



A Tradition of Stewardship
A Commitment to Service

Code Compliance Policies and Procedures Manual

Planning, Building
and Environmental
Services Department

Napa County Code
Compliance Division

Table of Contents

1.0	POLICY DESCRIPTION: OVERVIEW	1
1.1	Prioritizing Code Cases.....	2
1.2	Chain of Command	3
1.3	Training	3
1.4	Problem Oriented Policing Program.....	3
2.0	CASE MANAGEMENT	4
2.1.	Performance Measures.....	4
2.2	Records Organization and Electronic File Naming	5
2.3	Citizen and Staff Complaints	6
2.4	Initial Steps, Investigation, and Informal Efforts to Obtain Voluntary Compliance and Correction of Violations.....	7
2.5	Requests for Extension	8
2.6	Scope of Inspection and Expectation of Privacy.....	8
2.7	Consent.....	9
2.8	Juveniles	10
2.9	Documentation.....	11
2.10	Photographs.....	11
2.11	Notification of All Interested Parties.....	12
2.12	Complaint Follow-up	12
3.0	ADDITIONAL ENFORCEMENT STEPS TO BE TAKEN IF INFORMAL EFFORTS TO OBTAIN COMPLIANCE ARE NOT EFFECTIVE.....	13
3.1	Overview of Citations and Notices and Referral to Counsel	13
3.2	Procedures Regarding Citations (Napa County Code Chapter 1.28).....	13
4.0	NOTICES OF NUISANCE AND NOTICES OF NUISANCE ABATEMENT (NAPA COUNTY CODE CHAPTER 1.20).....	19
4.1	Issuance and Contents of a Notice of Nuisance	19
4.2	Manner of Giving Notice	21

4.3	Issuance and Contents of Notice of Nuisance Abatement.....	21
4.4	Notice of Violation and Order to Repair or Abate Substandard Conditions Under California Health & Safety Code Sections 17920- 17928, 17980 and 17980.6.....	22
5.0	WARRANTS.....	24
5.1	Inspection Warrants.....	24
5.2	Process to Obtain a Warrant.....	24
6.0	REFERRALS TO COUNTY COUNSEL OR THE DISTRICT ATTORNEY.....	26
6.1	Referral to County Counsel.....	26
6.2	Referral to District Attorney.....	27
7.0	LITIGATION.....	29
7.1	Initiation of Litigation and Authority.....	29
7.2	Settlement Authority.....	29
7.3	Pending litigation.....	31
8.0	BUILDING PERMITS.....	33
9.0	USE PERMITS AND GENERAL GUIDELINES FOR PBES STAFF WHO PROCESS PERMITS TO CORRECT VIOLATIONS.....	35
10.0	RECEIPTS AND PAYMENTS.....	36
11.0	PERSONNEL.....	37
11.1	Officer Safety - Basic Officer Safety Rule.....	37
11.2	Expectations.....	39
11.3	Threats, Assaults and Batteries.....	39
11.4	Avoiding Conflict.....	39
11.5	Use of Force.....	40
11.6	Reporting.....	41
12.0	CONTRACTORS.....	42
12.1	Referral of Contractors to Contractor State License Board.....	42
13.0	SPECIFIC URGENT CIRCUMSTANCES.....	43
13.1	Failed Septic.....	43

13.2	Polluted Water/Mosquito Complaint.....	43
13.3	Unsecured Hazardous Pool.....	44
13.4	Utility Violations - Lack of Utilities in a Dwelling.....	44
13.4	Disconnection of Utilities.....	45
FORMS.....		1
Form 1 –Informational Sheet.....		2
Form 2 – Complaint Intake Form		5
Form 3 – Inspection Request		6
Form 4 – Citation.....		7
Form 5 – Request for Hearing		9
Form 6 – Advance Deposit Hardship Waiver.....		10
Form 7 - Notice of Additional Penalties		14
Form 8 – Reserved.....		17
Form 9 – Reserved.....		18
Form 10 –Notice of Nuisance		19
Form 11 – Notice of Nuisance Abatement and Hearing		21
Form 12 – Notice of Violation – Substandard Housing Conditions.....		24
Form 13 – Request for Extension		27
Form 14 – County Counsel Referral		29
Form 15 – District Attorney Referral.....		31
Form 16 – Stop Work Notice		32
Form 17 – Violation Correction Permit Process.....		33
Form 18 – Concealed Construction Verification Guidelines		34
Form 19 – Contractors State License Board Referral.....		39
Form 20 – Notice of Disconnect		40
Form 21 – Order to Disconnect - PG&E Notification.....		41

1.0 POLICY DESCRIPTION: OVERVIEW

Purpose:

The purpose of this document is to provide a general overview of the Code Compliance Division (Division) within the Napa County Department of Planning, Building & Environmental Services (PBES or Department) and the Policies and Procedures which apply to the Division's efforts to obtain correction of Code violations. This document may be supplemented from time to time with additional policies and procedures with Board of Supervisors approval.

Overall Philosophy:

This Code Compliance Policy Manual (CCPM) shall serve as a tool for Code Compliance Officers ("Compliance Officer") in performing their normal duties related to the goal of obtaining compliance. Additionally the CCPM provides guidance to general PBES staff regarding the processing of Code violation cases.

The Code Compliance 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. Its goal is to obtain voluntary compliance from citizens. Each case may be unique and a "one size fits all" solution doesn't always work.

Several studies have shown that a good compliance program promotes increased land values, safer neighborhoods, and pride in ownership. Education of the public regarding applicable laws can be an effective tool in obtaining immediate compliance, and a long-range solution to ongoing nuisances. Efficient code compliance is best accomplished by direct communication with members of the community through a variety of methods. These include reaching out via social media (such as Facebook, Next Door, and Napa County Website), mass mailings, and face-to-face discussions with property owners through the Neighborhood Improvement Program.

Code Compliance staff shall maintain ethical standards and strive to be firm, fair, and friendly. The California Association of Code Enforcement Officers defines a Code Compliance Officer's goal as one that serves the community to safeguard lives and property and to respect the Constitutional rights of all of the members of the community. Code Compliance Officers strive to achieve a number of objectives. They work for the common goals of their profession and employer. They conduct themselves as a model for the community and are accountable and accept professional and personal responsibility. They make 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 County is committed to maintaining the quality of life in Napa County through obtaining compliance in enforcing regulations and codes. The Code Compliance 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 public health or safety or that may cause significant environmental damage.

The CCPM supplements the adopted Napa County Code and the County of Napa Policy Manual. Where there is a conflict, the Napa County Code (County Code) and the County of Napa Policy Manual shall take precedence.

1.1 Identifying and Prioritizing Code Cases

Purpose:

To provide overall guidelines for prioritizing code cases. The number of violations and the time it takes to achieve compliance requires staff to make efficient use of limited time and resources. The most efficient method is to obtain voluntary compliance from those property/business owners and residents who are found to be in violation of County Code or State law. Those cases where reasonable progress towards abatement of identified violations are not feasible shall be referred to County Counsel or the District Attorney for legal enforcement action(s). In all cases, the Department seeks to avoid code compliance actions that result in the permanent loss of dwelling units except in cases where a unit was constructed in violation of the applicable zoning ordinance in place at the time, or where a unit cannot be feasibly rehabilitated to meet health and safety requirements.

Policy and Procedures:

The Department prioritizes the identification and abatement of Code violations affecting the health and safety of Napa County residents, employees, and visitors. The Department also prioritizes the abatement of violations that cause or have the potential to cause environmental harm. Nuisances and other violations that do not have an immediate potential for harm to people and/or the environment will be a lower priority.

The Department relies on citizen complaints to help identify violations requiring the attention of Code Compliance Officers. The Department also identifies potential violations through regular reviews and inspections conducted pursuant to County Code and/or conditions of approval, as well as independent investigations of violations associated with short-term rental housing. In addition, staff may become aware of violations through the direct observation of activities being conducted without the benefit of permits (or outside the scope of approved permits).

1.2 Chain of Command

Purpose:

To provide clear expectations to Code Compliance Officers with respect to reporting relationships.

Policy and Procedures:

Every member of the Code Compliance Division shall follow the established chain of command. Currently, the chain of command structure begins with the Board of Supervisors, followed successively by the PBES Director, Assistant Director, Division Manager, Supervisor, and staff. When it becomes necessary to contact someone in management, employees will start with their immediate supervisor. If the supervisor is not available, then the Division Manager or Assistant Director will be contacted.

1.3 Training

Purpose:

To offer proper techniques for dealing with the public in an effort to reach compliance.

Policy and Procedures:

The Code Compliance Division is a customer-service oriented team, whose purpose is to fulfill the community's need for code compliance. A professional appearance and demeanor produces both respect and support from the community and co-workers. Part of being a professional Compliance Officer is the ability to handle any situation with understanding, care and concern. Napa County Code Compliance Officers are encouraged to continue to obtain training and education in an effort to improve the process of reaching compliance. Certification and training sessions are available through the California Association of Code Enforcement Officers.

