.
 - c. Septic tanks and distribution boxes, leach lines, may be completely uncovered for visual inspection. If the septic system was designed by a licensed professional, the professional shall be required to complete an inspection to their satisfaction and submit a final letter and as-built drawings prior to final approval of the septic system.
7. For electric systems concealed without required inspections:
 - a. For commercial structures, industrial, and multi-family dwellings, and single-family dwellings a licensed electrician may be required to be on site for the installation to be de-energized.
 - b. All electrical panels and splice boxes installed without the required inspections may be required to be opened at the discretion of the Building Inspector for inspection. The Building Inspector has the option of requiring the removal of electrical receptacles or switches as required. Bonding shall be exposed for visual inspection. Ufer grounds shall not be accepted if installed in a foundation that was constructed without required inspections. Resistance readings may be required which shall not exceed 25ohms.
8. For grading fill material placed without required inspections:
 - a. Any fill material placed and compacted without required inspections proposed to support a structure, roadway, pond, any other engineered structure or landside repair shall be considered "engineered fill" and shall require design and verification proposed by a licensed engineer.
 - b. Any fill less than 12 inches deep, less than 50 cubic yards and not intended to support any structure will be considered "regular grading" and subject visual inspection by the Building Inspector.