



**Community Development
Department
Code Enforcement**
600 6th Street
Lincoln, California 95648

**CODE ENFORCEMENT
POLICIES AND PROCEDURES**

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OBJECTIVES OF POLICIES AND PROCEDURES

- ❖ Increase the effectiveness of code enforcement efforts to ensure and to maintain the high quality of living standards and beauty of the City of Lincoln.
- ❖ Define clear guidelines for enforcement of City codes including the Building Code and the Zoning Code from receipt of initial complaint through resolution of a case.
- ❖ Define the roles and responsibilities of staff, citizens, the City Council, the Planning Commission and other participants.
- ❖ Prevent unnecessary duplication of effort among staff, elected officials, appointed officials and citizen groups.
- ❖ Eliminate confusion about City code enforcement policies and ensure due process rights of citizens and the appeals process are clearly defined and well respected.
- ❖ Provide resolution of most cases at the lowest possible administrative staff level to maximize efficiency and minimize conflict among residents, property and business owners, and the City.
- ❖ Ensure each case is handled as fairly and carefully as possible with standards applied equitably and consistently.
- ❖ Facilitate timely response to complaints and clearly articulate actions that can be taken by the City to pursue compliance.
- ❖ Create incentives for rapid compliance.
- ❖ Permit the City to recover costs of abatement if the City is forced to become directly involved in the abatement of a code violation.
- ❖ Pursue proper compliance with City codes while protecting the constitutional rights of the citizens of Lincoln regarding illegal search and seizure.

II. CASE CREATION

There are three ways for a code enforcement case to be originated; complaints received, proactive inspections and directive enforcement. The following guidelines establish procedures for code enforcement case creation.

A. Complaints Received

Staff receives complaints from citizens, City staff, business owners, City Council members or other City officials. Complaints can come via telephone, letter, online, email, or in-person, and can be received by any staff member and referred to the appropriate party for investigation.

Code Enforcement shall provide an automatic follow up call to the reporting party to ascertain further information. The reporting party can call staff to check on the status of a complaint or request in advance that an update of progress be provided.

To the extent possible, all complaints shall include a first name, last name and contact phone number and/or email address. However, Code Enforcement will accept anonymous complaints for investigation. Staff shall follow a policy of maintaining the confidentiality of all reporting parties' names when provided. Reporting parties' names will be released only to the courts if a case is being prepared for legal action and will not be released to the City Council or other members of the public unless authorized by the City Attorney.

B. Proactive Inspections

City staff may identify code violations (from the public right-of-way) while driving through or working in the City. Violations that are more egregious would be acted upon first but, cases are responded to on a case by case basis.

C. Directive Enforcement

Supervisory staff may provide directive enforcement of a particular type of violation based upon specific requests of the City Council.

III IDENTIFYING VIOLATIONS

There are two ways to specifically identify code violations: those violations that can be inspected from the public right-of-way, and those that require access onto private property for an inspection.

A. Violations in Public View

In response to a complaint or on an "as seen" basis, staff may be able to identify code violations from the street, sidewalk, other public right-of-way or adjacent property. If possible staff will contact the property owner and/or the responsible party of the alleged violation for notification of the violation and the remedial actions that are required for compliance.

B. Violations Not in Public View

1) As a matter of policy, City staff shall exhaust all efforts to gain consent by owner or tenant for an inspection prior to obtaining a warrant.

2) City staff shall work closely with the City Attorney's to ensure their familiarity and support of City goals in code enforcement policies.

3) Development Services Manager shall be kept informed by Code Enforcement

and/or the Code Enforcement Officer of requests for inspection and/or abatement warrants and when appropriate, of the status of cases requiring court involvement.

- 4) City Council or Commissioners shall not be involved in the inspection warrant process.

C. Inspection Requiring Access to Private Property

Staff shall not enter private property to inspect without owner or tenant consent or a court-ordered inspection warrant to conduct an inspection if the violation is not visible from the public right-of-way.

1) Owner or Tenant Consent to Inspection

Staff may request (in person or by letter) to inspect the property. If the owner or tenant consents, staff may proceed and verify whether or not a code violation exists. A written record of the grant of consent must be kept in the case file, when applicable.

If either the owner or tenant consents to the inspection and the other party does not consent, then an inspection warrant will be required.

