



Code Enforcement Policy Guidelines

I. Introduction

The purpose of this policy is to provide guidelines to the Town's Code Enforcement Staff. The Town Staff is expected to act consistently with these policies, compliance or noncompliance with these policies, they may not be used as a defense in an enforcement action or civil infraction proceeding. Town Code Enforcement staff is authorized to use discretion in enforcement or in refraining from enforcement, so long as they do so in a non-discriminatory manner.

Code Enforcement staff is responsible for the enforcement of the Town's Ordinances, adopted Land Development Regulations, Town of Blue River Building Code, and all other issues as directed by the Town Administrator and Board of Trustees. These ordinances and codes are designed to protect the Health, Safety, and Welfare of all who live, work or visit our Town. They ensure a positive effect on property value, community appearance and Town pride.

1. Responsibility for maintenance of properties and the overall aesthetic appearance of neighborhood ultimately lie with the property owners and tenants of the Town. Properties that are not maintained fall into disrepair; deteriorate; devalue neighborhoods; become an encouragement to crime and lead to blight. As the Town grows and ages, it becomes more crucial and challenging to ensure that all property owners are aware of the ordinances and requirements for maintenance of their properties. Code compliance provides a viable effective means of educating and enforcing the Town's standards to ensure that our Town remains and continues to grow to become a model town for all to enjoy and admire.
2. Code Enforcement's primary goal is voluntary compliance. This is achieved through a proactive, comprehensive community communication initiative that stresses cooperation through education. When necessary, Code Enforcement Officers must use other steps to insure compliance. Enforcement procedures are outlined in this manual.

II. Mission Statement

To provide residents with the highest quality of service and to uphold and enforce Codes and Standards established to protect the Public, Health, Safety and Welfare of all residents, and visitors based upon priorities which are consistent with established standards. Courtesy and professionalism will serve as guiding principles which will permeate the character of the Code Enforcement Office, thereby ensuring that our determination to deter blight within the Town is tempered with sensitivity and compassion.

III. Objective & Goals

1. Educated the public about the Town Codes and Ordinances and to obtain voluntary compliance.
2. Strive to perform duties in a fair, professional and courteous manner.
3. Protect the Health, Safety, and Welfare of all property owners, residents, tenants, businesses and visitors.

4. Develop and establish standards and ordinances that ensure positive effects on property value, community appearance, and neighborhood pride.
5. Partner with other agencies to reach common goals.
6. Establish and maintain a proactive environment to help solve community issues and stay at the forefront of creative and effective Code Enforcement.

IV. Priorities

The Town of Blue River has identified the following areas of priority for code enforcement:

- ❖ Enforcement of life, health and safety violation
- ❖ Common Law Nuisances
- ❖ Illegal Parking
- ❖ Goose Pasture Tarn Restrictions
- ❖ Timely monitoring and enforcement of permit and approval conditions
- ❖ Abatement of nuisances
- ❖ Stop work orders for non-permitted activity
- ❖ Procedures to obtain compliance and recovery of enforcement costs

A. Priority Cases

- a. Violations presenting an imminent threat to public health and safety.
- b. Building Code violations consisting of ongoing non-permitted construction or failure to obtain permits for construction started after the effective date of this manual.
- c. Land use violations
 - i. Specifically Goose Pasture Tarn restrictions/use
- d. Planning and Zoning permit violations.

V. Adoption of Standard Operating Procedures

The Town Administrator may adopt additional standard operating procedures to implement Town of Blue River provisions relating to code enforcement and these policies.

VI. Interpretation

These policies and procedures are to be interpreted to maximize both efficiency of town code enforcement and compliance with town codes. Nothing in this policy manual shall be interpreted to require the Town to act or to refrain from acting or to establish a standard of care for town actions.

VII. Code Enforcement

Code enforcement should follow the priority ranking but be flexible to allow enforcement that fits the type and circumstance of the code violation(s).

A. Enforcement Mechanisms

- a. Obtaining voluntary compliance

- b. Mediated settlement of code violation complaints
- c. Notice of Violation (NOV)
- d. Informal and formal Enforcement Methods
 - i. Informal
 - 1. Informal methods will be used whenever possible, and should be used at the initiation of a case unless extenuating circumstances exist.
 - a. Personal contact
 - b. Verbal education
 - ii. Formal
 - 1. Formal methods are required to show proof of due process.
 - a. Written warnings
 - b. All official notices and citations
 - c. Adjudication of cases before Municipal Court
- e. Citation and prosecution of infractions in municipal court
- f. Petition for injunction in circuit court
- g. Stop work order
- h. Permit revocation
- i. Nuisance abatement
- j. Assisting in enforcement by other regulatory and licensing agencies
- k. Any other remedy under Town Code or existing law.

VIII. Performance Standards

Code Enforcement handles violations from trash and debris, dogs off leash, to building codes. It is important, reasonable and equitable to inform all parties involved as to all violations found at the time of inspection.

