

**SANTA CRUZ COUNTY PLANNING DEPARTMENT POLICY/ORDINANCE
INTERPRETATION**

Interpretation No.: RES-SWIM-02 (Swimming Pool Barriers, Residential)
 Effective Date: 9/09/09
 Originally Issued: 7/01/05
 Revised: 9/09/09 Note: This interpretation supercedes and replaces RES-SWIM-01

Question

What is the procedure when Planning staff discovers a non-compliant residential swimming pool barrier or no barrier, and what barrier standards apply?

Applicable Regulatory Section(s)

12.10.216 – Swimming Pool Enclosure Ordinance (SPEO) Effective: 1/1/08

INTERPRETATION:

Any Planning Department staff person, except building inspectors, who in the course of their work discovers a pool spa, or hot tub barrier that appears not to comply with the current Swimming Pool Enclosure Ordinance (SPEO) barrier standards applicable to one or two family dwellings (R-3 Occupancy) shall file a written complaint with Code Compliance. Code Compliance will determine if the investigation will be performed by the area Building Inspector or whether they will initiate the investigation.

Building inspectors who in the course of their work discover a noncompliant pool enclosure shall post a Correction Notice as specified in footnotes 1 & 2 below.

The matrix below gives Building Inspectors and Code Compliance staff general guidance on handling minor and major non-complying pool barriers. Staff should consult the Building Official when questions arise. For pool barriers located in the front or street side yard setbacks, also consult Zoning Counter Planners.

Matrix: Procedures for non-compliant pool barriers

	Major non-complying barrier*	Minor non-complying barrier**
Building Inspector/ or staff inspecting project on site; or on site without permit	1	2
Code Compliance Officer investigating barrier complaint or on site for non-related complaint	3	4

*** A major non-complying barrier violation includes no barrier or portions with no barrier and/or no gate(s), so that both the occupants of the house and persons from other properties are unprotected from the pool.**

**** A minor non-complying barrier violation involves the presence of a pool barrier, perimeter fence, or a pool barrier with the house as part of the barrier, but where the barrier does not**

comply with current code including inadequate height or design for the fence or gate, lack of alarms on doors and window openings giving access directly to the pool, or the presence of other non-complying features.

Footnotes to matrix

1. Do not final project. Issue Correction Notice giving owner 7 days to have temporary safety measures in place, and 30 days to apply for a change order or a permit for barrier. If no temporary safety barrier is in place within 7 days or, if no change order permit application is received in 30 days, turn over to Code Compliance to issue Notice of Violation. If the issue involves lack of a temporary barrier, Code Compliance treats as High Priority as described in 3 below. If a temporary barrier has been erected, but no application has been made for a permanent barrier, Code compliance treats as Medium Priority as described in 4 below.
2. Do not final project. Issue Correction Notice giving owner 30 days to install any temporary safety measures and apply for a change order or a permit. If application is not made in 30 days, turn over to Code Compliance to issue Notice of Violation. Code Compliance treats as Medium Priority, prepares and transmits a proposed Stipulation to the property owner within 10 working days and, if necessary, schedules the matter for hearing according to normal procedures. When application is made, it has Priority routing status. When issued, project description should state permittee has 60 days to final the barrier condition.
3. Code Compliance staff treats as High Priority. Issue Notice of Violation giving owner 7 days to install temporary safety measures and 30 days to apply for permit. If no temporary barrier in place within 7 days posting Notice of Violation, refer to County Counsel to seek TRO. If no application is received in 30 days, place on first available hearing officer agenda using personal service for notification purposes. When application is made, it has Priority routing status assigned by the Building Counter. When issued, project description should state permittee has 60 days to obtain a final inspection of barrier.
4. Code Compliance treats as Medium Priority. Issue Notice of Violation giving owner 30 days to install any temporary safety measures and apply for a permit. If application is not made in 30 days, Code Compliance prepares and transmits a proposed Stipulation to property owner within 10 working days and, if necessary, schedules the matter for hearing according to normal procedures. When application is made, it has Priority routing status. When issued, project description should state permittee has 60 days to obtain a final inspection of barrier.

Acceptable types of temporary fencing can be, but are not limited to, rented 4 foot minimum height chain link fencing, solid plywood barrier, driven t-stakes with rigid welded wire, or construction fencing with rigid horizontal members top and bottom and staked to the ground if necessary. Permanent pool barrier fencing and gates must be a minimum of 5 feet high and must be installed with a building permit. See SCCC section 12.10.216 and online brochures for specific details.

If upon investigation it is found that the existing pool and pool barrier were ‘built or erected on or after August 14th, 1992 with a valid finalized building permit’ [SCCC section 12.10.216 (g)] and prior

to January 1, 2008: 1) the pool, spa or hot and barrier must be maintained according to the code requirements in effect at that time with the exception of: a) the barrier between the residence and the pool must be upgraded to current requirements (with a permit), and, b) a written certification must be provided prior to sale of the residence (SCCC section 12.10.216(g) liii).

Reason

The County first adopted a pool barrier ordinance in 1970 (Chapter 7.64). The ordinance applied to all new pools and to all existing swimming pools, regardless of when the pool was constructed. This ordinance provided for a barrier around all pools unless there were no neighboring dwelling units within 1000 ft.

In 1992, the County adopted the latest version of the UBC, which was the 1991 edition. This included stricter pool barrier requirements, as set forth in 1991 UBC Appendix Chapter 12, Division III. In 2001, the County adopted the 1997 version of the UBC, including similar regulations applying to swimming pool/hot tub barriers (Appendix Chapter 4, Division I, Section 419-421). Staff has consistently applied the UBC standards since 1991 for new pools, but these stricter standards do not apply to pools or spas in existence prior to 1992.

After some tragic child deaths due to drowning, the County reviewed its procedures for ensuring that the hazards associated with non-complaint barriers are addressed. Planning was directed to take enforcement action when a non-complaint pool barrier is observed, and to refer the matter to the Sheriff's Department and Child Protective Services if the property owner does not take prompt corrective action.

On January 1, 2007, the code standards were modified to incorporate revisions to 2001 CA Building Code Appendix Chapter 4, with additional Santa Cruz County Code amendments, primarily pertaining to the installation of anti-entrapment devices and certification of pool barrier compliance prior to the sale of residential property containing a pool, spa, or hot tub.

On January 1, 2008, the new Swimming Pool Enclosure Ordinance (SPEO) revisions became effective. These revised requirements were fully incorporated into County Code and featured: increased barrier heights to 5 feet, pools defined as having 18 inch of depth or greater, and other requirements.

Several policy and procedural issues have arisen regarding pool barrier enforcement. What standards apply: those in Chapter 7.64 or those in the UBC? What temporary corrective measures can an owner take to avoid further action, since permanent compliant barriers may take weeks to design, permit and construct? When should a violation be referred to our enforcement staff? The purpose of this interpretation is to clarify these issues.

Tom Burns, Planning Director

Date