

**2022 South Carolina Code of Laws
Title 40 - Professions and Occupations
Chapter 59 - RESIDENTIAL HOME BUILDERS
Section 40-59-260 - Exception for projects by property owner
for personal use; exemption disclosure statement; notice filed
with register of deeds.**

Universal Citation: [SC Code § 40-59-260 \(2022\)](#)

(A) This chapter does not apply to an owner of residential property who improves the property or who builds or improves structures or appurtenances on the property if:

(1) the owner does the work himself, with his own employees, or with licensed contractors or registered entities or individuals;

(2) the structure, group of structures, or appurtenances, including the improvements, are intended for the owner's sole occupancy or occupancy by the owner's family and are not intended for sale or rent; and

(3) the general public does not have access to this structure.

(B) In an action brought under this chapter, proof of the sale or rent or the offering for sale or rent of the structure by the owner-builder within two years after completion or issuance of a certificate or occupancy is prima facie evidence that the project was undertaken for the purpose of sale or rent, unless otherwise approved by the commission, and is subject to the penalties provided in this chapter. As used in this section, "sale" or "rent" includes an arrangement by which an owner receives compensation in money, provisions, chattel, or labor from the occupancy, or the transfer of the property or the structures on the property. This section does not exempt a person who is employed by the owner and who acts in the capacity of a builder or a specialty contractor of any kind.

(C) To qualify for exemption under this section, an owner must personally appear and sign the building permit application. The local permitting agency shall provide the person with a disclosure statement, provided by the department, in substantially the following form:

"Disclosure Statement

State law requires residential construction to be done by licensed residential builders and specialty contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own builder even though you do not have a license. You must supervise the construction yourself. You may build or improve a one-family or two-family residence. The building must be for your own use and occupancy. It may not be built for sale or rent. If you sell or rent a building you have built yourself within two years after the construction is complete, the law will presume that you built it for sale or rent, which is a violation of this exemption. You may not hire an unlicensed person as your residential builder or specialty contractor. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances. Your construction must comply with all applicable laws, ordinances, building codes, and zoning regulations."

(D) At the time an owner personally appears and signs the building permit application as required by subsection (C) of this section, the local permitting agency shall provide the owner with all forms necessary to comply with subsection (E) of this section.

(E) If a residential building or structure has been constructed by an owner under the exemption provided for in this section, the owner of the residential building or structure must promptly file as a matter of public record a notice with the register of deeds, indexed under the owner's name in the grantor's index, stating that the residential building or structure was constructed by the owner as an unlicensed builder. Failure to do so revokes the statutory exemption.

(F) Nothing in this chapter may be construed to authorize an owner of a residential building or structure to hire a person or entity that is not licensed or registered in accordance with this chapter.

HISTORY: 2002 Act No. 359, Section 1.

State of South Carolina
County of _____

"DISCLOSURE STATEMENT"

The Code Enforcement of building safety under the Codes of Laws of the State of South Carolina 1976, as amended Title 40, Chapter 59, Article 1, Section 40-59-260, is providing the undersigned owner/builder this disclosure statement.

State law requires residential construction to be done by licensed residential builders and specialty contractors. You have applied for a permit under an exemption to the law. The exemption allows you, as the owner of your property, to act as your own builder even though you do not have a valid state license. You must supervise the construction yourself. You may build or improve a one-family or two-family residence. The building must be for your own use and occupancy. It may not be built for sale or rent. If you sell or rent a residence you have built yourself within two years after the construction is complete, the law will presume that you built it for sale or rent, which is a violation of this exemption. You may not hire an unlicensed person as your residential builder or specialty contractor. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances. Your construction must comply with all applicable laws, ordinances, building codes, and zoning regulations."

Address: _____ TMS#: _____

Property Owner(s): _____

Printed Name(s): _____

Signature(s): _____

Witness 1: _____ Witness 2: _____

State of South Carolina
County of _____

Personally, appeared before me _____ and made oath that he/she saw the within named _____ (owner name(s) sign, seal and as their act and deed, deliver the within Disclosure Statement for the uses and purposes therein mentioned and that he/she with _____, witnessed the execution thereof.

Sworn before me this _____ day of _____, 2004

Notary public for SC

My Commission expires _____

Executed this _____ day of _____, _____ by the above parties.

THIS FORM MUST BE COMPLETED & SIGNED BY ALL PROPERTY OWNERS AS LISTED ON TAX RECORDS AND RECORDED AT THE REGISTER OF DEEDS OFFICE PRIOR TO A PERMIT BEING ISSUED.

07/17/2023

Fairfield County Owner / Builder Affidavit

Owner _____

Address _____ TMS# _____

South Carolina Code of Laws, (40-59-260), will allow a homeowner to act as Owner / Builder to build or improve a 1 or 2 family residence (3 story maximum) or who builds or improves structures or appurtenances on the property for their personal use. The Owner/Builder should be aware of the following items:

- As an owner/ builder I plan on doing all the work and understand that if subcontract to another party, I have addressed the following concerns.
 1. They are licensed in the State of South Carolina as a Residential Contractor, Specialty Contractor or General Contractor (commercial) as provided in SC State Law.
 2. I have confirmed that the subcontractor has workers compensation, and if they do not possess a policy, I as the homeowner could be liable for any and all medical bills if they injured on my property.
 3. The subcontractor has liability insurance. If the subcontractor does not have liability insurance and damages my property, I may not have any recourse to be compensated for damages which may occur.
 4. I have a signed contract with each subcontractor.
- Mechanical (electric, gas, plumbing and HVAC) may require additional permits or requirements by the local building department. I have asked this question.
- I understand that as an owner / builder I cannot sell or rent the property for 2 years from the time it has been recorded on the property deed or issuance of the Certificate of Occupancy.
- I understand that the owner/ builder requirement must be placed on the deed and once placed , it will take an attorney to assist in getting it removed.
- I was not asked to pull the permit for a contractor that will do all the work. Chances are the contractor does not have the appropriate license to pull the permit.
- Licensed or registered specialty contractors cannot act as a residential builder and subcontract out work to another party. SC Law 40-59-20(7)
- If you subcontract to a SC specialty contractor and the work is over \$5,000.00 they are required to have a bond on file with the SC LLR.
- I understand that the Building Department is only there to ensure that the building is meeting the minimum building code and will not assist in any disputes between subcontractors and the owner.
- I understand that as an owner / builder that if a dispute arises with a sub-contractor SCLLR will not do an investigation unless they are licensed with the State of South Carolina.

I/We have read and understand the above document.

Owner

Witness

Owner

Witness

Date: _____