In General:

- i. Personal contact is our most valuable tool
- ii. Treat every case as an opportunity to educate
- iii. Use informal methods first wherever possible
- iv. Always show respect, be courteous, polite and professional
- v. Always use commonsense
- vi. Always be careful and use officer safety techniques
- vii. Never exit your vehicle without your issued cell phone
- viii. Follow up on cases is vital.

IX. Initiation of Code Enforcement

Code Enforcement may be initiated by any of the following methods:

- 1. Citizen Complaint. Any person may make a complaint to the Town alleging one or more code violations.
 - i. Form. A citizen's complaint may be made on a town complaint form. Staff may transfer information received onto a complaint form. Complaints processed by code enforcement staff may be directly recorded into the code enforcement database.

- ii. Anonymous Complaints. The Town's policy is to not accept anonymous code violation complaints. Nothing in this policy precludes the Town from investigating any violation.
- iii. Observation. Town staff may initiate enforcement any time a violation is observed.
- iv. Permit/Approval Condition. Town staff shall conduct timely monitoring of ongoing conditions of approval for all permits and approvals as time and resources allow.
- v. General. Information from other sources may reveal code violations and may be investigated.

X. Recording Complaint, Opening File and Timelines

- A. Recording Complaint/Opening File. All code enforcement complaints shall be recorded in the Town software system. Recording the complaint shall consist of assigning the complaint a case number and entering into the computer following minimum information:
 - a. Case number
 - b. Site location
 - c. Date received
 - d. Name of the reporting person, telephone number and any other applicable personal information
 - e. Type of violation
 - f. Name of property owner in question
 - g. Code Enforcement name
 - h. Any applicable photos
- B. Projected Timeline. When a file is opened, and before an investigation of the complaint is commenced, code enforcement shall establish a projected timeline for investigating the complaint and issuing a Notice of Violation. This timeline should be based on consideration of the following criteria:
 - a. Type of alleged violation
 - b. Priority ranking of the violation(s)
 - c. Timeline established in this manual and elsewhere for processing code violation complaints.

XI. Investigation

- A. At the beginning of each investigation, the following shall be established.
 - a. Jurisdiction. The property upon which the alleged code violation has occurred must be land over which the Town has code enforcement jurisdiction.
 - b. Zoning. The zoning of the subject property shall be determined, if relevant.
 - c. Permit Status. The status of any land use, and building permits on the subject property shall be determined, if relevant.
 - d. Property Ownership. All persons with a recorded legal interest in the subject property should be identified. These persons should include the owners, contract purchasers, lessees and lien-holders or other security interest holders.

- e. Other Potentially Responsible Persons. In addition to the persons listed in subparagraph 4 of this paragraph, any other persons potentially responsible for the alleged code violation(s) should be identified. These persons could include tenants, construction and landscape contractors and excavators.
- f. Identification of Applicable Code Provisions. The code enforcement staff, with the assistance of other Town staff and Town legal counsel as necessary, shall identify the pertinent provisions of the town codes that may have been violated according to the complaint.
- g. Prior Complaint History. The code enforcement staff shall examine records to determine the existence and status of any prior or existing code violation complaints on the subject of property or concerning the alleged violator.
- h. Photos. Where necessary, photos shall be taken of alleged violation. The photos shall be recorded with property and attached to violation.

B. Establishing the Elements of a Violation.

- a. Notice of Violation shall be sent to all responsible persons, prior to conducting a field investigation. The Notice shall provide a minimum of 5 days for the violations to be abated on the subject property or to contact Town staff to negotiate terms for compliance.
- b. The Town staff and Town legal counsel as necessary, and after any necessary field investigation, shall determine if the following elements have been established:
 - i. Responsible Person: The person or persons who are reasonably believed to have committed the code violation, or who are or may be legally responsible for the alleged code violation, have been identified.
 - ii. Alleged violation Occurred or is Occurring: A complaint may allege a code violation that occurred in the past (e.g., construction without a permit) or that occurs only intermittently (e.g., periodic non-permitted commercial activity in a residential zone.) Town staff shall determine whether there are reasonable grounds to believe that the alleged violation did or does occur. Such grounds may be established either by personal observation by Town staff, or by reliable evidence from a complainant. If Town staff determines that reasonable grounds do not exist, no enforcement action should be taken until the complainant or Town staff has had a reasonable opportunity to develop such grounds. If no reasonable grounds are developed within a reasonable period, the case should be resolved by the file closure as provided in section XIV of this manual.

C. Field Investigation

- a. Purpose.
 - i. To verify the existence and severity of code violations;
 - ii. To document code violations by means of written notes, photographs, witness interviews, etc.;
 - iii. To obtain supporting evidence, such as the names and statements of potential witnesses; and
 - iv. If possible, to discuss with the property owner, occupant or other responsible person;
 - 1. The nature of the code violation(s);