2) Inspection Warrants

When staff is unable to obtain verbal or written permission to enter private property to inspect, then staff may obtain an inspection warrant with the assistance of the City Attorney's Office. The only exception is when an emergency situation exists where a clear and present danger to the health, safety or welfare of the occupants or the public requires that appropriate staff enter private property without an entry warrant.

An inspection warrant is an order signed by a judge, permitting entry by a specific city department or representative, specifying the scope of permissible inspection. An inspection warrant requires a signed declaration of the official requesting the warrant which:

- i) Describes the details of the property, the owners or the perpetrators of the alleged violation, and the purpose of the search,
- ii) Includes a statement that consent to inspect was sought and refused,
- iii) Includes an explanation of the reason to believe an illegal condition exists, and the specific nature of the possible violations, or describes the legal authority for the City's regular inspection and inability to obtain consent to perform the inspection,
- iv) Provides a detailed code enforcement history of the property including all inspection dates, findings based on those inspection, notices provided to the property owner(s), and any other correspondence with the property owner, such as emails or other letters,
- iv) Specifies whether any additional officials, such as police officers, fire inspectors, health officers, etc., should be present during the inspection, and why.

The inspection warrant specifies a limited time (typically 14-30 days) to conduct the inspection; however, extensions can be given by the judge.

Notice that a warrant has been issued must be given to the owner or occupant at least twenty four (24) hours before the warrant is executed, either by contacting the owner directly or by posting the notice.

Once the warrant is served and an inspection carried out, it must be returned to the judge with a summary of the results of the inspection. The inspection must be conducted in the presence of the owner or occupant, unless specifically authorized by the judge. Rarely is forcible entry authorized, and to do so requires a separate authorization.

D. Staff members authorized to request warrants

- 1) The Development Services Manager or his/her assigned designee shall approve any requests for inspection warrants.
- 2) For violations of the Building Code and portions of the City of Lincoln Municipal Code; the Building Official or his/her assigned designee shall be authorized to request inspection warrants.
- 3) For violations of the Lincoln Planning & Zoning Ordinance, Inoperable Vehicles on private property and Weed Abatement, the Code Enforcement Officer or his/her assigned designee shall be authorized to request inspection warrants.
- 4) For violations of the Fire Code, and portions of the Lincoln Municipal Code, the Fire Chief, Fire Marshal or his/her assigned designee shall be authorized to request inspection warrants.
- 5) For violations of Animal codes, the Placer County Animal Control (PCAC) handles via contract with the City of Lincoln.

E. Authorized Enforcement Officers

The following staff members are authorized to inspect for code violations (in alphabetical order):

Fire Department:

- Division Chief
- Fire Captain
- Fire Chief / Asst. Fire Chief
- Fire Marshal
- Fire Prevention Inspector

Development Services:

- Building Inspector
- Senior Building Inspector
- Building Official
- City Engineer
- Code Enforcement Officer
- Community Development Manager
- Community Development Director
- Engineering Inspector
- Police Department

IV. NOTIFICATION OF COMPLAINTS/VIOLATIONS

Except as otherwise authorized by the Lincoln Municipal Code or by California state law, or in circumstances warranting a more rapid abatement procedure, staff shall adhere to the following procedures when proceeding with code enforcement actions.

A. First Contact – Courtesy Notice- Notice of Violation

Upon initial identification of a code violation, staff will issue a *Notice of Violation* either through personal contact and/or by 1st class mail to the responsible party. This notice will explain any substantiated violation(s) and corrective action(s) required within a designated period of time. For complaints not readily visible from public-right-of-way, a written request may go out to responsible parties requesting a site inspection.

B. Compliance Timeline

The exact number of days for correction will depend upon the required action for compliance, the severity of the violation and/or potential immediate hazard to the community. It may also vary on a case-by-case basis at the discretion of the enforcement officer.

C. Nature/Tone of Notices

The nature of all notices will be straightforward, identifying the specific code violation and the abatement action required.

D. Continuing Attempts to Gain Voluntary Compliance

When two notices have been issued and voluntary compliance is not achieved, staff will continue to work for voluntary compliance even while taking necessary steps to legally abate any violation(s). Citizens shall receive all due process and notices, as well as copies of documentation as required by ordinance and upon receipt of written request.

