

# CODE ENFORCEMENT POLICY

Approved June 10, 2013

## INTRODUCTION

The Code Enforcement Policy, approved by the City of Prior Lake City Council, provides guidelines for enforcement of the City of Prior Lake Municipal Code, the Zoning Ordinance, and other regulatory codes adopted by the City. This document is intended to regulate only those enforcement/compliance processes, and activities, specifically initiated by the City.

## CONTACT INFORMATION

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### I. CODE ENFORCEMENT PROGRAM

Minnesota Statutes give the City Council the “power to provide for the government and good order of the City, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order and convenience, and the general welfare as it shall deem expedient.”

The Prior Lake 2030 Vision and Strategic Plan states as a specific goal that its ordinances shall be directed to protect residential and commercial properties. To meet this objective, the City has developed a Code Enforcement Program. The City has limited resources, so City staff also relies on residents and business owners to provide information regarding code violations as well as self-initiated inspections.

#### A. STANDARD ENFORCEMENT POLICY

City of Prior Lake residents are supported in their efforts to maintain the physical environment of their neighborhoods through standards set in local ordinances. To assist in this endeavor, the following code enforcement policy has been established to guide the City in addressing properties with code violations.

This policy is a guideline and does not bind the City. The City may deviate from this policy at any time if at the sole discretion of the City, a deviation is deemed appropriate.

#### Typical Violations

- Junk Storage
- Permit Violations
- Garbage and Refuse
- Tall Grass
- Signage
- Yard Parking
- Right-of-Way
- Animals
- Junk Vehicles
- Zoning Use
- Property Maintenance
- Public Nuisance

### **B. COMPLAINT PRIORITY CLASSIFICATIONS**

City staff inspects every complaint it receives. When a violation is confirmed, the appropriate action is taken. Due to staff and time constraints, it is sometimes necessary to prioritize complaints and violations. When this happens, complaints are prioritized as follows:

1. Immediate risk to public health and safety.
2. High risk to health and safety through potential environmental impacts.
3. Work begun or actions taken without the necessary permits.
4. Aesthetic and nuisance violations.

## **II. DEFINITIONS**

**Abatement** - Abatements are the removal or repair of a substandard property conditions by the property owner, agent, contractor or City.

**Business Day** - In the context of this policy a Business Day is considered Monday through Friday, from 8:00 a.m. to 4:30 p.m. on a normally scheduled workday exclusive of holidays. Therefore, the next business day would be the next day that the City is scheduled to be open.

**City Code** - The City Code includes all ordinances passed by the City including those that have not been codified.

**Code Enforcement Officer** – An employee of the City designated as the Code Enforcement Officer. The term Code Enforcement Officer also includes all City employees authorized by City Code Section 104.400 to issue citations.

**Compliance Deadline** - The Compliance Deadline (re-inspection date) is the date compliance is required and listed on the Notice of Violation, or Notice and Order. If compliance has not occurred by the compliance deadline a misdemeanor citation may be issued, or an abatement process may be initiated. The Compliance Deadline may be extended at the discretion of the Code Enforcement Officer.

Compliance Inspection - The Compliance Inspection is the re-inspection of the property on or after the date which is established when a notice is issued.

Extension - An extension provides additional time for a responsible party to fully remedy any identified code violations. When a legitimate need arises a responsible party may request an extension beyond the initial compliance deadline. Extensions are determined at the sole discretion of the Code Enforcement Officer or other City official handling the matter.

Immediate Enforcement Violations - Immediate Enforcement Violations are code violations where immediate action is required to protect the public health, safety or welfare, the issuance of a written notice is considered ineffective in deterring repeat, or future violations. As a result an immediate citation may be issued.

Initial Property Inspection - The Initial Property Inspection is the first inspection conducted on a property where a new case is opened. During the Initial Property Inspection the Code Enforcement Officer records any observed violations, attempts to make direct contact with the responsible party, establishes a compliance deadline, and issues a notice.

Life Safety Hazard - A Life Safety Hazard is any identified code violation that has the potential to directly, or indirectly, cause bodily harm. Examples of life safety hazards include, but are not limited to: vehicles dangerously positioned on jacks, concrete blocks, wood, or other physical objects; certain types of right-of-way obstructions; dead trees or trees leaning at precarious angles; missing or obscured building addresses; swimming pools which are not properly fenced or secured; broken windows; electrical hazards; unsecured structures; and any other hazardous conditions where there exists a foreseeable danger to the public. Note: all life safety hazards will be described as such on all written notices.

Misdemeanor Citation - Misdemeanor Citations are formal criminal complaints issued by a Code Enforcement Officer to the responsible party for uncorrected code violations. Person(s) issued a misdemeanor citation are required to appear in the Scott County District Court.

Notice of Violation - A Notice of Violation is a standard formal legal notification (written notice) issued by a Code Enforcement Officer advising the responsible party that a violation(s) exists on their property. It also establishes a compliance deadline. This written notice is principally designed to encourage timely voluntary compliance.

Repeat/Recurring Violation - A Repeat/Recurring Violation is a newly identified code violation on a property involving the same responsible party for the same or substantially the same violation as identified on a previous investigation within the last twelve (12) months. Note: the twelve (12) months is calculated from the date of the Initial Property Inspection to the date of the Initial Property inspection of the new violation.