1.4 Problem Oriented Policing Program

Purpose:

To achieve compliance, by utilizing non-traditional methods by working in collaboration with the County Sheriff's Problem Oriented Policing team (POP).

Policy and Procedures:

The Problem Oriented Policing Unit is a program managed by the Sheriff's Office. Code Compliance Officers will work with Sheriff's Deputies on properties that are affected by, or are the location for, criminal activities or blight. This is a proactive effort with both the Code Compliance Division and Sheriff's Office initiating cases.

2.0 CASE MANAGEMENT

Purpose:

To ensure quality service, standardize information and facilitate the preservation of accurate records for all compliance activities; and to continue operation of a system of code compliance that is both effective and fair.

Policy and Procedures:

Procedures will be established to provide for consistent collection and factual analysis of information relating to investigations. Detailed records will be maintained and organized for use by the Division, County Counsel, the District Attorney, and Courts. The following is a guideline to assist all staff in the complaint handling process. Changes may occur based on individual cases and circumstances, as reasonably determined by the Division Manager. The reason for any change or expedited process shall be documented and described in the file.

2.1. Performance Measures

Purpose:

To have a uniform timeframe in which Code Compliance complaints are investigated.

Policy and Procedures:

In order to measure efficiency, PBES has developed performance measures based upon the percentage of cases resolved (applications submitted/reviewed/permit issued), and how much time it takes a Compliance Officer to perform an Initial Response from the date the complaint is logged. For the Initial Response indicator, cases are prioritized in the following manner:

Priority 1 – Safety related Complaint (such as building without a permit, unsafe structure, and sub-standard conditions) with a goal of 5 Working Days for initial response. (NOTE: Various deadlines and times for completion of tasks as called for in this Manual are stated in terms of “Working Days.” “Working Day” is a term defined by Napa County Code section 2.88.010, as follows: “‘Working day’ means a day when the office of the clerk of the board of supervisors is open for business. Weekends, county holidays as well as days when the office is closed for regular business due to a declared or posted emergency do not constitute working days.” That definition shall be applied in this Manual.)

Priority 2 - Non-Safety related Complaint (Zoning, other) with a goal of 10 Working Days for initial response.

Currently, the Department will create reports from the PMC Automation case management system. These reports will be used to measure performance and to provide data that can be used to evaluate and improve the program.

2.2 Records Organization and Electronic File Naming

Purpose:

To have a standardized method for organizing the code compliance case files in the computer.

Policy and Procedures:

Currently many files are organized first by address, then by name, then by violation abbreviation. This method shall continue and all existing electronic files shall be converted to this method. A list of abbreviations shall be used. Paper files are currently created based upon a recognized method for all files in PBES. This method shall continue to be used until an electronic filing system is adopted for all documents. All files shall be saved to the Enforcement Folder on the County server within the PBES and Enforcement files with the following naming conventions:

Street address+owners last+identifier. If an address has not been assigned to the parcel the APN number shall be used. If the owner is not an individual the company name shall be used.

Examples:

- 1234 Any Street - Jones - NOV.
- 4567 Any Street – Doe Inc. - CIT

The following is a list of **identifiers** that may be used on the electronic files:

1. CIT – Citation
2. COR – General Correspondence
3. IR – Inspection Request
4. IS – Information Sheet
5. NOV – Notice of Violation
6. PHO – Photo
7. STR – Short Term Rental
8. WIN – Winery

2.3 Citizen and Staff Complaints

Purpose:

To provide guidance for how to respond to complaints received from citizens, other agencies or staff.

Policy and Procedures:

Complaints from the public are received via the website, by phone call to report a violation, or by a letter to staff. Complaints from staff typically originate from observed violations while out in the field.

There are two methods of achieving the Division's goal of voluntary compliance and enforcement of all applicable laws, codes, standards and regulations. The methods are (1) reactive, such as responding to complaints and issuing citations; and (2) proactive, such as notifying interested parties of problems on the property and investigating independently observed violations.

Complainant identity shall be considered confidential information not subject to disclosure. Code Compliance Officers shall not release the name of the source. If a Public Records Act request for code compliance materials is submitted, the officer shall immediately and directly report this to the Supervisor and to the County Counsel's Office.

Compliance Officers are responsible for enforcing the County Code throughout unincorporated Napa County, within incorporated cities with regards to Environmental Health requirements, and in certain areas where the County contracts with other entities to provide code compliance services.

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

In order for an apparent 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 necessary. This requirement is in addition to Code Compliance's request of additional information from the complainant party substantiating their allegations.

2.4 Initial Steps, Investigation, and Informal Efforts to Obtain Voluntary Compliance and Correction of Violations

Purpose:

To provide a consistent process for the Compliance Division related to obtaining voluntary compliance.

Policy and Procedures:

Upon receipt of a complaint or discovery of an actual violation, PBES staff shall submit an Intake Form Number 2 to the PBES Building Secretary ("Secretary") and the following actions shall occur:

1. The Secretary or support staff shall enter the information into the case tracking software and create a code compliance file. This file shall be handed off to the Code Compliance Supervisor within one Working Day of the receipt of the complaint.
2. The PBES Code Compliance supervisor shall assign the file to a Compliance Officer within one Working Day of the date the supervisor receives the file from the Secretary.
3. The Compliance Officer shall initiate an investigation and conduct research to determine if a violation(s) exists. Research may include internet searches.
4. If during the investigation of a complaint it is unclear if a violation exists, Code Compliance Officers may make contact with the owner of the property and/or other person(s) to gather additional evidence. A phone conversation may clear the property owner/tenant of any wrongdoing, or may give clarity of the facts of a potential violation. If communication by phone proves not to be feasible, and an initial drive-by site inspection does not garner the needed facts, then contact shall be made by mail.
5. In all cases in which a violation exists, the Compliance Officer shall provide the owner(s) and/or any other person(s) responsible for violations with a cover letter along with an Informational Sheet (Form 1), which provides a summary and description of the apparent code violation and the County's remedies and courses of action that may be pursued. All forms are maintained in electronic form in the Enforcement folders.

6. If Voluntary Compliance is agreed upon, Code Compliance Officers shall confirm in writing with the property owner/person responsible as to the required compliance course of action. Officers should allow a reasonable amount of time and opportunity for correction of the violations before the formal enforcement steps outlined below in Section 5 are commenced. While the amount of time allowed for compliance may vary, depending on the circumstances, those circumstances should be well-documented in writing to justify the period of time allowed for compliance or cure.

2.5 Requests for Extension

Purpose:

To provide procedures for uniformly handling case files to provide consistent treatment of citizens related to extension requests.

Policy and Procedures:

Any request for an extension of time to bring the property into compliance shall be on the Request for Extension form (see Form 13). The property owner or responsible party shall complete and sign the form. If approved – which is at sole discretion of the assigned Compliance Officer – the assigned Compliance Officer shall initial the form.

The Compliance Officer shall subsequently mail a letter to the property owner/responsible party confirming the extension and advising them of the new compliance date. The complainant shall be contacted and updated on the case status.

Extensions may be granted for a reasonable period of time depending on the circumstances, the stated reasons for the extension, and the nature of the violation. As with other specified deadlines, the circumstances and reasoning for the length of the extension will be well documented in the file. The extension will be granted for no more than 30 calendar days unless circumstances clearly warrant a longer extension. In no event should the deadline for compliance be extended for more than 90 calendar days. Authorization for any extension longer than 30 calendar days must be obtained from the Code Compliance Supervisor.

2.6 Scope of Inspection and Expectation of Privacy

Purpose:

To provide general guidelines for entry onto private property in the course of investigating reported or observed violations.

Napa County recognizes that entry onto private property for enforcement purposes is governed by State law, constitutional considerations, and other applicable law.

Policy and Procedures:

Property owners have a right to privacy and are entitled to be free of illegal searches. 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 rear yard of the property, the property owner has a reasonable expectation of privacy. No Compliance Officer shall use any artificial means to improve their position in an attempt to look over a solid fence to view a violation, such as standing in the bed of a truck or climbing on top of an electrical box, flying an unoccupied aerial vehicle (e.g. drone) or the use of other methods. Compliance Officers shall not look through a knothole in a fence to view a violation. The test for 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?" If the fence becomes dilapidated and wooden slats are missing from the fence, or several strips of chain link fence screening are missing, the property owner no longer has an expectation of privacy.

If the violation can be legally seen from a neighboring property, and that neighboring property owner has consented to the Compliance Officer's presence, then the owner/resident of the property has no expectation of privacy.

2.7 Consent

Purpose:

To obtain permission when accessing properties.

