



CITY OF FORT BRAGG

CODE ENFORCEMENT PROGRAM PROGRAM GUIDELINES

Adopted:
March 22, 2021

Code Enforcement Program Requirements

Overview

Code enforcement is an allowable activity under HUD's CDBG Program as provided for in Section 570.202(c) of CDBG regulations as follows:

570.202(c) Code enforcement. Costs incurred for inspection for code violations and enforcement codes (e.g., salaries and related expenses of code enforcement inspectors and legal proceedings, but not including the cost of correcting the violations) in deteriorating or deteriorated areas when such enforcement together with public or private improvements, rehabilitation, or services to be provided may be expected to arrest the decline of the area.

The following outlines policies and procedures to ensure compliance with Section 570.202(c) of the CDBG regulations.

Eligible Uses of Funds

1. CDBG funds may be used for Code Enforcement activities in primarily residential areas with deteriorating or deteriorated conditions where such enforcement, together with public or private improvements, rehabilitation, or services may be expected to arrest the decline of the area and benefit low to moderate income persons/households. (The City of Fort Bragg does not have identified public funds available for rehabilitation through this program.)
2. The Program will emphasize health and safety issues identified with buildings and structures on residential properties. Other property maintenance issues such as overgrown yards, abandoned and inappropriately parked vehicles, etc. may be addressed in conjunction with code enforcement efforts involving buildings and structures located on same property.
3. Eligible costs for code enforcement funded by CDBG are limited to activities within the Program areas only and include the following:
 - a. Salaries of staff conducting inspections and performing follow-up necessary to ensure compliance by responsible parties.

- b. Procurement of outside code enforcement inspection specialists/companies to perform code inspections.
- c. Legal costs of enforcing compliance including but not limited to City Attorney fees, litigation or mediation expenses, administrative hearings, and/or court costs as warranted.
- d. Cost of processing and issuing citations and collection and processing of fines assessed.

Ineligible Uses of Funds

- 1. The costs associated with inspections for the purpose of processing applications for rehabilitation assistance and overseeing such rehabilitation.
- 2. The costs associated with correcting code violations identified during inspections.
- 3. Any use not expressly listed above as an eligible use of CDBG funds.

Program Area

The Program area is the city limits of the City of Fort Bragg. The City of Fort Bragg qualifies as a CDBG Low-to-Moderate Income Area (LMA) with a population of more than 51% or residents being Low-to-Moderate income.

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I. PURPOSE OF PROGRAM ¹

1. Increase the effectiveness of code enforcement efforts to preserve and improve the quality, health, and safety of living standards and visual aesthetics of the City of Fort Bragg.
2. Define clear guidelines for enforcement of City codes including the California Building Code, Fort Bragg City Zoning Codes, Health & Safety and other applicable codes from receipt of initial complaint through resolution of a case.
3. Preserve and improve the quality, health and safety of Fort Bragg's rental housing stock by:
 - a. Gaining compliance with applicable housing codes
 - b. Optimizing positive relationships with owners, tenants and neighbors
4. Define the roles and responsibilities of staff, citizens, the City Council, and the Planning Commission.
5. Prevent unnecessary duplication of effort among staff, elected, and appointed officials and citizen groups.
6. Eliminate citizen confusion about the City code compliance policies and ensure due process rights of citizens and the appeals process are clearly defined and well respected.
7. Provide resolution of most cases at the lowest possible administrative staff level to minimize conflict among residents, property and business owners, owners and tenants of rental properties, and the City.
8. Provide a fair process for obtaining compliance to housing code violations.
9. Ensure each case is handled as fairly and carefully as possible with the same standards applied equitably and consistently.
10. Create incentives for rapid compliance by violators.
11. Permit the City to recover costs of abatement through imposition of lien or special assessment if the City is forced to become directly involved in the abatement of a code violation.
12. Pursue proper compliance with City codes while protecting the constitutional rights of the citizens of Fort Bragg.

¹ These Program Guidelines were designed to reflect a new Program. Where these Program Guidelines seem to conflict with City Codes, such inconsistency will be amended during the term of the Program.

