



STAFF REPORT

TOWN COUNCIL MEETING OF AUGUST 9, 2016

To: Town Council

From: Town Clerk

Subject: Administrative Policies and Procedures For Code Enforcement

Date: July 27, 2016

RECOMMENDATION

A motion to adopt the attached resolution approving an Administrative Policy and Procedure for Code Enforcement in the Town of Loomis.

DISCUSSION:

The Placer County Grand Jury reviewed the Town's Code Enforcement process and recommended that the Town implement a formal policy and procedure for dealing with and tracking code enforcement complaints, having information on the Town website and follow-up with complainant.

The Town website is now updated with code enforcement information, contacts and complaint forms. Staff has been following a process of putting complaints under an address file (in the computer), trying to achieve voluntary compliance first. If the violation is not corrected then a "warning notice" has been mailed and if not in compliance within the allotted time given then an Administrative Citation has been mailed (Municipal Code Section 1.20.040). If the resident calls and requests more time to abate then staff works with them. At this point if the violation still hasn't been corrected then a "Notice of Administrative Hearing on Abatement of Nuisance" (Section 7.04.050) is mailed out and a date set for a hearing before the Town Manager. Fortunately, in the past, most violations have been corrected before we get to this step. At this point if the violation is not corrected, after receiving a follow-up letter from the manager and a date set for compliance, the Town Attorney will begin the process for a court order to abate the nuisance.

Attached staff has put the process in a formal Administrative Policy and Procedure for dealing with Code Enforcement in the Town of Loomis for your review and approval.

CEQA

There are no CEQA issues involved with the policies.

FINANCIAL IMPLICATIONS

There are no financial implications.

Attachments: Resolution and Administrative Policy and Procedure for Code Enforcement

TOWN OF LOOMIS

RESOLUTION NO. 16 - __

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS APPROVING AN ADMINISTRATIVE POLICY AND PROCEDURE FOR CODE ENFORCEMENT

WHEREAS, the Placer County Grand Jury reviewed the Town of Loomis code enforcement process for handling complaints and recommended that the Town of Loomis adopt a formal code enforcement policy and procedure, including a tracking system and measures to keep the complainant informed; and

WHEREAS, the Loomis Town Council has determined that the Administrative Policy and Procedure for code enforcement is important for the smooth and consistent operations of the Town.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Loomis that the Administrative Policy and Procedure for code enforcement (attached as Exhibit A) is hereby adopted.

PASSED AND ADOPTED this 9th day of August, 2016 by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Mayor

ATTEST:

Town Clerk



Exhibit A

TOWN OF LOOMIS

ADMINISTRATIVE POLICIES AND PROCEDURES

CODE ENFORCEMENT POLICY & PROCEDURE

Effective Date:	Resolution
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PURPOSE

The Town of Loomis has several ordinances that are designed to maintain a healthy, safe and clean environment for preserving the aesthetic aspects and quality of life for the Loomis community. Residents rely on Code Enforcement to enforce minimum livability, housing and sanitary/health conditions within their neighborhoods, in compliance with the Municipal Codes. The Code Enforcement program is mainly a complaint driven program. Not all complaints become active Code Enforcement Cases. A case is opened when it has been determined that a code violation has occurred.

POLICY

Town staff responds to code violation complaints by phone, in person, and complaint form and responds accordingly to the impact of the violation on the community. Situations that appear to pose a serious risk to health and safety are given top priority; others are pursued in the order in which they are received.

When a complaint is received the following steps are undertaken to address the violation:

Notification of Complaints/Violations

1. An inspection is scheduled to determine if the complaint has merit (pictures may be taken). If it does not have merit, the case is closed and the complainant will be called for an update.
2. If the complaint has merit the Code Enforcement Officer ("CEO") will type into the "Enforcement Tracking File" the information regarding this complaint to track the follow-up; then set up an address file for complaints, letters, pictures, code sections that are violated and citations.
3. First Contact: The CEO shall attempt to personally contact the responsible person by phone or in person, when initiating enforcement activities, and achieve voluntary compliance with the Code. The way in which a person is initially approached, informed of the possible violation, and notified that corrective action is required is of critical importance. It frequently will determine how the person elects to respond in regards to compliance. Good judgment, tact, and objectivity in performing the enforcement duties are essential. The town goal is voluntary compliance and the CEO should make it clear to the responsible person that this is their opportunity to correct the violation and avoid the need for further town action. In many instances, the person responsible for causing the violation may not be aware of the town regulations, and once the existence of a violation has been brought to their attention, they will generally make a good-faith voluntary effort to correct the violation in a reasonable timeframe for compliance. If the violation is abated the CEO will call complainant to update them on the compliance.
4. Second contact: If the voluntary compliance is not achieved after the CEO's initial contact with the responsible person or unable to contact the responsible party then the CEO will determine