Policy and Procedures:

Consent for the initial inspection shall be documented in the case narrative, including circumstances surrounding consent, description and name of party giving consent and of consent (verbal, written, inspection requested by occupant, etc.). When responding to a property for apparent code compliance violations, a good rule of thumb is to think of a Compliance Officer as a delivery person. Anywhere a delivery person can go, a Compliance Officer can go. This also applies in the reverse; a delivery person would not walk around a residence and deliver a package at the back door. Therefore, in order for an officer to inspect the rear yard of a residence, there must be consent.

If a Compliance Officer responds to a residence where there is a fence with a locked gate, the Compliance Officer shall NOT jump or climb over that fence to get to the front door.

Consent may be given in writing or verbally. Adequate written consent is a note written by the officer stating, "I, [name of homeowner or other individual with legal

standing, as described below], hereby allow [name of Compliance Officer] to inspect the rear yard at [address of property being investigated]." The property owner or tenant may also write this note. It should be signed and dated by the individual named in the note. If the officer inspects based on verbal consent, it is important to note in the case file the name of the person granting consent and their relationship to the property.

Consent may only be granted by a person who has legal standing with regard to the property. "Legal standing" is limited to a person who is lawfully on the property and has been given access to the property by the owner or primary tenant. Examples are: property owner, tenant, or anyone permanently occupying the property with permission. If the inspection is an interior inspection, someone renting a room may only consent to inspection of the room they rent and any common areas. In the case of a rental unit, the tenant (not the property owner), must give consent except with regard to common use areas.

During the inspection, consent, including written consent, may be revoked at any time by the person granting consent. Reasons for revoking shall be documented in the file. If the officer is told to stop inspecting the property and leave the premises, the officer shall stop immediately and leave the property. In this case, the officer must seek an alternative method of inspecting the property such as an inspection warrant. Revocation of consent shall constitute a refusal to inspect for the purposes of an inspection warrant.

If the Compliance Officer is unable to make contact at the site or is unable to conduct a site visit due to time constraints, the Compliance Officer may send by certified and first class mail an "inspection request" (Form 3). The inspection request shall include the property owner's name, location of the apparent violations and a time frame to respond.

2.8 Juveniles

When a Compliance Officer responds to a location and a juvenile (anyone under 18) answers the door, the officer shall ask to speak with an adult. If no adult is home, the officer shall not discuss anything with the juvenile regarding the code compliance case. The officer should provide a business card for the juvenile and, if applicable, advise the juvenile that the officer shall be posting a notice on the door. Do not assume someone is an adult if there is any possibility they are a minor -- ask their age. The Compliance Officer may ask for identification, if available.

At no time should an officer enter a residence or ask permission to go into the rear yard when no adult is present. A juvenile has no legal standing to allow consent.

2.9 Documentation

Purpose:

To ensure that documentation is clear, concise, and supports a representative case narrative that records the conditions found on a property and which shall be used to accurately refresh the Compliance Officer's memory when testifying in court.

Policy and Procedures:

Complete documentation of all physical evidence and Compliance Officer's observations are essential. The Compliance Officer shall record observations and discussions with witnesses in the case workflow in the department database. Descriptions of violation(s) must be thorough as to type, location, quantity and any other specific points of identification. For example, the description of an illegally constructed building would include the type and size of the building and the reason it is perceived as illegal. The narrative may be a required part of any future court appearances, including citations or warrants, as well as administrative hearings, and must be as complete as possible in order for the judge or administrative decision maker to have a clear picture of compliance activities.

2.10 Photographs

Purpose:

To ensure a uniform process for documenting photos of violations and properly archiving them on the County's document management system.

Policy and Procedures:

Whenever reasonably possible, the Compliance Officer should attempt to document, via photograph, violations discovered during the course of their investigation. Compliance Officers should take time to consider the best way to document the violations using photography by considering far and close views, before and after shots and thinking how to best capture the violation for someone who has not been on the site of the inspection so that they have an accurate understanding. Photos shall not be staged or altered to exaggerate the extent of any violation. All photographs shall be taken digitally.

The following procedures must be followed when managing photos after an inspection.

When the Compliance Officer returns from a site investigation, the officer shall download the photo files to the appropriate folder and file on the document management system. Photos shall be labeled using the naming convention as described in 2.2 and should also include the date the photos were taken. A minimal number of

photos should be printed for the hard copy file (i.e., just enough photos to represent the violation).

Compliance Officers shall not extend cameras over fences, walls, through windows or other areas that the owner/occupant would likely have a right to privacy.

Prior to taking any photos, the Compliance Officer must obtain verbal or written consent to the taking of photos from an individual with legal standing as described above. This consent must be obtained in addition to consent to conduct an inspection. If such consent for photographs is denied, the Compliance Officer shall not take photos of the violations. If at any point in the inspection the owner/occupant asks the Compliance Officer to stop taking photos, the Compliance Officer shall stop. If a Compliance Officer is denied permission to take photos, they shall consult the supervisor regarding the possibility of obtaining an inspection warrant.

2.11 Notification of All Interested Parties

Purpose:

To limit liability to the County and to build a solid case through proper notification to ensure every interested party in a property has the opportunity to correct a violation.

Policy and Procedures:

Whenever an action by the Code Compliance Division may have a financial impact on a property including but not limited to abatement action, notices advising of violations or pending actions shall be mailed certified and first class mail to all parties known to have a vested interest in the property. The County Tax Collector maintains a computerized system of property owners. This system shall be used to locate all persons who possess an interest in the property and their mailing addresses.

2.12 Complaint follow-up

Purpose:

To confirm with the complainant that the complaint was received and investigated.

Policy and Procedures:

Upon receipt of a complaint or after the initial investigation of the complaint, Code Compliance Officers will attempt to contact the complainant letting them know that they have received the complaint and are in the process of investigating. Code Compliance staff shall not share the details of the investigation with the complainant. Upon closure of the case Code Compliance Officers will attempt to contact the complainant letting them know that the case is closed.

3.0 ADDITIONAL ENFORCEMENT STEPS TO BE TAKEN IF INFORMAL EFFORTS TO OBTAIN COMPLIANCE ARE NOT EFFECTIVE

Purpose:

To provide options for the Compliance Officer if informal efforts to attain compliance are not successful.

Policy and Procedures:

3.1 Overview of Citations and Notices and Referral to Counsel

If the Compliance Officer is not able to attain voluntary correction after providing the property owner or other person(s) responsible for the violation a reasonable opportunity to cure the violation as contemplated by Part 2 above, then one or more of the following enforcement steps should be taken. The severity of the violation, the extent to which it poses a threat to public or private health and safety, and the applicable statutory or case law that applies to the particular violation will dictate the most appropriate steps.

3.2 Procedures Regarding Citations (Napa County Code Chapter 1.28)

Purpose:

To provide formal notification to property owners and occupants of property and/or those responsible for Code violations of the nature of the violations and the corrective action that is required; to provide a defined, reasonable period of time in which the corrective action must be completed; and to provide formal notice that an administrative penalty shall be imposed and the Citation shall be recorded (as to real property-related violations) if the required corrective action is not completed within the time allowed.

Policy and Procedures:

3.2.1 Issuance and Contents of Citations

A Citation pursuant to County Code Chapter 1.28 shall (unless circumstances dictate otherwise, which should be documented in each file) be issued and delivered (as provided in Chapter 1.28) to the owner of property where a violation exists, to the occupants or operators of businesses on properties where a violation exists, and to any and all persons responsible to any degree for a violation. The Citation shall contain the following information (Form 4):

1. The date(s) of the violation;
2. The street address, assessor's parcel number and/or, if necessary, a description of the location where the violation occurred;

3. The name and address of the responsible party(s), if known;
4. The section of the applicable code, statute or regulation violated and a description of the violation;
5. The action required to correct the violation;
6. The date by which the corrective action should be completed;
7. The amount of the administrative penalty for the Code violation and time period by which the violation must be corrected to avoid imposition of the penalty;
8. A description of the administrative penalty payment process, including the time and place for payment of the penalty;
9. An order prohibiting the continuation or repeated occurrence of the Code violation described in the Citation;
10. As to violations that relate to or affect real property, a statement that the Citation shall be recorded against the property if the violation(s) existing on the property are not corrected by the deadline established in the Citation;
11. A statement that the person served with the Citation may file a request for a hearing before a Hearing Officer pursuant to Chapter 1.28 of the County Code and that the County may hold the responsible person and/or the property owner responsible for all administrative costs, including County staff time and costs and reasonable attorney's fees, incurred in the hearing processes;
12. Either a copy of County Code Chapter 1.28 or a description of the administrative review process including the time frame within which a Citation may be contested and the hearing procedure;
13. The name and signature of the Compliance Officer issuing the Citation and the county department in which the Compliance Officer works; and
14. A request for hearing form (Form 5).