V. GAINING COMPLIANCE

After inspection and determination that a code violation exists, if voluntary compliance cannot be obtained, the following enforcement policies shall be implemented:

A. Administrative Citations

Section 1.20 of the Lincoln Municipal Code allows for the issuance of Administrative Citations. Citations may be issued for violations of the Lincoln Municipal Code. A *Citation Notice* will be mailed via the Code Enforcement division along with a copy of the issued citation(s). Failure to cure the violations with the time specified may result in the immediate issuance of additional citation(s) with penalty of fine(s).

B. Nuisance Abatement

When a code violation has been identified, it may qualify as a "substandard building" under the State of California Housing Code, or a dangerous building under the Uniform Code for the Abatement of Dangerous Buildings, or as a nuisance under other applicable state law and be pursued as such. If it is determined that a nuisance exists, the City may abate the nuisance through its own forces with an abatement warrant if compliance cannot be voluntarily gained, and recover any costs by placing a lien or special assessment on the subject property.

C. Reasonable Compliance

In a municipal environment of limited staffing and resources, the intent of the governing ordinance may be taken into account over its literal wording.

VI. ABATEMENT PROCEDURES

Any City abatement of nuisances on private property requires court ordered judicial authorization in the form of an abatement warrant, or the consent of the property owners and/or occupant. The courts have viewed abatement as a type of seizure, and the fourth amendment of the U.S. Constitution requires a warrant for search or seizure. While it may seem invasive to allow the City to enter private property to abate a nuisance, a judge will permit this action when there is evidence of a health and safety hazard which violates or local law.

VII. NUISANCE ABATEMENT ORDINANCE

The purpose of a Nuisance Abatement Ordinance (Lincoln Municipal Code 8.08.050) is to maintain the appearance and condition of real property enhance property values in the City and to avoid deterioration of neighborhoods and commercial centers. This ordinance defines public nuisances which create visual blight and hazardous conditions which may be detrimental to the public's health and safety

A. Nuisance Abatement Ordinance

Current City policy authorizes staff to abate any nuisance which poses a health and safety hazard to the community. City of Lincoln Municipal Code 8.08.010 – Authority to Abate establishes specific procedures and standards for abatement of nuisances.

B. Authorization to Abate Nuisances

Staff shall precede with court- and/or hearing-ordered abatement actions only as a last resort, when all other attempts to have the nuisance removed and all administrative remedies have been exhausted. Responsible staff may be authorized to file requests for abatement warrants to the City Attorney's Office with prior written approval of the Community Development Director.

The City Attorney is authorized to file these requests with the appropriate court. Staff and the City Attorney shall notify the violator of the City's intention to file a court action to give the violator a final opportunity to comply. The City Council may be informed, in closed session or by confidential memorandum, of any requests the City Attorney makes for abatement warrants from the court.

C. Procedures for Abatement of Nuisances

Specific procedures for abatement are delineated in the Nuisance Abatement Ordinance. After obtaining an abatement warrant, staff is authorized to proceed with soliciting contractor bids to complete the abatement. However, the contractor will be required to meet all City contract qualifications and will contract directly with the City for the abatement work.

After completion of the work and final inspection by staff, the cost of abatement, including administrative time, shall be billed to the property owner or perpetrator of the alleged violation, and, if not collected within 30 days, shall become a special assessment (subject to council approval) against the real property upon which the nuisance was abated.

VIII. COST RECOVERY

Substantial Staff costs can be incurred in administrative time to handle cases including work by code enforcement personnel, review by City Attorney, City Manager's Staff and Community Development Department Staff. In addition, City Attorney time for court preparation, computer-related expenses,

court costs and abatement expenses increase the City's investment when the City must abate a nuisance by use of a contractor. Imposing costs on the violators in addition to potential citation fines constitute a very powerful tool for encouraging early voluntary compliance. The City shall recover its costs of abatement under the following guidelines:

A. Administrative Costs

The administrative costs may include any and all costs incurred by the City in connection with the matter before the court including, but not limited to, costs of investigation, staffing costs incurred in preparation for the hearing and for the hearing itself, and costs for all re-inspections necessary to enforce the municipal code.

