



HOW TO FILE A PENALTY APPEAL

When a penalty is imposed by the Department of Building Inspection upon a property owner because work on that property was performed without a permit, the amount of that penalty may be appealed when the property owner or owner's agent can provide just cause, such as unfamiliarity with the Building Code or "demonstrable negligence" on the part of one of their employees. (S.F. Building Code §107A.5.)

Please note: the Board of Appeals does not have the power to eliminate a penalty. The maximum relief the Board may provide is to reduce a penalty to twice (2x) the regular permit fee. The Board may also use its discretion to leave a penalty at nine times (9x) the fee, or set the penalty at any amount in between.

When to file:

Most penalty appeals may be filed either BEFORE or AFTER the penalty is paid. Penalties for electrical or plumbing work may only be filed AFTER the penalty has been paid and a permit has been issued.

- *AFTER payment of the penalty:* **appeals must be filed within 15 days** of when the permit associated with the penalty is issued by the Department of Building Inspection (DBI). This time limit is strictly enforced. (S.F. Business & Tax Regulations Code Article 1, §8.)
- *BEFORE payment of the penalty:* there is no time limit to when an appeal may be filed.

How to file:

- All appeals must be filed in person by the appellant or the appellant's agent. Do NOT mail in your appeal. Please call the Board of Appeals at 1-628-652-1150 to make an appointment.
- Bring the necessary documents:
 - If you have paid the penalty, bring a copy of the issued building, electrical or plumbing permit and the receipt showing what was paid.
 - If you have not paid the penalty, bring a copy of the unissued Building Permit Application and a written statement from DBI of the penalty amount.
 - You may submit an unlimited number of exhibits as evidence of why the penalty should be reduced. For example, if the penalty is for work performed before you purchased the property, submitting the sales agreement, 3R report, disclosure statement or similar items may be helpful.
- Complete a Penalty Appeal Questionnaire. This form may be completed at the time the appeal is filed or in advance and brought to the Board office when you file your appeal. Copies of the Questionnaire are available on the Board's website (www.sfgov.org/boa) and at the Board office.
- Bring the required payment: \$300 in cash or a check payable to "Board of Appeals." This fee is non-refundable even if you win or withdraw your appeal.
- You must complete a **Preliminary Statement of Appeal** form when you come in to file your appeal. This form sets out the hearing date and other deadlines. Because the "Penalty Questionnaire" constitutes the appellant's statement to the Board, you may, but are not required to write an additional statement on this form or submit an appellant's brief prior to hearing.

San Francisco Building Code

Section 107A.5 Investigation Fees: Work Without a Permit

Whenever any work, for which a permit is required under the provisions of this code, has been started without a permit and where no specific additional fees are imposed as penalties as provided in this chapter, a special investigation shall be made before a permit may be issued for such work. See Section 110A, Table 1A-K – Penalties, Hearings, Code Enforcement Assessments – for applicable fee. Where only a portion of the work has been commenced without a permit, the investigation fee shall be based upon the portion of the work done without a permit. The cost of any penalty for any work done, in conjunction with the investigation fee, shall be borne by the owner.

The owner or owner's agent may appeal the amount of the investigation fee if they can provide just cause, such as unfamiliarity with this code or demonstrable negligence on the part of one of their employees.

Appeals of such investigation fee shall be filed with the Board of Appeals in the manner provided in Part III of the San Francisco Municipal Code. Such filing shall be subject to the fees and rules of the Board of Appeals. The Board of Appeals, in re-viewing the appeal of the investigation fee assessed for doing work without a permit, may reduce the amount of said fee, but in no case shall such reduced investigation fee be less than two times the amount of the permit fee as called for in Section 110A, Table 1A-A – Building Permit Fees – of this code.

EXCEPTION: For non-residential uses the Building Official may reduce the investigation fee to two times the amount of the permit fee as called for in Section 110A, Table 1A-A – Building Permit Fees – of this code for work that was constructed prior to the current building ownership, provided that substantiating documentation is provided.