3.2.2 Delivery/Posting/Mailing of Citations

If the person responsible for the Code violation is present at the scene of the violation, the Compliance Officer shall attempt to obtain the person's signature on the Citation and shall provide the person with a copy of the Citation. The failure of any person to sign the Citation shall not affect the validity of the Citation or any compliance proceedings or measures.

If the person responsible for the Code violation is not present at the scene of the violation, the Compliance Officer shall send copies of the Citation by certified mail, return receipt requested, and by first class mail to (1) the property owner and, if different from the property owner, to the person(s) responsible for the violation, at the

property address, and (2) to the address listed for the property owner as shown on the last county equalized assessment roll, if that address is different from the property address. The Compliance Officer shall also post the Citation in a conspicuous place on or near the property, if reasonably possible, no later than one Working Day after the date of mailing.

3.2.3 The Right to Contest Citations

Compliance Officers will be familiar with the provisions of County Code Chapter 1.28 that relate to procedures applicable to when a Citation is contested and to the noticing requirements, hearing requirements, and the prescribed method for conducting the hearing before a hearing officer. This section highlights the steps that Compliance Officers shall be most directly involved in implementing.

1. Any recipient of a Citation may contest whether the Code was violated, whether the recipient is the person responsible for the violation, whether the Citation should be recorded as to the real property described by the Citation, and/or the amount of the administrative penalty by completing a "request for hearing" form (Form 5) and returning it to the Clerk of the Board within thirty calendar days from the date of the Citation together with an advance deposit of the full amount of the administrative penalties levied or, if applicable, a written request for an advance deposit hardship waiver (Form 6) pursuant to Section 1.28.100 of the County Code. (NOTE: if any deadline, which is established for any action or response in this Manual that is based on "calendar days," falls on a weekend or holiday, the person will be given until the next Working Day to comply.)
2. Hearings on contested Citations shall be noticed, scheduled and conducted before a hearing officer in accordance with Sections 1.28.110, 1.28.120, and 1.28.130 of the County Code. If a Compliance Officer submits an additional report concerning the Citation to the hearing officer for consideration at the hearing, a copy of the report shall be served by first class mail on the person requesting the hearing at least seven Working Days prior to the date of the hearing.

3.2.4 Consequences of Failure to Comply with Citation

The failure to pay the penalty imposed by a Citation and/or the failure to correct the Code violation as identified in the Citation may result in:

1. The referral of the Code violation to County Counsel or to the District Attorney for commencement of civil proceedings pursuant to Section 1.20.155, Section 1.28.140 or other applicable Code section or statute; and/or
2. Enforcement of the obligation to pay administrative penalties and/or administrative costs as the personal obligation of the violator; and/or

3.2.5 Re-inspections Following Issuance of Citations

Following issuance of a Citation, an inspection may be necessary after expiration of the deadline for compliance as specified in the Citation to determine such compliance, or if the violation is ongoing or recurring. This shall be done by issuing an inspection request (Form 3) to schedule an inspection as soon as possible after the expiration of the stated deadline as possible.

3.2.6 Steps to be Taken Once Compliance Has Been Reached

When compliance is attained, the Compliance Officer shall take the following steps:

1. The Compliance Officer shall inform the complainant of the correction of the violation; and
2. The case shall be noted as resolved, with notes explaining the compliance, and entered into the records system as closed by the Compliance Officer.

3.2.7 Issuance of Additional Penalties if the Violation is Ongoing or Repeats

If it is determined that compliance has not been attained, or that a new, ongoing, or repeated violation of the same type has occurred, the Compliance Officer may issue a “Notice of Additional Administrative Penalties Due to Repeated Violations” (Notice of Additional Penalties”) (Form 7). If extenuating circumstances or other reasons exist that call for withholding or delaying such Notice, those circumstances or reasons shall be documented in the file.

The following procedures apply to the issuance, delivery and content of the Notice of Additional Penalties:

1. The Notice of Additional Penalties shall include the following information:
 - a. The date(s) of the follow-up inspection, if any.
 - b. A description of the nature of the ongoing failure to comply.
 - c. A description of the nature of the violation and the date of the original Citation for the violation.
 - d. The street address, assessor’s parcel number and/or, if necessary, a description of the location where the violation occurred.
 - e. The name and address of the violator(s), if known.
 - f. The action required to correct the violation.
 - g. The amount of the additional administrative penalty that shall be imposed for the repeated (second, third and each subsequent) Code violation and time period by which the violation must be corrected to avoid imposition of additional penalties. The amount of additional penalties shall be based on the

- applicable County Code section, Board resolution, or State or federal law or regulation that establishes the amount of civil penalties that may be imposed for second, third and subsequent violations. The time period should be reasonable and based on the applicable circumstances. Those circumstances and the reasoning used to set the new deadline for compliance should be well-documented in the file.
- h. A description of the administrative penalty payment process, including the time and place for payment of the penalty.
 - i. An order prohibiting the continued or repeated occurrence of the Code violation described in the Citation and in the Notice of Additional Penalties.
 - j. A copy of County Code Chapter 1.28 or a description of the administrative review process including the time frame within which a penalty may be contested and the hearing procedure.
 - k. The Compliance Officer should print and sign their name in the Citation and include the County department in which the Compliance Officer works.
 - l. A statement that the person served with the Notice of Additional Penalties may file a request for a hearing before a Hearing Officer pursuant to Chapter 1.28 of the County Code to contest the additional penalty and that the County may hold the responsible person and/or the property owner liable for all administrative costs, including County staff time and costs and reasonable attorney's fees, incurred in the hearing processes;
 - m. A request for hearing form (Form 5).
2. The Compliance Officer shall send copies of each Notice of Additional Penalties by certified mail, return receipt requested, and by first class mail to (1) the property owner and, if different from the property owner, to the person(s) responsible for the violation, at the property address, and (2) to the address listed for the property owner as shown on the last County equalized assessment roll, if that address is different from the property address. In addition, the Compliance Officer shall post the Notice in a conspicuous place on the property no later than one Working Day after the date of mailing.
 3. Upon the expiration of the compliance period specified in the Notice of Additional Penalties, the Compliance Officer should schedule another follow-up inspection (unless the violation is such that ongoing failure to comply may be determined through a review of the file). Depending on the findings made during that inspection, the Compliance Officer should repeat the steps outlined above for subsequent, ongoing or repeated violations, sending out, as necessary, any subsequent Notices of Additional Penalties in order to allow a reasonable time to cure or correct the violation but impose such graduated penalties as may

be allowed by law as applicable to third and subsequent violations. All subsequent inspections or follow-up actions shall be conducted, to the extent practicable, on or shortly thereafter the specified compliance date.

4.0 NOTICES OF NUISANCE AND NOTICES OF NUISANCE ABATEMENT (NAPA COUNTY CODE CHAPTER 1.20)

Purpose:

To provide guidance on abating nuisance violations.

The Code Compliance Division is also charged with obtaining compliance for any nuisances in the unincorporated areas of the county. Controlling nuisances keeps communities safe and livable. Creation of a sense of place and community pride is also important. The accumulation of junk vehicles, vehicle storage, overgrown vegetation, litter and other visual clutter are seen as a deterioration of the quality of life within the affected neighborhood. The existence of dilapidated buildings and overgrown vegetation is associated with areas of high crime and declining property values.

Napa County Code Chapter 1.20 (Substandard Property Maintenance as a Public Nuisance) has specified a number of activities and conditions as public nuisances. Any person owning, leasing, occupying or having charge or possession of any premises in the county are required to maintain such premises in such manner so as to avoid being injurious to public health, indecent or offensive to the senses, or an obstruction to the free use of property, or interfering with another person's reasonable use and enjoyment of their property.

Policy and Procedures:

The information provided for in Chapter 1.20 of the County Code is intended to provide the County with an additional means of obtaining compliance, either independently or in combination with other steps outlined herein, through the issuance of a Notice of Nuisance, the issuance of an Abatement Notice, and the use of several abatement options if the responsible party fails to voluntarily abate the nuisance. Chapter 1.20 limits authority to declare a violation to be a public nuisance to the following officials: the Director of PBES, the Director of Public Works, the Agricultural Commissioner, the Sheriff, the Board of Supervisors and any other persons designated by the Board. The decision to declare the existence of a public nuisance and to issue one or more notices under Chapter 1.20 shall usually be made in order to expand the available compliance options in certain cases where administrative abatement proceedings before the Board of Supervisors and summary abatement may be desirable.