B. Abatement Costs

Costs required to abate a nuisance shall be billed to and collected from the property owner and the City shall place a special assessment (subject to city council approval) against the real property for any amounts not paid by the property owner or perpetrator of the alleged violation within 30 days. These costs shall include contractor costs and administrative costs incurred in abating the nuisance.

C. Collections Agency

When a fine resulting from an issued administrative citation goes unpaid beyond the initial due date, written attempt(s) for in-house collection will ensue. Unpaid fines may be turned over to a private collection agency possible if said fines are still not collected within 30 days thereafter.

D. Other Means

Other avenues of cost recovery which may be taken include the following measures;

- Small Claims Court
- Property Liens
- Property Tax Liens

IX. CLOSING A CASE

Cases are created to abate specific violation(s) of the Lincoln Municipal Code. Once these violations are resolved, abated or found invalid, the case shall be determined to be closed and recorded as such in the enforcement computer files. In some cases, charges may be brought up again for the same code violation, if the condition which was previously abated develops again within a 12-month period.

A. Appeal of a Nuisance Determination

The appeal of a citation or compliance order issued by staff regarding a violation of the Lincoln Municipal Code shall be to a Hearing Officer.

B. Timeliness of Appeals

Appellants must file appeals within the applicable time limits set forth under Lincoln Municipal Code Sections 1.20.060; Administrative Citations and Compliance Orders.

X. OTHER ISSUES

A. Policymakers' Role in Code Enforcement

The City Council, the Planning Commission and other Commissions shall limit their

involvement in the day-to-day code enforcement process, delegating authority as recommended in the above sections to staff. The Building Official, City Attorney's Office and Code Enforcement Officers roles shall include the following:

- 1) Review and approval of code enforcement policies and procedures.
- 2)
- 3) Review and of code enforcement related ordinances (subject to council approval).
- 4) Approval of bid contracts for abatement.
- 5) Policymakers shall report alleged violations to staff as seen for investigation.

B. Interdepartmental Coordination

Upon self-initiated interdepartmental coordination, the Code Enforcement Officer shall serve as the primary code enforcement investigator and maintain case tracking on the City's computer system.

Other Departments may establish a procedure for notifying the Code Enforcement Officer of actions soon to be taken (excluding Police matters deemed confidential), such as weed abatement, abandoned vehicles abatement, property maintenance requirements as they relate to a specific parcel of privately held land.

C. Departmental Responsibilities

Department responsibilities for code enforcement shall be assigned as follows:

<u>Type of Violation</u>	<u>Responsible Department>Division</u>
Abandoned Vehicle Abatement	
Public Property -----	Police Dept. >Patrol and/or Traffic Division
Private Property -----	Code Enforcement
Abandoned/Substandard Buildings -----	Community Development Dept. >Building Division > Code Enforcement
Animal Control -----	Police Dept. >Animal Control
Antennas	
Approvals -----	Community Development Dept. >Planning Division
Enforcement-----	Community Development Dept. >Building Division
Building Codes -----	Community Development Dept. >Building Division
Business License -----	Finance Dept.
Construction Noise/Activity	
Business Hours -----	Building Dept.
After Hours -----	Police Dept. >Patrol

Water Service, Connections, -----Public Services >Water Division>

Weed Abatement;

Residential, Vacant & Commercial Lots --- Community Development Dept. >Code Enforcement

Zoning Violations ----- Community Development Dept. >Planning Division
> Code Enforcement

D. Miscellaneous Code Revisions and Additions

Staff shall make recommendations for revisions to the City's Fee Schedule and/or other resolutions which may need clarification or strengthening in order to be effectively enforced in conjunction with this policy and the Nuisance Abatement Ordinance. These revisions shall be drafted for City Council approval.

E. Record Keeping

All code enforcement cases shall be recorded into a City code enforcement computer database, as a permanent record of all actions taken, of compliance achieved or of other status of the cases. Access to the code enforcement computer files shall be permitted for appropriate City staff only, as designated in a computer security access array. Status reports of the number, type and location of cases may be prepared upon request for City Council review, without releasing the names of the reporting party.

F. Public Education

- 1) A "user-friendly" City of Lincoln code enforcement webpage shall be maintained as up-to-date as possible for public awareness and more effective customer service.