2. Methods for complying with the code(s);
 3. Timelines for code compliance;
 4. Code enforcement procedures; and
 5. Potential consequences for failure to comply
- b. Preparations and Precautions
- i. Town staff, as well as members of the public, should not be exposed to unreasonable risks of violent confrontation or injury during the course of field investigations. Town staff shall take whatever actions are reasonable and necessary to minimize the known risk of violent confrontation or injury to themselves or others in conducting their field investigations.
 1. Law Enforcement Assistance. When appropriate, the Town staff should contact the sheriff's office to determine if there have been previous criminal complaints or investigations concerning the subject property or alleged code violator, and whether, in the opinion of the sheriff's department, a field investigation would present any threat to the safety of the code enforcement staff, other staff, the alleged code violator or other persons present during a field investigation. The Town staff may request enforcement assistance in conducting the field investigation, and may postpone such investigation until law enforcement assistance is available.
 2. Announced/Unannounced Field Visits. At the discretion of Town staff, a field visit to the subject property may be conducted with or without prior notice to the property owner, occupant or alleged code violator. The determination of whether or not to give prior notice shall be made on the basis of the following criteria:
 - a. The nature of the alleged violation;
 - b. Whether or not prior notice will make detection and documentation of the alleged violation more difficult, and
 - c. Whether or not prior notice will unnecessarily increase the known risk of violent confrontation or injury to the Town staff.
 3. Right of Entry. When it is necessary to make an inspection to enforce the provisions of town code, or when Town staff has reasonable cause to believe that there exists in a building or upon a premise a condition which is contrary to or in violation of town code which makes the building or premise unsafe, dangerous or hazardous, Town staff may enter the building or premise at reasonable times to inspect or to perform the duties imposed by town code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. Entry to a building or premise shall be according to law. If entry is refused, Town staff shall have recourse to the remedies provided by law to secure entry.

D. Report of Field Investigation. Upon completion of the field investigation, Town staff shall enter their findings into the code enforcement computer file. The report shall include the following information:

- a. Name of investigator
- b. Date, time and place of field visit
- c. Code violation(s) observed
- d. If no code violation(s) observed, explanation
- e. Witnesses, if any, interviewed
- f. Evidence, if any, obtained (e.g., photographs)
- g. Discussion, if any, of violation with owner, occupant or other responsible person
- h. Action necessary to correct violation, and
- i. Recommended enforcement action

XII. Enforcement Procedures

A. Voluntary compliance without Penalty

- a. Policy. It is the Town's policy to encourage voluntary code compliance by providing code violators and other responsible persons with the opportunity during code enforcement to comply with the codes with little or no penalty. Voluntary compliance generally is less expensive for all parties and of a more satisfactory and lasting nature than involuntary compliance.
 - i. In some cases, allowing code violators the opportunity to voluntarily comply may result in abuse of this opportunity in order to delay compliance. Therefore, a time frame for compliance should be part of any voluntary compliance.
 - ii. Voluntary compliance without penalty or cost recovery will not be allowed where the alleged violation is a repeat offense either on the subject property or by the code violator, or where the original violation was not corrected following prior code enforcement action.
 - iii. Following the issuance of a Notice of Violation, if the alleged violator admits the violation(s) and requests extended time for voluntary compliance, the alleged violator shall sign a "Voluntary Compliance Agreement." The agreement shall provide that, in exchange for the extended time for voluntary compliance, the alleged violator agrees to abate the violation(s) by a specified time, and consent to judgment against him/her if voluntary compliance is not obtained during the extended time allowed by the Town and a citation is filed in court. All penalties may be doubled if the voluntary compliance agreement is violated.
- b. Notice of Violation.
 - i. The Town staff may issue a notice of violation to the property owner and any responsible party when there are reasonable grounds to believe a violation did or does occur. Notice of violations shall be sent standard and/or certified mail to the most recent known address for the property owner(s) and other responsible person(s). The notice of violation shall establish a deadline for compliance.
- c. Citation and Complaint

- i. Where voluntary compliance is obtained within a reasonable time, a citation may be issued as provided by the Town Code
- d. Stop Work Orders
 - i. The Town may issue stop work orders to assure compliance with permits and approvals or when otherwise authorized by applicable law.
 - ii. A stop work order may be issued for non-compliance with permits or approvals or for doing work without a permit or approval when a permit or approval is required.
 - iii. If construction, installation or land use activity continues after the issuance of a stop work order, the activity shall be reported to code enforcement. The Building Official or Designee shall cite the violator.
- e. Nuisance Abatement. The Town Code authorizes the abatement of code violations that are defined as “nuisances.”
- f. Town Cost Recovery. The Town incurs costs investigating code violations and enforcing codes. They include the cost of personnel and equipment, legal advice and representation, service of summons, and administrative expenses. It is the policy of the Town to maximize code enforcement and to increase the incentives for code compliance by recovering its reasonable code enforcement costs from code violators when authorized by the Town Code.

XIII. File Closure

Code enforcement files may be closed for the following reasons:

1. When no code violation is found after investigation
2. When there is voluntary compliance
3. When a judgment is entered resolving the matter
4. When an injunction has been issued and the property owner or other responsible person has corrected the violation
5. When investigation and prosecution of the violation(s) have been completed by a federal or state agency to which the town deferred code enforcement
6. When it is determined in writing that the code violation(s) are not likely to be successfully resolved within a reasonable timeline, due to factors outside the Town’s control

The Town may send written notice to the complainant when the complaint is resolved, describing the resolution.