4.1 Issuance and Contents of a Notice of Nuisance

If a nuisance as defined in Chapter 1.20 or other provisions of the County Code is found to exist, a Compliance Officer (for this purpose, only those specified by County Code Section 1.20.010) shall issue a Notice of Nuisance (Form 10) pursuant to County Code Section 1.20.040, unless reasons or circumstances exist that call for withholding or

delaying such Notice, which reasons or circumstances shall be documented in each file. If a Notice of Nuisance is issued, the Compliance Officer shall cause the Notice to be sent or delivered (as required by Chapter 1.28) to the owner of the property upon which the nuisance exists as shown on the last county equalized assessment roll, upon anyone known to the Compliance Officer to be in possession of the property, and upon all lienholders of record. The notice of nuisance shall contain the following:

1. The street address, assessor's parcel number, and other description sufficient to identify the property affected;
2. A description of the condition constituting the nuisance. If the Compliance Officer determines that the condition causing the nuisance can be corrected or abated by repair or corrective action, the notice shall state the repairs or corrective actions that shall be required;
3. An order to completely abate the nuisance within a reasonable period of time, not less than twenty-four hours, as the Compliance Officer may specify. The circumstances and reasoning justifying the period of time specified by the Compliance Officer should be well documented in the file;
4. A statement that if the nuisance is not abated as specified, the Board of Supervisors shall conduct a hearing to consider whether to order abatement of the nuisance by the owner or responsible party, or alternatively by the County, and to consider whether to levy an assessment pursuant to Sections 1.20.100 and 1.20.120 to recover the costs of such abatement. Costs of abatement shall include all incurred enforcement investigative and administrative expenses.

Neighborhood Improvement Program

Since 2015, Neighborhood Improvement Programs have been conducted in an effort to reduce the number of properties with nuisance issues. Neighborhoods are identified, introduction letters are sent to the all property owners in those neighborhoods and Compliance Officers conduct an inspection of the neighborhoods. Each residence with visible nuisance problems will be approached by Officers. If no one answers, a door hanger will be placed on the door with information specific to the nuisance and contact information for the officer. Officers will return to the neighborhood within 30 calendar days to determine if any improvement has occurred. Property owners who do not comply with the request to mitigate the nuisance will be issued a Notice of Nuisance, as detailed in the Procedures.

4.2 Manner of Giving Notice

Purpose:

To ensure proper and consistent communications with property owners.

Policy and Procedures:

Notice of Nuisance and Notice of Abatement, covered by Chapter 1.20, shall be given by certified or registered mail, postage prepaid, and by conspicuously posting on the property within one Working Day after the date of mailing. Notice shall be deemed effective when the posting has occurred and the notice has been deposited in the mail.

4.3 Issuance and Contents of Notice of Nuisance Abatement

Purpose:

To ensure noticing procedures are followed.

Policy and Procedures:

The Department shall ensure that all Compliance Officers are familiar with the provision of Chapter 1.20 that relates to procedures applicable to the noticing and hearing of administrative abatement proceedings before the Board of Supervisors. This guide highlights the steps that Compliance Officers will take to provide proper notice.

1. Service of Notice. If, upon expiration of the period specified in the Notice of Nuisance, the person(s) responsible has not abated the nuisance or, if abatement steps have been commenced but abatement has not been achieved with due diligence, the Compliance Officer shall prepare a Notice of Nuisance Abatement and Hearing on Abatement (Form 11) and serve copies thereof upon the owner of the property upon which the nuisance exists as shown on the last county equalized assessment roll, upon anyone known to be in possession of the property, and upon all lienholders of record.
2. Contents of Notice. The Notice of Nuisance Abatement shall contain the following:
 - a. The heading, "Notice of Nuisance Abatement and Hearing";
 - b. A notice to appear before the Board of Supervisors at a stated time and place not less than fifteen Working Days after service of the notice, to show cause why the stated conditions should not be found to be a nuisance, and why the nuisance should not be abated by the Compliance Officer; and

- c. The information describing the property and the nuisance to be abated, pursuant to County Code subsection (B) (1) and (2) of Section 1.20.040.
3. Discretionary Notice to Other Persons. If the Compliance Officer determines it to be appropriate, the Compliance Officer shall in their sole discretion also give notice of the hearing by regular mail to persons near the vicinity of the nuisance.

4.4 Notice of Violation and Order to Repair or Abate Substandard Conditions Under California Health & Safety Code Sections 17920-17928, 17980 and 17980.6

Purpose:

To enforce California Health and Safety Code Sections 17980 and 17980.6 and to ensure that the building standards of the California Building Code are maintained. The Division works to eliminate substandard housing conditions and/or prevent or remedy immediate threats to the health and safety of the public or occupants of a structure. California Health & Safety Code Section 17920, describes a substandard building as any building or portion of a building which has conditions that endanger the life, limb, health, property, safety or welfare of the public or the occupants.

Policy and Procedures:

The Notice of Violation (Form 12) should be used in all cases that are governed by Health & Safety Code Sections 17920.3 et seq. to correct substandard housing conditions and/or prevent or remedy immediate threats to the health and safety of the public or occupants of a building or structure.

Issuance of a Notice of Violation and Order Re: Substandard Housing Conditions should contain the following:

1. The street address, assessor's parcel number, and other description sufficient to identify the property affected;
2. A description of the specific substandard condition as defined in Section 17920.3 of the California Health and Safety Code and any County Code violation(s). If the Compliance Officer determines that the condition causing the violation(s) can be corrected or abated by repair or corrective action, the notice shall state the repairs or corrective actions that shall be required;
3. An order to remedy the violation(s) within a reasonable period of time. Again, as with other compliance periods or deadlines, Compliance Officers should document the circumstances and reasoning supporting the deadline specified. Generally, the maximum time allowed to correct the violation is thirty calendar

days or as otherwise noted in the applicable code sections. More time may be allotted by the Compliance Officer, depending on the violation;

4. A statement that the notice shall be recorded against the property if the violation(s) existing on the property are not corrected by the deadline established in the notice;
5. A statement advising tenants that they may be entitled to relocation benefits per Health & Safety Code Section 17975;
6. A statement advising owners that they may not be entitled to tax deductions per Revenue & Taxation Code Sections 17274 and 24436.5;
7. A statement advising tenants that the lessor cannot retaliate against a lessee pursuant to Civil Code Section 1942.5;
8. A statement advising owners of their right to appeal as follows:

“The decision of the Building Official in this matter may be appealed to the Unified Board of Appeals in accordance with the provisions of Chapter 15.04 of the County Code. Failure to timely file such an appeal shall constitute an irrevocable waiver of the right to an administrative hearing and final adjudication of the Building Official’s order”; and
9. If applicable, a statement that the failure to rectify the substandard conditions on the property may result in initiation of proceedings to appoint a receiver in order to prevent, restrain, correct, or abate the violation (including demolition), with costs of abatement, and attorneys’ fees payable by the owner and additional penalties as ordered by the court.

5.0 WARRANTS

5.1 Inspection Warrants

Purpose:

To gain access to a property to inspect for violations if the Compliance Officer has reasonable suspicion to believe a violation exists and if the property owner or tenant either (1) refuses access; or (2) fails to respond to the County's request for access.

Policy and Procedures:

An inspection warrant may be obtained from the courts when the property owner or tenant does not provide the County with access to the property for verification of violations. A refusal by a property owner to grant entry is required prior to seeking an inspection warrant.

Prior to obtaining a warrant, the Officer may use a variety of options to reach a property owner and request an inspection. If the code complaint is a health and safety issue, the officer should attempt to reach the owner/tenant in person at the property, and obtain consent as described in Section 2.7. If the complaint is not an immediate concern, The Officer shall send an inspection request letter (Form 3) by regular and certified mail. If there is no response to the letter, the Officer may search for a telephone number to contact the owner and/or tenant. If all of the above actions are exhausted the officer may proceed to obtain a warrant.

5.2 Process to Obtain a Warrant

Purpose:

To ensure proper processes are followed when obtaining a warrant.

Policy and Procedures:

The following steps shall be taken:

1. Code Compliance Officers shall work with County Counsel to apply to the Court for an inspection warrant pursuant to California Code of Civil Procedure Section 1822.50 et seq.
2. All inspection warrant declarations shall be typed and approved by the Code Compliance Supervisor prior to seeking a judge's approval. The declaration shall describe the premises, place, buildings, structures or vehicles to be inspected. Additionally, it should contain a statement describing the reason for

the warrant request, the owner or tenant refusal or failure to consent to access, etc.

3. Notice of the inspection warrant must be posted on the property 24 hours before the inspection unless the Warrant Order provides otherwise.
4. The inspection warrant must be served between the hours of 8:00 a.m. and 6:00 p.m. and only with the occupant present unless the Warrant Order provides otherwise. Only the premises, places, buildings, structures and vehicles described in the Warrant Order may be inspected. Force may not be used to break through a gate or door unless authorized in the Warrant Order. The Sheriff's Office may be utilized to accompany the Compliance Officer when serving an inspection warrant. The inspection warrant will expire fourteen calendar days from issuance, unless extended by the Court.
5. Once the inspection warrant has been served, the Compliance Officer shall request County Counsel to prepare a Return of Warrant which must be signed by a judge and filed with the court.
6. The complainant shall be notified of the results of each investigation and the status of the case. Notification may be by telephone or by mail. All telephone updates must be documented in the narrative of the file.