who the responsible party is (legal owner) as well as the person that is in possession or control of the premises, property, vehicle or business. A "Warning Notice" (if not a health and safety issue) will be completed and mailed. The "Warning Notice" will include a copy of the Code violation, corrective action, and deadline for corrective action. The time provided to correct the violation will depend on the nature and extent of work required, the nature and circumstances of the violation, and the danger posed to the public. The CEO shall set a deadline that is not less than two days, nor more than thirty days, from the date of the warning notice. The Notice will be sent by Proof of mailing and regular mail, or hand delivered with a signed receipt, and a copy will be scanned into the Code Enforcement file folder under that address.

5. Continuing attempts for compliance: Staff may continue attempts to gain voluntary compliance by sending a second or third "Warning Notice." Citizens shall receive all due process and notices, as well as copies of documentation. When one or 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). If the violation is corrected CEO will contact complainant to update them on the status.
6. Reasonable Compliance: In a municipal environment of limited staffing and resources, the intent of the code may be taken into account over its literal wording. Reasonable compliance determination may be left to the discretion of the CEO.

Gaining Compliance

1. If all or any part of a violation set forth in a warning notice and/or continued attempts to gain voluntary compliance is not corrected the CEO may issue an "Administrative Citation" (Municipal Code Section 1.20.050) and which does not involve an immediate threat to health or safety. The CEO shall set a deadline that is not less than two day, nor more than thirty days, from the date of the warning notice. The CEO may serve the citation by hand-delivering (obtaining the person's acknowledgement of receipt of the citation) or Proof of Mailing and regular mail. After the citation deadline the CEO will do an onsite inspection to see if the violation has been abated (Section 1.20.040).
2. If a responsible party who has been issued a warning notice fails to take corrective action, or if a responsible party who has been issued an administrative citation commits multiple or continuing violations of the same code section, subsequent administrative citations, or one citation containing multiple counts, may be issued (Section 1.20.080). The amount of the penalties shall increase at the rate(s) specified in the civil penalty schedule (Resolution 00-04), except that, the amount of penalties assessed for the first violation and for multiple or continuing violations of the same code section exceed the following amounts:
 - a) first administrative citation: a fine not exceeding one hundred dollars;
 - b) second administrative citation within one year, or second count in citation containing two or more counts alleging multiple or continuing violations within one year: a fine not exceeding two hundred dollars;
 - c) third or subsequent administrative citation, or third and subsequent counts in citation containing three or more counts alleging multiple or continuing violations within one year: a fine not exceeding five hundred dollars.

The failure of a person to pay any penalty by the date specified in the administrative citation shall result in a late fee equal to one hundred percent of the amount of the penalty, not to exceed a total penalty and late fee of one thousand dollars.

3. Any property found to be maintained in violation of Section 7.04.010 is declared to be a public nuisance. If the owner fails, neglects or refuses to comply after warnings and citations have been given the Town Manager shall conduct an "administrative hearing on abatement of nuisance" to ascertain whether said violation constitutes a public nuisance (Section 7.04.040).

The notice of said hearing shall be served upon the owner not less than seven calendar days before the time fixed for hearing. Notice of hearing shall be served in person or by certified mail and regular mail to the owner's last known address.

The Town Manager shall receive testimony under oath relative to such alleged public nuisance to proposed rehabilitation, repair, removal or demolition of such property (Section 7.04.060). All hearings shall be tape recorded. If the Town Manager finds that such public nuisance does exist and that there is sufficient cause to rehabilitate, demolish, remove or repair the same, the Town Manager shall prepare findings and an order, which shall specify the nature of the nuisance, the method(s) of abatement and the time within which the work shall be commenced and completed. The order shall include reference to the right to appeal (Section 7.04.080), a copy of the findings and order shall be served to all owners of the subject property and a copy of the findings and order shall be forthwith conspicuously posed on the property.

