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## Planning, Building & Environmental Services

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## Napa County Code Compliance Program-Frequently Asked Questions

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### Background

The Board of Supervisors has been discussing the creation of a phased, code compliance program since March 2016. In August 2017, the Board of Supervisors directed staff to develop a comprehensive Land Use Compliance Program. The Board provided further direction in September 2017 and a draft resolution was prepared for consideration in October 2017.

The 2017 Napa Fire Complex started on October 8, 2017, and the County delayed consideration of the implementation of a code compliance program for one year. During this time, staff from the Department of Planning, Building and Environmental Services met with various stakeholder groups regarding the code compliance resolution and distributed draft documents for public comment and review. The County has now adopted the program and implementing it.

### What does the Code Compliance Program seek to accomplish?

The primary purpose of the Code Compliance Program is to work effectively with landowners to ensure the maintenance of public health and safety and protection of the environment. The Program establishes a limited-term, voluntary process for landowners to apply for new use permits or modifications to resolve existing violations. After the established deadline, owners who are in violation will be required to come into immediate compliance with their existing legal entitlements, and remain in compliance for at least one year before the County will consider changes to their use permit.

### Is the Code Compliance program just for wineries and vineyard production?

No, the Code Compliance program applies to all permits on any parcel in the unincorporated area. While winery and vineyard operations are a part of the Code Compliance consideration, all uses requiring a permit are also subject to the Code Compliance program.

### **I own property in the unincorporated County, what do I need to do?**

The first step is to review your use permit. To obtain a copy of your use permit, you may visit the Napa County Department of Planning Building and Environmental Services located at 1195 3<sup>rd</sup> Street, Second Floor or call (707) 253-4417. If you identify violations of the use permit, you must voluntarily apply to remedy the violations by 2:00 PM on March 29, 2019.

### **I am having difficulty understanding my permit, what should I do?**

Landowners may schedule an appointment to review their permit with the Napa County Planning, Building and Environmental Services Department and apply for a “status determination.” A status determination is a review of the existing entitlements and clarifies what they allow. If a status determination application is submitted prior to 2:00 pm on March 29, 2019, and based on the staff response the owner determines that there may be a violation, the deadline to submit a use permit or modification application will be extended by the time needed to process the status determination application, not to exceed 120 days.

### **What is the process for applying for a permit for voluntary compliance?**

The deadline for all landowners who wish to voluntarily apply for a use permit or use permit modification to remedy their violations is 2:00 pm on March 29, 2019. Qualified use permit or modification applications must be substantially conforming and must be received by the Planning, Building, and Environmental Services (PBES) Department by the deadline. A “substantially conforming” application must include a substantially complete set of the documents required in the application checklist, and information responsive to the requirements. A “substantially conforming” application need not include technical studies where the applicant demonstrates that studies could not be completed by the deadline due to seasonal conditions or other extenuating circumstances. All excluded technical studies must be submitted as soon as possible, not to exceed 120 days from the deadline. Applicants must make a good faith effort to make the application as complete as possible.

### **What happens after I submit an application for a use permit modification prior to March 29, 2019?**

Within 30 days of the submittal of a substantially conforming application (see definition above), County staff will schedule and conduct a compliance inspection of each property for which an application was received pursuant to this program. The inspection would verify the violations that the applicant was requesting to correct in the application and the existence of health and safety violations. Upon verification of violation(s), staff will send a Notice of Violation to the owner, which will clearly list the verified violations and any health and safety violations determined through the inspection, and will describe how the owner can come into compliance. The owner must abate those violations that pose an immediate threat to public health, safety, and/or threaten the environment, before the application can be deemed complete.

**If I voluntarily submit an application to comply with my use permit, am I exempt from penalties?**

No, owners who submit an application for any new or modified permit by the above deadline would continue to be subject to penalties for constructing improvements without a Building Permit.

**How long does the use permit process take?**

An application for a Use Permit or Use Permit Modification will follow the planning division's regular process. Applications will be processed in the order they are received. Depending on the complexity of your application, processing can take from 2 months (Very Minor Modifications) to 4-months (Minor Modifications), or to 1 year or more to process a new use permit or a Use Permit Major Modification. Times may vary depending on the amount of applications received and the completeness of the application.

**Why should I go through the status determination process?**

The status determination process will assist you in determining if your current business operation is in or out of compliance. If you find you are out of compliance, you have the choice to apply for the necessary permits to bring the business into compliance or reduce your business operations to comply with your existing permit levels.

**How long does a status determination take?**

It will depend on the complexity and information availability. The Board resolution allows for a maximum of 120 days to process an application, but staff will complete most determinations within 30 days.

**How much does a status determination cost?**

A status determination requires a minimum deposit of \$1,500 based on an hourly fee. Depending on the complexity of the historical permitting on the property, the cost could be less or more.

**Does a status determination require a hearing?**

No. The status determination is simply a review and acknowledgment of your existing vested rights, use permits and use permit modifications. However, a status determination may be appealed pursuant to County Code Chapter 2.88.

**Is a status determination an approval?**

No. The status determination does not approve any additional uses or entitlements; it is simply a review and acknowledgment of your existing legal entitlements and/or permissible uses of your property.

**Am I allowed to continue my current level of operation while I go through the use permit or use permit modification process?**

If you provide a complete application by the March 29, 2019 deadline, you will be able to continue your existing operations barring any health and safety issues. If staff discover any health and safety issues during the site inspection, the property owner will be required to address those issues immediately. If the life safety issues are significant, this may affect continued operations.

**What happens if I am out of compliance with my use permit and do not apply for voluntary compliance by the March 29, 2019 deadline?**

If a property owner does not apply for voluntarily compliance by March 29, 2019, immediate compliance with legal entitlements and all applicable County Code requirements will be required. Owners of properties with health and safety or significant violations shall be required to operate within their existing legal entitlements for one year from the date of the initial Notice of Violation, absent extraordinary circumstances, before a use permit or modification application to remedy the violation(s) may be submitted to PBES. Owners may also be subject to fines or penalties for past and ongoing violations. Owners may submit a use permit or modification application to remedy violation(s) during the one-year period while they operate within their legal entitlements, but only if they agree in writing that their legal entitlements or their existing legal operations, whichever is lower, shall be used as the environmental baseline for all CEQA analysis related to the application. Public hearings for such use permit or modification applications shall not be scheduled until the owner has operated within legal entitlements for one year from the date of the Initial Notice of Violation, absent extraordinary circumstance.

**Whom do I call with questions?**

For additional information or to discuss specific questions, please call (707) 253-4417.