6.0 REFERRALS TO COUNTY COUNSEL OR THE DISTRICT ATTORNEY

6.1 Referral to County Counsel

Purpose:

To describe procedures for referral to County Counsel when escalation is needed for more difficult or egregious compliance cases.

Policy and Procedures:

Code Compliance Officers may refer the following cases to County Counsel:

- Nuisance Abatement;
- Receiverships;
- County Code violations;
- Building Violations;
- Health & Safety Code Section 17920, et seq;
- Chronic repeat violators;
- Properties that have significant health and safety code violations.

All cases referred to County Counsel shall use the County Counsel Referral form (Form 14). A complete copy of the case file shall be placed in the electronic management system and the Compliance Manager shall be notified. Referral shall include the following:

- Completed Referral Form;
- Property owner information or responsible party. Include their contact information;
- List each business or corporation separately and include all information from county resources, such as tax assessor records, property ownership information, dba information, fictitious business license information, etc.;
- Responsible Party Information to include individual and business;
- Chronological list of actions. Description of the investigation and regulations in detail;
- Maps, photos, charts;

- Previous warnings, abatement orders, Citation, NOVs with proof of service, certified return receipt, declaration of service, notes regarding verbal confirmation; and
- Copies of local ordinances, regulations or specific orders.

6.2 Referral to District Attorney

Purpose:

To describe procedures for referral to the District Attorney when escalation is needed for more difficult or egregious compliance cases.

Policy and Procedures:

Pursuant to County Code Section 1.20.155, the Compliance Manager shall consult with the Director of PBES and may refer the following cases to District Attorney:

- Unfair Business Practice matters (17200 Actions);
- Chronic repeat violators;
- Violators with a history of District Attorney enforcement;
- Properties that have significant health and safety Code violations;
- State Department of Fish and Wildlife related violations;

All cases referred to the District Attorney shall use the District Attorney Referral form (Form 15). A complete copy of the case file shall be placed in the electronic management system and the Compliance Manager shall be notified. Referral shall include the following:

- Completed Referral Form;
- Property owner information or responsible party. Include their contact information;
- List each business or corporation separately and include all information from county resources, such as tax assessor records, property ownership information, dba information, fictitious business license information;
- Responsible Party Information to include individual and business;
- Chronological list of actions. Description of the investigation and regulations in detail;
- Definition of all scientific and technical terms and abbreviations.
- Maps, photos, charts;

- Previous warnings, abatement orders, Citation, NOVs with proof of service, certified return receipt, declaration of service, notes regarding verbal confirmation; and,
- Copies of local ordinances, regulations or specific orders.

7.0 LITIGATION

7.1 Initiation of Litigation and Authority

Purpose:

To provide a guideline of the process by which the Officer shall seek the Board of Supervisors' direction and authority to initiate litigation.

Policy and Procedures:

County Code Sections 1.20.155(A) and 1.28.140 provide the authority for the Director of PBES to request that County Counsel or the District Attorney commence civil proceedings for the abatement, removal, correction and enjoinder of a violation of County Code. Code violations are viewed in two categories as outlined below:

- **Level 1 Violations:** These violations include, but are not limited to, Health and Safety Code violations, public nuisance violations associated with life safety issues, or egregious zoning violations (i.e. significant use permit violation or conservation violations).
- **Level 2 Violations:** These violations include, but are not limited to, Building Code and/or Residential Code violations (County Code Title 15) with no life safety issues, general property nuisance violations, and minor zoning violations.

Prior to the filing of litigation, County Counsel shall provide to the Board a confidential memorandum, which shall include the following information:

- Property address and owner name;
- A description of the County Code violation or violation of other state or federal laws or regulations;
- Any efforts to obtain compliance;
- A statement of when litigation will be initiated unless one or more Board members request that a closed session be held to discuss the matter; and,
- A description of any exigent circumstances that call for initiation of litigation prior to the first feasible date for holding a closed session.

County Counsel shall advise and determine whether circumstances warrant a closed session to discuss initiation of litigation with the Board in addition to or in lieu of the confidential memorandum to the Board.

7.2 Settlement Authority

Purpose:

To identify procedures for negotiating settlement agreements with the responsible party and to provide general guidelines for cost recovery and civil penalties.

Policy and Procedures:

1. **General Rules for Settlement.** Pursuant to County Code Section 1.20.020(C), County Counsel is authorized to take, initiate, conduct and conclude any actions at law or equity deemed necessary to abate any public nuisance. Code Compliance Officers should work with County Counsel to make every effort to settle lawsuits through a stipulated judgment – subject to first consulting with or advising the Board of Supervisors pursuant to the process described below – with the primary goal being to gain compliance with the applicable code(s). Additionally, Code Compliance Officers, with the assistance of County Counsel or the District Attorney, may consider entering into a Settlement Agreement prior to filing the civil action. All settlements shall include a path to compliance with a specific timeline for compliance.
2. **Staff Cost Recovery.** Code Compliance Officers shall present total staff costs for compliance efforts to County Counsel to include in the proposed stipulated judgment or settlement agreement. Generally, these costs will be non-negotiable.
3. **Negotiated Settlements.** When negotiating settlements, including the amount of civil penalties to be accepted in the settlement, if any, Code Compliance Officers must consider the following factors:
 - The egregiousness of the violation and number of violations on the property;
 - Prior history of violations and/or litigation;
 - The willingness of the violator to comply;
 - The classification of the violation (i.e. Level 1 or Level 2); and
 - The financial condition of the property owner

County Counsel, the Director of PBES and the Compliance Manager shall work together to negotiate settlements, including where applicable, an amount of civil penalties to be paid by the responsible party. Unless the Board has issued a standing delegation of authority to the Director of PBES or Code Compliance Officers to settle litigation at certain levels or in certain defined cases, PBES must seek direction and authority from the Board of Supervisors regarding settlement of litigation before any offer is made. PBES shall work with County Counsel to provide a confidential memorandum to the Board to describe the settlement terms recommended by staff and to give Board members the opportunity to request a closed session prior to making a settlement offer.

County Counsel shall determine whether in specific instances it is advisable to schedule a closed session to discuss settlement of litigation (or pre-litigation settlement) with the Board in addition to or in lieu of the confidential memorandum to the Board.

The confidential memorandum to the Board of Supervisors shall include the following information:

- Property address and owner name;
- County Code violation;
- Efforts to obtain compliance;
- A statement of when the settlement hearing will be held unless one or more Board members request that a closed session be held to discuss the matter; and
- A description of the proposed settlement, including a description of the total amount of civil penalties, if any, and staff costs that could be sought for recovery and a description of the formulas applied in negotiation and any other factors in arriving at the proposed settlement.

7.3 Pending litigation

Purpose:

To provide guidance in engaging with the public and property owners regarding pending litigation initiated by the County.

Policy and Procedures:

Once litigation is pending or a matter has been referred to the District Attorney or County Counsel for litigation, Code Compliance Officers and other PBES staff shall follow the guidelines provided in the Litigation Hold Memorandum. In general, these guidelines include:

Discussion about cases

1. Internal communications – PBES Staff must consider the following when discussing violations:
 - a. Always assume paper and electronic writings, including but not limited to emails, are subject to disclosure. Always assume personal/ad hominem comments will be disclosed in a deposition or other testimony.
 - b. Attorney/client privilege generally includes writings to or from County Counsel; it does not include writings to or from the District Attorney.
 - c. Public record requests require timely response. Immediately contact County Counsel when a request from the public is submitted for Code Compliance records for copying OR inspection.
 - d. Records in criminal cases must be disclosed to the defendant, even without a Public Records Request or written discovery demand.
2. Front counter interactions

When a member of the public inquires about a particular property at the front counter, PBES staff shall routinely check in the electronic management system, PMC, to see if a violation exists on the property. PMC will indicate if the property has a general Code violation, and identify if the case has been referred to County Counsel or the District Attorney.

3. Discussions with the violator, their expert, and/or attorney:
 - a. Discussions are not permitted during an investigation or during pending litigation unless previously approved by County Counsel or the District Attorney.
 - b. When a matter has been referred to County Counsel, consult with County Counsel prior to making any statements related to the litigation.
 - c. General policy prohibits commenting on an investigation when a matter has been referred to the District Attorney. Consult with the District Attorney or County Counsel prior to making any statements related to the litigation.
 - d. Direct the media to the PBES Director or County Counsel.
 - e. Discussions are not permitted during an investigation or during pending litigation, unless previously approved by County Counsel or the District Attorney.
 - f. When a matter has been referred to County Counsel, consult with County Counsel prior to making any statements related to the litigation.
 - g. When a matter has been referred to the District Attorney, general policy prohibits comments regarding an investigation. Consult with the District Attorney or County Counsel prior to making any statements related to the litigation.

