



# Code Enforcement Policy and Procedures Manual

## **Background:**

This document provides a general overview of the Code Enforcement Division within the Laguna Beach Community Development Department and the policies and procedures that apply to the Division's efforts to obtain correction of Municipal Code violations. This document may be supplemented from time to time with additional policies and procedures.

## **Code Enforcement Philosophy:**

Several studies have shown that a good compliance program promotes increased land values and pride in ownership throughout the community. Education of the public regarding applicable laws can be an effective tool in obtaining timely compliance, and a long-range solution to ongoing nuisances. Efficient code enforcement is best accomplished initially through clear communication via letters, phone calls, and face-to-face discussions with property owners.

The Code Enforcement Division shall use various techniques to assure compliance with State and local laws relating to building and zoning requirements, health and safety concerns, property maintenance standards, and other land-use laws and regulations. Code Enforcement staff shall maintain ethical standards and strive to be firm, fair, and friendly as well as consistent. Many cases are unique and a "one size fits all" solution does not always work.

The California Association of Code Enforcement Officers defines a Code Enforcement Officer's goal as one that serves the community to safeguard lives and property and to respect the constitutional rights of all members of the community. Code Enforcement Officers strive to achieve several objectives, which includes making decisions free from prejudice, honor the spirit and letter of the law, and safeguard public confidence by conducting themselves in a manner that maintains public trust.

The Code Enforcement Division is committed to maintaining the quality of life in Laguna Beach through obtaining compliance in adherence to regulations and codes. The goal is to first obtain voluntary compliance from citizens prior to issuing warning notices and citations. The Code Enforcement Division shall uniformly and fairly enforce codes and regulations and shall assign high priority to the abatement of violations that may constitute potential threats to health or safety or that may cause environmental damage. The Code Enforcement Division shall not be used as a means for furthering or exacerbating neighbor disputes and discord. This document includes specific policies to achieve these objectives.

## **Code Enforcement Principles:**

To assure that the above noted values are upheld, the Zoning, Building and Property Maintenance Codes will be enforced according to the following principles:

- The City will enforce its ordinances based on the nature of the violation, not the identity of the violator or the complaining party. The focus shall be on the nuisance activity, structure or improvement, without regard to the source of the complaint or the character of the violator.
- The City seeks voluntary compliance first and foremost. Enforcement efforts are directed at providing opportunities for solving problems and eliminating violations, not punishing people.
- The City will maintain the confidentiality of the source of any complaint along with accepting anonymous reports of violations. The City will enforce independently confirmed violations on the basis that they are violations against the City and public policy, not against a neighbor or other individual parties.
- When sufficient opportunity for eliminating a nuisance has been provided, but no significant results obtained, the City will aggressively pursue additional options such as citations and relief in the courts, including civil and criminal remedies.
- Health & safety violations are given the highest priority so that human life and property are protected without delay. Violations of ‘general welfare’ rules such as zoning will be addressed at a second level of attention, allowing reasonable solutions to be implemented in reasonable time.
- Code enforcement is not to be used as a means of furthering or aggravating neighbor and/or civil disputes.

## **General Procedures:**

The following procedures are intended to be flexible and adjustments may be made depending upon the nature and severity of the violation and the associated circumstances.

1. All complaints received shall be documented in writing and include the complainant’s name and contact information. Each complaint shall be evaluated for priority, and pertinent records researched.
2. A case file shall be created, and site investigations of complaints shall be conducted. If a violation is observed, site inspection notes shall be compiled and photographs taken, when possible. The violator shall be contacted in writing via a ‘Notice of Violation’ and orally, whenever possible, to explain the nature of violation along with a description of the appropriate remedy.

3. A re-inspection shall be conducted as and when appropriate. If the violation remains, a formal Final Notice of Violation may be issued, citing the regulation being violated and the remedy and timeframe for compliance.
4. If the violation remains upon the expiration of the voluntary compliance date, an administrative citation shall be issued, identifying the violation, the required remedy and the right to appeal.
5. If the violation remains and the right to appeal has expired, additional administrative citations or other legal remedies may be issued/taken.