II. INITIALIZING COMPLAINTS

There are two ways for a code enforcement case to be originated; complaints received and proactive inspections. 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 agencies. Complaints are preferred in written form via email, through the City's "report a problem" website or paper submittal City Hall, and can be received by any staff member. Alternately complaints can be taken by phone and transmitted through the same process. All complaints received will be referred to the appropriate party for investigation.

Complaints are processed on a first come first serve basis, with the priority assigned relative to the seriousness of the problems. Violations that pose an immediate threat to public health and safety take priority over lesser offenses.

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.

Staff shall not accept anonymous complaints for investigation. All valid complaints shall minimally include a first name, last name, and contact phone number and/or email address of the reporting party. Staff shall follow a policy of maintaining the confidentiality of all reporting parties' information. Additionally, staff is not required to provide information to subjects who refuse to provide their name and/or address.

NOTE: The City of Fort Bragg emphasizes a positive relationship among City staff, property owners and tenants. Tenants are encouraged to first report property maintenance problems to property owners to give them the opportunity to correct these problems. Owners are voluntarily encouraged to comply with Housing Codes. If there is no satisfactory response from an owner, the tenant is encouraged to request a City inspection to investigate unsafe or unhealthy conditions involving code violations. When necessary, the City shall enforce the codes in coordination with the owner, tenant, and agency resources.

B. Proactive Inspections

City staff may identify code violations (from the public right-of-way) while driving through or working in the City. However, staffing priorities are to process requests for code investigations and resolution of open enforcement cases before allocating the time for arbitrary "searching" for code violations addressing unreasonable amounts of a specific type of violation throughout the City.

C. Directive Enforcement

Managerial staff may provide directive enforcement of a particular type of violation based upon

specific requests of the City Council.

III. PRIORITY RATING OF COMPLAINTS AND DESCRIPTIONS

Complaints are separated into four classifications based on seriousness of conditions registered within the complaint.

Type 4 - Complaints of serious life and safety issues in structures, nuisance conditions such as abandoned buildings that provide setting for illegal activities, environmental crimes requiring intervention by FBFD and other interdepartmental requests for cooperation. Cases will be assigned and inspection performed within 24 hours of receipt of complaint.

Type 3- Complaints of illegal second unit, construction without permits, change of use without permit, establishment of an un-permitted use substandard housing conditions that are not life/safety in nature, and other similar code enforcement activities. Cases will be assigned within 15 working days of receipt of complaint.

Type 2- Complaints of building maintenance, unsafe dangerous building, nuisance conditions, condition of approval violation, illegal home occupation, blight, and other similar code enforcement activities. Cases will be assigned within 15 working days of receipt of complaint.

Type 1- Complaints of issues such as illegal signage permit, fence & retaining wall issues, expired permit, overgrown vegetation, lawn parking, inoperable vehicle, broken windows, and other similar code enforcement activities. Cases will be assigned within 20 working days of receipt of complaint.

V. 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

City staff shall exhaust all efforts to gain consent by owner or tenant for an inspection prior to obtaining a warrant.

V. NOTIFICATION OF COMPLAINTS/VIOLATIONS

All notifications to be mailed by First class and Certified mail, at the request of case officer or supervisor.

A. First Contact - Courtesy Notice

Upon initial identification of a code violation, staff shall issue a Courtesy 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 shall go out to responsible parties requesting a site inspection.

For low priority violations staff may inform the owner or responsible party of the complaint received and identify the City Code potentially being violated. A request for voluntary compliance without further action may be noted. Additional complaints received will require additional staff time to substantiate the violation and verify compliance.

B. Second Contact - Failure to Abate

If noted violation(s) are not corrected by the compliance date, a second notice or Failure to Abate will be issued shortly after the designated time period has passed, either through personal contact and/or by first class mail to the responsible party after the designated time period has passed. This second notice will contain stronger language, specifying potential recourse, legal actions and costs to be incurred. If no measurable progress has been made by the latest compliance date, or the responsible party has not entered into a contractual agreement with the City specifying a reasonable timeframe for compliance, staff may pursue other options for gaining compliance, as discussed in detail in Section VI GAINING COMPLIANCE.