8.0 BUILDING PERMITS

Purpose:

To provide a standard protocol for the intake of applications for building permits and for the review, issuance, and inspection process for permits that have been issued to correct a Code violation.

Policy and Procedures:

Consistent with Chapter 1 of the California Building Code and the Residential Building Code, if a person commences construction work without first obtaining a building permit, or when current construction work is inconsistent with the underlying building permit or zoning, the Compliance Officer shall issue a Stop Work Notice (Form 16), ordering the construction work to cease immediately, unless reasons or circumstances exist that call for withholding or delaying such Notice, which reasons or circumstances shall be documented in each file. If the Stop Work Notice is issued, the Compliance Officer shall then follow the procedures set forth in section 5 of this policy manual.

Permit Application Intake

All permits submitted to correct a violation must be reviewed by a Compliance Officer to ensure that the scope of the permit addresses the violation. In most circumstances, the violator or their representative must make an appointment with a Compliance Officer prior to submitting a complete application. If the front counter staff determines that the permit is related to a Code violation, they shall ask the applicant if they have an appointment with a Compliance Officer for the intake of the application. If not, staff shall attempt to contact a Compliance Officer to arrange for review of the permit application. If a Compliance Officer is not presently available, staff shall provide the applicant with a Compliance Officer's business card and direct the applicant to arrange an appointment with the Compliance Officer before submission of the application.

After the Compliance Officer has determined that the application addresses the violations that exist on the property, the Officer shall deliver the application to a permit technician to complete the normal building permit intake process.

Application Review

Once the permit application is submitted, the applicant has 60 calendar days to complete the review process or the permit application shall expire. The Building Official and/or the Code Compliance Supervisor can extend the application review beyond 60 calendar days if the applicant is working diligently toward the issuance of the permit or when the project's delay is reasonably justifiable.

Issuance

Upon issuance of a building permit to correct a Code violation, the applicant, owner or owner's representative shall sign the "Violation Correction Permit Process form" (Form 17) and schedule an initial compliance inspection. Upon issuance of the permit and the copy of the Concealed Construction Verification Guidelines (Form 18) the applicant has 60 calendar days to complete the permit and receive the final inspections. If no inspections have occurred and the permit has not received final approval, the permit shall expire and the applicant may need to re-apply. However, extensions of time can be given by the Building Official if the remaining action is to complete the final inspections for the permit.

Inspection process

Inspectors shall follow the Concealed Construction Verification Guidelines.

9.0 USE PERMITS AND GENERAL GUIDELINES FOR PBES STAFF WHO PROCESS PERMITS TO CORRECT VIOLATIONS

Purpose:

To ensure permits are processed in a timely manner in order to correct violations and reach compliance.

Policy and Procedures:

When a permit application (building, grading, environmental health, conservation, and planning permits) is submitted to correct a Code violation and assigned to a PBES staff member, they shall implement the following processes in addition to their regular permit steps:

1. Create thirty calendar day timelines when information is requested to ensure the application continues to move forward towards compliance. PBES Staff shall strive to process the permit in a timely manner. They shall maintain records and if the violation is associated with an active litigation case, PBES staff shall meet those litigation deadlines as identified in the court order(s) and/or stipulated judgement.
2. The Napa County Local Procedures for Implementing CEQA, Section 401(b)(2) indicates that failure to provide the required information to the PBES staff member within one-hundred twenty calendar days of the issuance of a Completeness Determination or thirty calendar days of issuance of a Request for Deposit Submission shall cause the application to be deemed "abandoned". If timelines are not met PBES staff will contact the Code Compliance Officer assigned to the case to determine if further code enforcement action is necessary.
3. PBES staff shall include all Notices of Violation and other Code related public information with their staff reports when presenting to decision makers.
4. PBES staff shall periodically confer with the Code Compliance officer assigned to the case regarding progress of the application.

10.0 RECEIPTS AND PAYMENTS

Purpose:

To ensure all money owed is paid in a timely manner and payments are properly documented.

Policy and Procedures:

All payments must be submitted to PBES as agreed in the citation or settlement of the case. Payments are received by the administrative staff and processed by the Staff Services Analyst. A receipt shall be generated upon payment and provided to the payee. Typical types of payments may include:

- Abatement cost recovery
- Staff cost recovery
- Settlement payments as a result of stipulated judgements or litigation
- Civil Penalties

11.0 PERSONNEL

11.1 Officer Safety - Basic Officer Safety Rule

Purpose:

To maintain safety for all Compliance Officers. Whether in the field or in the office, all Compliance Officers shall use the BASE Rule:

Be

Alert

Scan for Warning Signs

Evacuate

Policy and Procedures:

1. Code Compliance Officers should ACT WITH PURPOSE. It establishes confidence, commands presence and can act as a deterrent to an attack.
2. Code Compliance Officers should eliminate distractions. Officers should not do anything that will preoccupy them from safely making observations and interacting with the public.
3. During field interviews, Code Compliance Officers shall ensure that they:
 - a. Are in a position of advantage or have an escape route readily available.
 - b. Are alert for warning signs of aggression from both people and animals on the property.
 - (i) When making contact with an individual, attempt to determine if there are other people or animals on the property. Ask for any hazards on the property such as failed septic systems, hazardous electrical, etc.
 - (ii) Be alert for weapons. If an Officer observes what they think is a weapon, the preferred option shall be to end the conversation and leave the area safely and immediately.
4. Code Compliance Officers shall exhibit care when dealing with animals
 - a. All animals encountered in the field shall be treated with caution. Watch for aggressive or threatening behavior and respond accordingly.
 - b. Have a responsible party secure any animals which may be hostile to a Code Compliance Officer during the inspection.
 - c. Consider asking County Animal Control to assist and secure hostile animals during the inspection.

5. Inspecting Vacant Buildings/Structures
 - a. Code Compliance Officers shall NOT enter a non-residential building/structure that appears to be currently occupied. If a building or structure has indications of being occupied the Code Compliance Officer shall attempt to contact a responsible party to determine occupancy and safely make contact with any individual that may be inside the building/structure.
 - b. In addition to safety concerns, a sign of current occupancy will usually trigger the need to obtain consent or a warrant to continue the inspection.
 - c. Code Compliance Officers should knock loudly and announce their presence when conducting inspections. Wait for a response and continue to look for signs of current occupancy.
 - d. If the Code Compliance Officers is unable to contact a responsible party, law enforcement may be contacted to ensure that the inspection of the building/structure can be made safely.
6. Approaching Vehicles
 - a. Code Compliance Officers shall NOT approach and attempt to contact unknown subjects in vehicles. From a position of advantage and with a readily accessible escape route, the Code Compliance Officer can request subjects to exit the vehicle and direct them away from it to make contact.
 - b. If it is not safe to make contact with subjects in a vehicle, the Code Compliance Officer shall immediately withdraw. Observations and the appropriate referrals shall be provided to the Compliance Supervisor and/or law enforcement as the circumstances dictate.
7. Issuing Criminal Citations and Detentions/Arrests
 - a. Issuing a criminal citation is commonly referred to as a form of a detention and arrest (or cite release). Trained Compliance Officers are authorized to issue criminal citations.
 - b. Code Compliance Officers may order someone to remain at a location in order to issue them a citation; that is a level of detention/arrest considered reasonable. It is authorized as long as it does not create an unsafe situation for issuance of the citation.
 - c. Code Compliance Officer shall NOT physically attempt a detention or an arrest. If a subject is not compliant with verbal commands, Code Compliance Officers should let them leave the scene (making note of description, vehicle, etc.) or call for law enforcement before continuing contact.

11.2 Expectations

1. When in the field, staff is Code Compliance Officers are expected to know their approximate location to be able to report it in the case of an emergency.
2. Code Compliance Officers are expected to strive to maintain a “professional face” when interacting with upset or angry individuals so that they can remain detached enough to safely observe the actions of the individual and assess any possible threats or hazardous situations.
3. Code Compliance Officers are expected to make note of suspicious activity or hazards for reporting to the appropriate agency.
4. Code Compliance Officers are never expected to knowingly put themselves into dangerous or harmful situations.
 - a. When a Code Compliance Officer may face potentially dangerous or harmful situations, staff shall consult with a supervisor to address the hazards. Such measures to address the hazards could include taking a second officer or making contact with law enforcement, or performing the inspection only after law enforcement has mitigated the hazard.
 - b. If a Code Compliance Officer observes a hazard which constitutes an immediate threat to life or property, the Code Compliance Officer shall immediately take steps to ensure their safety and make the necessary notification to 911 and/or other first responders. Immediately after this notification, the Code Compliance Officer shall contact their supervisor or designee when it is safe to do so.
5. The most important thing to do if the area does not appear to be safe is to ACT by leaving the area. The best response for a Code Compliance Officer when confronted with a direct threat is to safely and immediately leave.

