



City of Santa Barbara

ABATEMENT OF VIOLATIONS IDENTIFIED IN ZIRs COMMON QUESTIONS

Santa Barbara Municipal Code (SBMC) Section 28.87.220 requires a Zoning Information Report (ZIR) for every sale or transfer of residential property (other than a condominium) within the City of Santa Barbara. The purpose of the ZIR is to provide information to the potential buyer regarding the zoning and permitted use of the property based on a physical site inspection and records research. The ZIR also identifies zoning violations or work performed without the required City permit(s) and/or approval(s). The following is a list of frequently asked questions and answers regarding violations identified in ZIRs.

What is the difference between a Major and Minor Violation?

The City classifies violations noted in a ZIR as either “major” or “minor.” The following violations are considered “major:”

- Illegal dwelling units
- Unpermitted floor area (habitable or non-habitable) or conditioned space
- Elimination of required parking
- Unpermitted development within 50 feet of a coastal bluff
- Violations that pose an immediate health or safety risk

All other violations are considered “minor.”

When do I have to abate violations identified on a ZIR?

“Major” violations will be referred to enforcement staff for immediate follow-up and abatement. “Minor” violations are kept on file and may be required to be abated prior to, or simultaneously with, the next building permit that is obtained by the property owner. If “major” violations are identified on the property along with “minor” violations, then both “major” and “minor” violations are referred to immediate enforcement and must be abated together. If a “minor” violation is not abated prior to the next transfer of the residential property, it is carried forward onto the subsequent ZIR.

How do I know who is assigned to my enforcement case?

Depending on the scope of the violation, the enforcement case is either referred to Building & Safety enforcement staff or Zoning enforcement staff. The *Notice of Enforcement* included in the ZIR will indicate whether the violations were forwarded to Building & Safety enforcement staff or Zoning enforcement staff.

Do violations need to be abated prior to the close of escrow?

No, violations are subject to abatement deadlines specific to the violations and are not related to the close of escrow.

Who is responsible for abatement of violations?

The property owner is responsible for abating the violations. Prior to the close of escrow, the seller is the property owner. However, if the violations have not been abated by the time escrow closes, the new owner (buyer) assumes responsibility for abatement of the violations.

The violations on my property have been referred enforcement staff. What is the process for abatement?

1. An Enforcement Case (ENF) is created and assigned to enforcement staff.
2. Enforcement staff will contact the property owner to schedule an inspection of the noted violation(s).
3. After the initial site inspection, a letter will be written by enforcement staff and sent to the property owner. The letter will identify the violation(s), potential remedies and timelines for abatement.
4. The property owner will choose an option provided by enforcement staff to abate the violation(s). Remedies could include demolition or alteration of the unpermitted improvement, or a potential to permit the improvement(s). The process to permit the improvement(s) may include discretionary review before a building permit can be issued to permit the improvement(s).
5. After the improvement is demolished, altered or legally permitted, the property owner will contact enforcement staff for a final inspection.
6. The final inspection will ensure all violations have been properly abated. When all violations are abated, the enforcement case will be closed.

How do I abate my violations?

Depending on the nature of the violations, potential remedies may include:

1. The issuance of a building permit to allow the improvements to remain¹, if found to comply with all City Codes and Ordinances. Please note, discretionary review (such as review by a design review board, the Staff Hearing Officer or the Planning Commission), may be required for certain improvements.
2. The issuance of a building permit to demolish or alter the improvement; or
3. A combination of 1 and 2 above.

Specific remedies for your violation(s) will be included in the letter written by enforcement staff and sent to the property owner.

How long do I have to abate violations?

Violations that are identified as an imminent health and safety risk must be abated immediately. All other violations will generally initiate a 30-day deadline to submit plans and get a building permit, and an additional 60 days to complete work (however, if progress is made within 30 days, an extension may be requested). Specific timelines for the abatement of specific violations will be included in the Notice of Violation written by enforcement staff.

What if I don't abate my violations by the deadline?

If the violations are not abated by the deadline, administrative fines of up to \$250 per day, per violation, may be assessed on the property. Generally, the property owner will be given up to three opportunities to abate the violations and pay fines before the case is forwarded to the City Attorney's Office for prosecution. The City is authorized to collect delinquent fines by assessing a lien on the property (SBMC Chapter 1.25).

¹ Certain minor violations may not require a building permit but may be abated by the removal of items stored in the setbacks or parking areas.

How do I apply for a Building Permit?

For information on how to apply for a building permit to correct violations, please review the “As-Built Construction Plan Submittal Requirements” available at the Building and Safety Division Counter located at 630 Garden St. or online at: <http://santabarbaraca.gov/services/planning/forms/building.asp>.

What if the violation cannot be permitted because the construction does not meet zoning standards? Do I have to remove the “as-built” work?

Potentially, yes. However, there are two options to obtain relief from the City’s zoning standards: a Zoning Modification or a Minor Zoning Exception (MZE). It is important to note that any work authorized by a Zoning Modification or MZE must still meet current building code requirements and will require a building permit. Please note that not every improvement may be eligible for a Modification or a MZE, nor may the requested Modification or MZE be supportable.

What is a Zoning Modification?

SBMC §28.92.110 gives the Planning Commission or Staff Hearing Officer the authority to grant modifications of certain zoning standards subject to specific findings. A Zoning Modification is a discretionary approval and there is no guarantee of the outcome. The zoning standards include: parking, setbacks, lot area, floor area, street frontage, open yard, outdoor living space, and distance between main buildings; fences, screens, walls and hedges; solar access; building height; and, net floor area. A mailed notice is sent to all property owners within 300 feet of the subject property and a public hearing is held prior to a decision on the Modification. Contact the Planning and Zoning Counter at (805) 564-5578 for more information on the City’s Modification review process.

What is a Minor Zoning Exception (MZE)?

There are two types of Minor Zoning Exceptions.

1. SBMC §28.92.130 gives the Staff Hearing Officer (SHO) the authority to grant minor exceptions to certain zoning standards, subject to specific findings. A MZE provides a process of resolving a discrepancy or error in a previously issued ZIR. If a discrepancy or error in a previously issued ZIR involves one of the zoning violations specified in SBMC §28.92.130.B, the property owner may request a MZE to obtain relief from the zoning standard up to the maximum amount of relief specified in the Ordinance. The decision on a requested MZE is an administrative action of the SHO, without public notice or hearing.
2. SBMC §28.87.170 gives the Community Development Director the authority to grant a minor exception for fence, wall and hedge heights, subject to certain findings. In the interior setback, fences and walls can be approved up to four feet higher than allowed by the Zoning Ordinance, and hedges can be approved up to six feet higher than allowed. In the front setback, fences, walls and hedges can be approved up to four feet higher than allowed.

Please contact the Planning and Zoning Counter at (805) 564-5578 for more information regarding the City’s MZE review process and application submittal requirements.