C. 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.

D. Nature/Tone of Notices

The nature of all notices will be straight forward, identifying the specific code violation and the abatement action requested unless noted otherwise.

E. Continuing Attempts to Gain Compliance

When two notices have been issued and voluntary compliance is not achieved, staff will continue to work toward compliance by issuing a code enforcement fee and 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.

VI. 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. Code Enforcement Fee

Section I. Fort Bragg City Code allows for the issuance of a Code Enforcement Fee. Fees may be issued in lieu of misdemeanor citations and for violations of either the Fort Bragg City Municipal Code and or the Fort Bragg Zoning Code. A Code Enforcement Fee shall be mailed via First Class mail with a copy of the issued citation advising of a final compliance date for corrections of an existing violation. Failure to comply by this date may result in the immediate issuance of an additional citation with a double fee.

B. Misdemeanors

If a violation occurs, issuance of a misdemeanor citation may be utilized as an avenue for enforcement purposes unless expressly provided otherwise by the code.

C. Nuisance Abatement

When a code violation has been identified, the presence of the violation may qualify a structure as a "substandard building" under the State of California Health and Safety Code and be pursued as such. The City may embark on its own due process procedure to determine whether a nuisance exists through a Nuisance Abatement Hearing. If it is determined that a nuisance exists, the City may abate the nuisance through its own forces if compliance cannot be voluntarily gained, and recover any costs by placing a lien, or special assessment lien, on the subject property.

D. 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. Reasonable compliance determination may be left to the discretion of the enforcement officer.

E. Notice of Noncompliance

If a violation of the Fort Bragg municipal Code exists on a property and the responsible party has failed to adequately address the issue within the prescribed time frame listed for compliance, the City may file a Notice of Non-compliance with the Mendocino County Recorder's office against the property title as an indication that building code violations exist on the property.

For low priority enforcement cases, no additional staff time shall be allocated to resolution of the enforcement case until the property owner or responsible party requests assistance. The Notice of Non-Compliance shall not be removed until the enforcement case has been fully resolved and the fee to remove the Notice has been received.

VII. ABATEMENT PROCEDURES

Any City 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 City 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 California Building Code or other City ordinances.

A. Neighborhood Nuisance Abatement Ordinance

City Council Resolution 4193-2019 authorizes the City of Fort Bragg to enforce its ordinances through criminal prosecution to abate any nuisance which poses a health and safety hazard to the community. City of Fort Bragg has appointed a City Attorney.

B. Authorization to Abate Nuisances

Staff will proceed with court 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 shall be authorized to file requests for abatement warrants, with prior written approval of the City Manager.

The City Attorney is authorized to file these requests with the appropriate court. Staff and the City Attorney shall notify the responsible party of the City's intention to file a court action to give the responsible party a final opportunity to comply. The City Council shall 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 outlined in the Administrative Review of Ordinance Violations. After obtaining an abatement warrant, staff is authorized to proceed with soliciting contractor bids to complete the abatement. The property owner, or responsible party of the alleged violation, may have the opportunity to provide a bid within a reasonable timeframe from a licensed and insured contractor which is lower than the bids received by the City. 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 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 senior staff, and administrative support. In addition, City Attorney time for court preparation, code enforcement training, 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 citations fees constitute a very powerful tool for encouraging early voluntary compliance. The City shall recover its costs of abatement under the following guidelines:

A. Administrative Fees

Administrative Fees for staff time shall be established to be assessed when any enforcement case has been scheduled for administrative hearing due to lack of voluntary compliance. Upon refusal of the property owner to comply with the City Municipal Code, hours shall begin to be charged to a case and a record of costs maintained in the case tracking system. The cost for administrative fees shall be included in the recommended penalty to be determined by the Administrative Hearing Officer.

Administrative Fees for staff time shall be established to be assessed for any staff time spent to gain compliance with city codes including facilitating issuance of building permits and billed at time of issuance of the building permit.