11.3 Threats, Assaults and Batteries

All threats, assaults and batteries directed at Code Compliance Officers are serious and shall be reported to supervision, management, and/or law enforcement, immediately (as soon as it is safe). Code Compliance Officers should obtain as much information as safely possible about the subject making the threat, assault or battery, including their intent, ability and desire to carry out their actions, and include this information in the report to law enforcement and the Code Compliance supervisor.

11.4 Avoiding Conflict

1. The use of body language, choice of words, and tone should all be employed to de-escalate a potentially hostile situation. Use these techniques if it is safe to do so to try and complete an assignment. Conflict resolution training is available and recommended for all Code Compliance Officers.

2. If de-escalation is not effective, Code Compliance Officers should end the communication and leave the area. This applies to both hostile subjects and hostile animals.

11.5 Use of Force

1. In a case of immediate and direct threat to life, Code Compliance Officers may use the minimum reasonable amount of force necessary to mitigate the threat and allow for evacuation or escape from the area. The preferred method is to leave the area. If a Code Compliance Officer needs to use force for self-defense (i.e., either physically or by visually displaying pepper spray or other equipment), then such action shall be reported immediately (as soon as it is safe) to law enforcement and the Code Compliance supervisor.
2. Code Compliance Officers shall NOT use force (either physically or by visually displaying equipment) when effecting a detention or arrest to issue a citation.
3. Code Compliance Officers shall NOT use force (either physically or by visually displaying equipment) to prevent the departure or escape of a subject.
4. The County demands the exercise of good judgment at all times when force is necessary. Each situation explicitly requires the use of force to be reasonable and only that force which reasonably appears to be necessary may be used to mitigate a direct threat. Mere verbal threats of violence, verbal abuse, or hesitancy by the person in following commands do NOT, in and of themselves, justify the use of physical force WITHOUT additional facts or circumstances which, taken together, pose a threat of harm to the Code Compliance Officer or others. Code Compliance Officers must be prudent when applying any type of use of force.
5. Unreasonable application of force on a person is a violation of California and federal law, which may result in the criminal prosecution of the Code Compliance Officer and/or civil liability for the Code Compliance Officer and the County.
6. Unreasonable application of physical force on an animal is a violation of California Humane Law (California Penal Code 597), which may result in criminal prosecution of the Code Compliance Officer and/or civil liability for the Code Compliance Officer and the County.
7. Code Compliance Officers should clearly understand that the standard for determining whether the force applied was reasonable is that conduct which a reasonable Code Compliance Officer would exercise based upon the information the Code Compliance Officer had when the conduct occurred.

8. The decision to use physical force places a tremendous responsibility on the Code Compliance Officers. There is no one capable of advising the Code Compliance Officer on how to react in every situation that may occur. Ideally, all situations should require only verbalization. Code Compliance Officers must be able to escalate or de-escalate the response that reasonably appears to be necessary to control a situation.
9. A violation of the Department's Officer Safety policies may also subject Code Compliance Officer to discipline.

11.6 Reporting

1. Code Compliance Officers are required to immediately report all Officer/staff safety issues to a supervisor. This includes the mere display of officer safety equipment or pepper spray.
2. After a verbal notification of an Officer/staff safety issue, the supervisor shall require Code Compliance Officer to submit a written report of the situation.

12.0 CONTRACTORS

12.1 Referral of Contractors to Contractor State License Board

Purpose:

To establish a guideline as to when a contractor is referred to the Contractors State License Board (CSLB).

Policy and Procedures:

Referral to the CSLB should be considered by the Compliance Officer based on the history of violations by a contractor as well as the egregiousness of a violation by the contractor. The Compliance Officer must complete the CSLB Referral Form (Form 19) and attach the necessary supporting documentation and evidence (i.e. copy of stop work, violation notice, photos). The Building Official shall review all referrals and make the final determination of whether the Contractor should be referred to the CSLB.

13.0 SPECIFIC URGENT CIRCUMSTANCES

13.1 Failed Septic

Purpose:

To ensure a uniform response to septic failures.

Policy and Procedures:

Compliance Officers assigned to failed septic calls shall respond immediately to the complaint by inspecting the property and following the procedures below:

1. Confirm the existence of the failed septic system. This is usually obvious due to a large hole in the ground and/or the smell of sewage from the area.
2. Use extreme caution around the failed septic system. The visible opening of the septic tank may appear to be one or two feet in diameter when the actual tank size might be much larger.
3. Immediately secure the general area with caution tape. This area should be taped a minimum of 15 feet away from the tank opening.
4. Cover the tank opening with plywood or any other material available to help keep people from falling into the tank.
5. Attempt to locate a property owner or tenant.
 - a. If the owner is located on site or if the owner is later contacted, the Compliance Officer shall notify them that they need to call a septic company immediately to respond to the location as soon as possible.
 - b. If the owner cannot be located on site, the Compliance Officer shall immediately make every attempt to contact the owner. Compliance Officers shall use any and all resources available to make contact with the owner; i.e., utility records, property profiles, internet searches, etc. If the Compliance Officer cannot make contact with the owner, the Compliance Officer shall contact the Compliance Supervisor and review the situation to determine whether an emergency abatement is necessary.
 - c. After contact is made, the Compliance Officer shall request that the owner transmit a copy of the contract with the septic company to verify that a contract has been executed for the repair.

13.2 Polluted Water/Mosquito Complaint

Purpose:

To ensure a uniform response to Polluted Water/Mosquito complaints.

Policy and Procedures:

When a Compliance Officer verifies the presence of mosquitoes in or around polluted water, the Compliance Officer shall evaluate the area to determine if the source of water can be quickly removed or cleaned. If the water cannot be quickly abated, the Compliance Officer shall notify Napa County Mosquito Abatement to treat the water. The Compliance Officer's responsibility is to eliminate the polluted water by determining the cause and finding an appropriate method of abating the situation.

13.3 Unsecured Hazardous Pool

Purpose:

To ensure a uniform response to Unsecured Hazardous Pool complaints.

Policy and Procedures:

1. Compliance Officers responding to complaints regarding unsecured swimming pools need to abate the violation as quickly as possible. If the pool is over twenty-four inches (24") deep, it is required to have a minimum of a four-foot fence surrounding it.
2. If the swimming pool is a seasonal vinyl pool with a blow up ring top or PVC pipe frame or similar style and no fence is present, the pool should be drained immediately.
3. If the swimming pool is not properly protected, the Compliance Officer shall make every attempt to notify the property owner by telephone. The Compliance Officer shall also send written notice to the property owner by certified mail that same day, instructing the property owner to repair, replace, or install a protective fence. If the Compliance Officer cannot make contact with the owner, the Compliance Officer shall contact a Code Compliance Supervisor to review the situation to determine whether an emergency abatement is necessary.

13.4 Utility Violations - Lack of Utilities in a Dwelling

Purpose:

To ensure a uniform response to complaints regarding dwellings with no utilities.

Policy and Procedures:

Dwelling properties are required to have hot water at a sink. Utilities must be able to heat a dwelling to seventy (70) degrees at three (3) feet off the floor in all habitable rooms. Electrical lighting is required. Therefore, in most cases, homes are required to have natural gas, electrical, and water services. There may be dwellings that are approved as having all electric appliances and heating and therefore not required to have gas service.

When a Compliance Officer responds to a complaint involving a residence without utilities, the Compliance Officer should take into account:

1. The season of year;
2. The presence of children or elderly persons in the dwelling;
3. Whether the subjects are in the residence legally; and
4. What other Code violations are present.

Generally, a Compliance Officer should give a very short time frame for the subjects to turn on the utilities, i.e., one-week maximum. The Compliance Supervisor shall be advised if the Compliance Officer believes the subject needs more than one week to comply.

13.5 Disconnection of Utilities

Purpose: To provide a consistent procedure for the removal of utilities which are a hazard to the occupants or neighboring properties.

Policy and Procedures:

1. Subsection 111.3 of the California Building Code (CBC) and Section 15.04.0040(E) of the County Code authorizes the Building Official to authorize disconnection of utility service to a building, structure or service system regulated by the CBC in the case of emergency, i.e., where necessary to eliminate an immediate hazard to life or property, such as the imminent danger of fire or electrocution.
2. When such a hazardous electrical or gas condition exists in a building or on a property, the Building Official, or the Compliance Officer acting as the Chief Building Official's designee, shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system, of the decision to disconnect a utility service prior to taking such action.
3. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing as soon as is practical thereafter.
4. In the notice, the owner or occupant should be offered an opportunity to contest the disconnection, by appealing the decision in writing, either before (if time permits) or shortly after the disconnection.
5. Additionally, should the Compliance Officer obtain a court order or Abatement Warrant for a property, such order or Warrant should include authorization to disconnect utilities during the abatement of a property nuisance so that utilities can be disconnected prior to the demolition of structures. (Form 20, Notice of Disconnect, and Form 21, PG&E Notification.