### **Enforcement Priorities:**

The following general policies relate to the prioritizing of enforcement of Planning and Zoning regulations:

1. Violations that pose immediate danger to the health, safety and protection of the environment.
2. Violations related to development projects that are in the construction phase.
3. Complaint-based enforcement that are in writing, including the complainant's name and contact information.
4. Anonymous complaints that do not relate to an immediate threat to the public health, safety, environment, and welfare of the community.
5. Complaints that are associated with neighbor and/or civil disputes shall receive a low priority. A case file for further investigation might not be opened if the complaint is not accompanied by credible corroborating evidence, if the alleged violation cannot be verified, or if the complaint is otherwise determined not to warrant opening a case investigation.

### **Citizen Complaints:**

There are generally two methods of achieving the Division's goal of voluntary compliance and enforcement of all applicable laws, codes, standards, and regulations. These methods are (1) reactive, such as responding to complaints and issuing citations; and (2) proactive, such as investigating independently observed violations. The following discussion addresses the first method.

The identity of complainants shall be considered confidential information not subject to disclosure. Code Enforcement Officers shall not release the name of the source of a complaint. If a Public Records Act request for code compliance materials is submitted, including the name of

the complaining party, the Code Enforcement Officer shall immediately report the request directly to the Code Enforcement Supervisor.

Allegations of violations from anonymous sources (which include both those persons who fail to provide contact information to Code Enforcement as well as those who provide contact information but ask to remain anonymous) may be investigated at the Code Enforcement Supervisor's discretion. If the Supervisor authorizes an investigation to occur, and no violation can be independently confirmed by the Code Enforcement Officer, the case may be closed.

For an alleged violation that was witnessed solely by a complainant to move forward to the enforcement stage, the complainant shall be agreeable to providing testimony (at an administrative hearing, court proceeding, and/or via a declaration signed under penalty of perjury) if determined to be necessary. This requirement shall be in addition to the Code Enforcement Officer's request of additional information from the complaining party substantiating the allegations made.

It is common for residents to submit complaints about alleged unpermitted property improvements adjacent to their property or within their neighborhoods. The complaint may be filed to address a quality of life or safety hazard that the property improvement has created. However, there are certain situations in which the complaints are filed primarily in furtherance of a neighbor/civil dispute.

A variety of guidelines and factors are considered and balanced when determining if a complaint-based case should be investigated and, if warranted, ultimately enforced.

*When might complaints of alleged unpermitted property improvements be pursued?*

- When significant property improvements are actively being constructed.
- When the property improvements were recently constructed and are significant in scope.
- When the property improvements have created an imminent safety hazard.
- When the property improvements have a cognizable impact on the quality of life of the complaining party.

*When might complaints of alleged unpermitted property improvements not be pursued?*

- When the complaint is not accompanied by credible evidence of the alleged violation.
- When the City's records are insufficient to establish that an alleged violation has occurred.
- When the property improvements are minor in nature.
- When the property improvements were not recently constructed.
- When the property improvements do not create a safety hazard.
- When the property improvements apparently are being filed primarily in furtherance of a neighbor/civil dispute.

### **Expectation of Privacy:**

Property owners have a right to privacy and to be free from illegal searches. For example, if a property owner has erected a 6-foot high or taller solid fence, such as a chain link fence with slats, block fence, or wooden fence around the side and rear yard of the property, the property owner likely has a reasonable expectation of privacy as to the condition of those yards. Code Enforcement Officers should not use any artificial means to improve their position in an attempt to look over a solid fence to ascertain whether a violation exists, such as standing in the bed of a truck, climbing on top of an electrical box, or flying an unoccupied aerial vehicle (e.g., drone). Nor shall Code Enforcement Officers look through a knothole in a fence to view an enclosed yard. A test for a reasonable expectation of privacy is, “Would the average person expect that the condition of the fence around the property would keep the yard private from people looking into the yard?” On the other hand, if a fence becomes dilapidated and wooden slats are missing from the fence, or several strips of chain link fence screening are missing, the property owner might no longer have a reasonable expectation of privacy. If the violation can be lawfully seen from a neighboring property, and that neighboring property owner has consented to the Code Enforcement Officer’s presence, then the owner/resident of the property under investigation has no reasonable expectation of privacy.

### **After-the-Fact Applications:**

From time to time, property owners undertake construction that has not been permitted or exceeds what was permitted. When such matters come to the attention of and are confirmed by Code Enforcement Officers, two options are commonly provided to the offending property owner:

1. Remove the illegal construction (pursuant to a demolition permit if one is required), or
2. Obtain approval of such discretionary entitlements, or of modifications to previously approved entitlements, that are necessary to legalize the construction.