B. Investigation Fee for Building permits

The City shall charge an investigation fee for any code violation that requires a building permit to resolve the enforcement case. The investigation fee shall be equal to the building permit fee required for the project.

C. 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 lien against the real property for any amounts not paid by the property owner, or responsible party, of the alleged violation within 30 days of abatement. These costs shall include contractor and administrative costs incurred in abating the nuisance..

D. Penalty Fees Assessed by Administrative Hearing Officer

A penalty fee may be charged for all enforcement cases that are upheld by the Administrative Hearing Officer during an Administrative Hearing. The fee shall be assessed as identified in the Administrative Hearing Ordinance. Failure to pay penalty fees may be cause to establish liens on property tax.

IX. CLOSING A CASE

Cases are created to abate specific violation(s) of the City of Fort Bragg Municipal code and Land Use codes. Once these violations are resolved, abated or found invalid, the case will 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 an Administrative Civil Citation issued by staff regarding a violation of the City Code shall be to the Administrative Hearing Officer. The hearing officer shall be the City Manager or any person or persons appointed by the City Manager to conduct hearings pursuant to this chapter.

The decision of the Administrative Hearing Officer may be appealed to the Mendocino County Superior Court.

B. Timeliness of Appeals

Appellants must file appeals within the applicable time limits set forth under the Fort Bragg Municipal Code Chapter 1.06.

X. ADMINISTRATIVE REVIEW OF CODE VIOLATIONS

The purpose of an Administrative Review of Ordinance Violations is to maintain the appearance and condition of real property, enhance property values in the City, ensure rental housing health and safety and to avoid deterioration of neighborhoods and commercial centers. Chapter 6.12 of the Fort Bragg Municipal code defines public nuisances which create visual blight and hazardous conditions which may be detrimental to the public's health and safety.

XI. OTHER PROGRAM COMPONENTS

A. Staff Conduct and Customer Service

Good customer service is of primary importance for the Code Enforcement Program in working with property owners, especially with tenants and owners. Code Enforcement staff and support staff are expected to always be businesslike and professional in their public interactions. As a public servant, Code Enforcement staff are instructed to:

1. Introduce him/herself and handout business cards in performing on-site inspections.
2. Provide complete but brief reason for being on the property.
3. Be polite and helpful and not officious.
4. Avoid confrontation and leave premises if the situation warrants departure.
5. Not allow personal biases to affect professional demeanor and decisions.

B. Interdepartmental Coordination

Upon self-initiated interdepartmental coordination, the Code Enforcement Officer shall serve as the primary code enforcement officer 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, conformance to grading requirements as they relate

to a specific parcel of privately held land.

C. Staff Training

It is the responsibility of the supervisory staff to ensure that field and office staff are properly trained to perform their job successfully. In addition to training in the technical aspects of their job, staff is trained: to use and apply these Program Guidelines; to learn the fee schedule; to understand the role other agencies and programs may contribute to assist tenants and owners with their housing related needs; and to provide the level of customer services that is acceptable to and consistent with the program.

D. Departmental Responsibilities

Department responsibilities for code enforcement are assigned as follows:

Administrative Assistant (Community Development)

- Takes reports/complaints from the public and other City departments.
- Initiates investigations, including researching relevant code sections, taking photos of violations, creating a file for violation.
- Maintains code enforcement files and database

Assistant Planner (Community Development)

- Conducts field inspections and investigations of planning projects to assure compliance with applicable codes, laws, and specifications.
- Enforces zoning rules and regulations; activities include phone contact with code complaint lodgers, phone contact with code violators, preparation of letters to enforce the code, follow up with additional letters and fines for code enforcement.
- Prepares code enforcement letters, updating and maintain files in coordination with Administrative Assistant, tracks violations, follows up on correspondence, and communicates with appropriate departments.

Community Service Officer/Peace Officer (Police Department)

- Takes reports/complaints from the public and forwards to Community Development.
- Prepares code enforcement letters, follows up on correspondence, and communicates with responsible parties and other departments.
- Assist with home inspections, preparation and service of abatement warrants.
- Facilitates resolution of Type 4 violations and responds to other situations requiring police intervention as needed.
- Pursues Misdemeanor charges in accordance with VI above when necessitated.