Abatement Procedures

1. The Town abatement of nuisances on private property requires court ordered judicial authorization in the form of an abatement warrant. 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 Town to enter private property to abate a nuisance, a judge would only permit this action if there is evidence of a health and safety hazard which violates the Uniform Building Code or other Town ordinances.
2. Staff shall proceed with court order abatement action only as a last resort, when all other attempts to have the nuisance removed and all administrative remedies have been exhausted. The CEO may be authorized to file a request for abatement warrant to the Town Attorney, with prior approval from the Town Manager. The Town Attorney will send a letter to the property owner to give the property owner a final opportunity to comply. If there is no compliance within a set time then the Town Attorney will mail a "Final Notice and Warrant" to inspect the property and abate the nuisance on a certain date (also posted on property).
3. At this point staff will proceed with soliciting a contractor to complete the abatement on the date noted in the final notice. After completion of the work and final inspection by staff, the complainant shall be notified of the abatement. The cost of abatement, including unpaid administrative citations, shall be billed to the property owner of the alleged violation, and, if not collected within 30 days, staff shall begin lien procedure.

Lien Procedure

1. The Town Manager shall present an itemized report in writing to the Town Council showing the cost of abatement including demolition and any salvage value;
2. Prior to any submission to the Town Council, the report and notice of when the Town Council will consider the report must be posted on the property for at least five days;
3. A copy of the report and notice must be served on the property owners at least five calendar days prior to when the matter is heard by the Town Council (service can be either in person or by certified mail as provided by Section 7.04.050);
4. Proof of posting and service shall be made by affidavit filed with the Town Clerk;
5. The Town Council shall consider and confirm the total cost as indicated in the Town Manager's report;
6. Upon confirmation by the Town Council, the Town must record a "notice of lien" with the County Recorder (the notice shall be in a form that substantially complies with the form contained in Section 7.04.170);
7. After confirmation by the Town Council and recordation, the Town shall file a certified copy of its decision with the Placer County auditor-controller (if filed after August 1st, it will be subject to collection as part of the following year taxes);
8. In the alternative, the lien can be subject to foreclosure by judicial or other sale, and in any event, it will appear upon any title report if the owner attempts to sell the property.

Closing a Case

Cases are created to abate specific violations of the Loomis 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 Tracking File on the computer. If complainant hasn't been called already then CEO will call them for the final update of the closure of the violation.

Appeal Procedures

1. An Administrative Citation may be appealed within fourteen days of service. The appeal must be in writing and shall include a deposit of the full amount of the civil penalty assessed in the administrative citation. The notice of appeal shall include the contestant's current mailing address, shall set forth the basis of the appeal and shall be filed with the Town Clerk. If the owner fails to appear at the hearing, this failure will result in a forfeiture of deposit and will constitute a failure to exhaust administrative remedies.
2. An owner may appeal the Town Manager's Administrative Hearing on Abatement findings and order to the Town Council by filing an appeal with the Town Clerk within seven calendar days of the date of service of the Town Manager's decision. Section 7.04.080 states what the appeal shall contain.

As soon as practicable after receiving the appeal, the Town Clerk shall set a date for the Council to hear the appeal which date shall be not less than seven calendar days nor more than thirty calendar days from the date the appeal was filed. Council shall determine whether the property as maintained constitutes a public nuisance, if so, the Council will adopt a resolution declaring such property to be a public nuisance and order the abatement.

Department Responsibilities

Type of Violation	Responsible Department
Abandoned Vehicle Abatement: Public Property Private Property	CEO/Sheriff's Department CEO
Animal Control	Placer County Animal Control/w CEO
Building Codes	Building
Business License	Finance
Construction Noise/Activity: Business hours After hours	Building Sheriff's
Grading/Excavation	Engineering
Graffiti	Public Works
Illegal Structures	Building
Illegal Signs	CEO/Public Works
Parking On/Off Street Storage	CEO/Sheriff's Department
Public Right-of-Ways	Public Works/Engineering
Public Nuisance on Private Property	CEO
Weed Abatement	Planning/Building
Zoning Violations	Planning/Building/CEO

Record Keeping

All code enforcement cases shall be recorded into the Town "Code Enforcement Tracking" in the computer database, as a permanent record of all actions taken, of compliance achieved or of other status. The case will also be under the Code Enforcement Case Files by address on the computer where all pictures, letters, complaints will be stored.

Website

A Town of Loomis Code Enforcement webpage shall be maintained as up-to-date as possible for public awareness, access to complaint forms and more effective customer service.