E. 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 these guidelines and the City's Municipal Code. These revisions shall be drafted for City Council approval. These recommendations will come under a separate staff report.

Preserving and improving the rental housing stock in the City of Fort Bragg is a priority, and developing processing and guidelines to increase the relationship between code enforcement and healthy housing will be implemented into the Code Enforcement Program over time.

F. Record Keeping

All code enforcement cases shall be recorded into a City code enforcement computer database or file, 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. 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.

G. Public Education

- 1) Informational brochure(s) describing the City of Fort Bragg Code Enforcement Program and/or code enforcement guidelines and expectations may be created and amended as appropriate for public education.
- 2) Information brochure(s) and community workshops informing tenants and owners of rental housing safety standards.
- 3) Written articles addressing code enforcement changes, updates and/or revisions may be included within the City of Fort Bragg public newsletter in order to better inform the community of possible future action.
- 4) A "user-friendly" City of Fort Bragg Code Enforcement Program webpage may be created and maintained as up-to-date as possible for public awareness and more effective customer service.
- 5) Informational kiosks advocating knowledge of enforced codes may be set up/manned at community functions (i.e.; Farmer's Markets, etc.) or commercial establishments with property owner permission in order to raise public awareness.
- 6) A "Press Release" may be created and forwarded to local newspaper agencies upon the start or completion of a notable code enforcement event or abatement which may impact the community.

H. Rental Housing Protection

To ensure the health and safety of the City's rental housing market the Community Development Department staff will work with the Housing and Economic Development Coordinator and other community organizations to develop practices, programs and guidelines which may include the following elements:

- 1) Rental housing inspections and permitting procedures
- 2) Annual Owner Self-Certification Rental Unit Safety Checklist
- 3) Rental Housing Preservation Plan
- 4) Fair Housing Certification Plan

I. Fiscal Management

1. The Community Development Department is responsible for the oversight of the use of CDBG funds for code enforcement activities.
2. All costs must be in compliance with the Office of Management and Budget Circular (OMB) A-87 and with the principles set forth below:
 - a. Be necessary and reasonable for the proper and efficient performance of the Program. The Community Development Director or designee shall have final authority to determine in good faith whether an expenditure is “necessary and reasonable.”
 - b. Conform to the limitations within these Program Guidelines and to any governing statutes, regulations and ordinances.
 - c. Be fully documented and determined in accordance with approved accounting procedures.
 - d. Not be included as a cost or used to meet cost sharing or matching requirements of any other funding source in either the current or a prior period.
 - e. Document all costs by maintaining complete and accurate records of all transactions, including but not limited to: citations, timecards, and/or other official documentation evidencing in proper detail the nature and propriety of all charges.
 - f. Submit to HUD or City at such times and in such forms as HUD, or City, may require, statements, records, reports, data, and information pertaining to the Program.
3. Combined eligible code enforcement staff and legal costs may be charged to the Program up to but not exceeding the amount of CDBG awarded to the code enforcement activity.
 - a. Staff costs shall be based on hourly data reported in the City’s timekeeping system.
 - b. Detailed Program activities shall be documented on a case by case basis in the

City's system.

- c. Requests for reimbursement for eligible expenses and documentation demonstrating that these costs are eligible CDBG code enforcement expenses shall be submitted in writing by the Code Enforcement Division to CDBG staff for review and approval.
- d. Eligible charges exceeding the CDBG grant will be paid from other City funds such as the General Fund.
- e. Unused CDBG code enforcement funds at the end of the grant term shall be returned to the Grantor.

Revenue from Code Enforcement Inspections and Enforcement of Codes

Fees resulting from codes violations are not considered Program Income. Revenue from code enforcement fees should be treated either as applicable credits against expenditures or general revenues.

Code Enforcement fees should be treated as general revenue if:

- 1) The purpose of the fee is not to recover the cost of the code inspections and enforcement;
- 2) The costs of carrying out the code inspections and enforcement were not paid with CDBG funds; or
- 3) The amount of the fee exceeds the costs paid with CDBG funds.