#### Responsible Party

1. The listed owner(s) in the Scott County real property information I record.
2. All tenants on the property.
3. Any person or entity creating a violation even if they are not the record owner or tenant. For limited liability Companies, corporations, or other forms of businesses and corporations, the responsible parties are the principals and officers of the entity.

Voluntary Compliance - Voluntary Compliance is achieved when all identified code violations are corrected before the established compliance deadline. This allows the Code Enforcement Officer to pass the inspection without the issuance of a citation, or the initiation of an abatement process. Voluntary Compliance is considered the preferred method of resolving code violations.

### **III. REACTIVE/PROACTIVE ENFORCEMENT**

#### **A. REACTIVE (COMPLAINT BASED) ENFORCEMENT**

The City of Prior Lake City Code, including but not limited to the Zoning Ordinance, and other regulatory codes adopted by the City are principally enforced on a complaint basis. This is designed to encourage a resident, neighborhood associations, block watch programs, or other City departments to actively participate in the enforcement/compliance process.

In the interests of providing improved customer service, all complainants will be asked to provide a name and contact phone number. Note: all recorded complainant contact information is maintained confidential to the extent allowed by law.

#### **B. PROACTIVE ENFORCEMENT**

The City may observe and respond to code violations during regular business, visit areas for reactive enforcement, or proactive code enforcement sweeps.

### **IV. GENERAL PROCEDURES**

#### **A. LIFE SAFETY COMPLAINTS**

If the alleged violation concerns a potential health or safety hazard to the neighborhood or neighbors, inclusive of open/vacant buildings, fire hazard and/or health hazards, or other health and safety hazards, the City's goal will be to respond within one (1) business day of receiving the complaint.

#### **B. NON-LIFE SAFETY COMPLAINTS**

If the alleged violation is not a potential health or safety hazard the City's goal will be to respond within five (5) business days of receiving the complaint.

#### **C. NOTICE OF VIOLATION / NOTICE AND ORDER**

Upon the initial property inspection the responsible party will be notified of any violation(s) discovered during the inspection process through the issuance of a written notice. If the responsible party is not present to receive the written notice at the time of the initial property inspection, the notice will be posted on the property in a conspicuous location and may be mailed. The notice of violation will specify a compliance deadline. The notice of violation will also list any observed code violation(s).

#### **D. FINAL NOTICE OF VIOLATION – CITATION / ABATEMENT FOR NON-COMPLIANCE**

Unless a violation is an immediate enforcement violation, any uncorrected code violations remaining after the Compliance Deadline will receive a final notice of violation. After the final notice compliance deadline, remaining violations are subject to citation and/or the initiation of abatement. In addition, a final notice will also provide an explanation that repeat/recurring code violations, on the same property, within twelve (12) months are subject to expedited legal action as defined in Section V. Repeat/Recurring Violations.

## E. EXTENSION

In general, Extensions may be authorized for a specified period of time. Responsible parties who demonstrate to the Code Enforcement Officer the existence of circumstances requiring additional flexibility or deviation from the compliance deadline may be granted an extension for a specified reasonable period of time based upon consideration by the City of the following factors:

1. Resolution of all Life-Safety Hazards  
An extension will not be considered, or provided, to any responsible party where a life-safety hazard exists or where active and verifiable steps to physically mitigate the hazard are not in place.
2. Achievement of Measurable Progress  
Upon the compliance inspection the property shows significant measurable improvement from the conditions observed during the initial property inspection.
3. Establishment of Direct Communication  
The responsible party establishes direct communication with the assigned Code Enforcement Officer *prior to* the initial compliance deadline. Direct Communication could be face-to-face, e-mail, or direct phone contact.
4. Written and/or Verbal Commitment to Voluntarily Comply  
The responsible party states their intention to fully remedy all recorded violations on their property. This statement can be made verbally to the officer or in writing after establishing direct communication. The timeframes requested will be reviewed by the Code Enforcement Officer.

## V. EXCESSIVE COMPLAINTS

The purpose of this section is to deal with situations where one or more parties inappropriately use the Code Enforcement system. What begins as a complaint escalates into multiple complaints between two parties. Both parties use the complaint process to antagonize each other.

The City has limited resources, in both staffing and funding, to manage complaints and code violations. The City has the right to choose how to best use these resources in a fashion that prudently utilizes taxpayer resources. The purpose of this Complaint Policy is to establish a protocol and standards for the Staff to use to determine whether the enforcement tools available to the City are no longer effective. The City does not intend to ignore complaints; Staff will continue to take the appropriate enforcement action when a legitimate City Code violation exists. Depending on the nature of the Code violation and the impact the Code violation has on the health, welfare and safety of the City and its residents, the City staff will prioritize the list of pending complaints it receives. Staff may choose to limit the amount of follow-up in certain situations.

Staff will use the following guidelines to determine if a complaint is defined as excessive. Excessive complaints are ongoing complaints where all or a majority of the following is defined are present:

1. The alleged violation does not pose an immediate risk to public health and safety, or there is no high risk to health and safety through potential environmental impacts, or alleged violation is a private property dispute.
2. The nature of the complaints move from reporting a legitimate Code violation to a frivolous complaint or a complaint deemed to be using the City to harass another party; or
3. The parties refuse to participate in process identified by the City (e.g., mediation) to attempt to resolve the dispute.

Excessive and repetitive complaints by the same party or parties consume considerable staff time to inspect the alleged violation, talk with the parties involved, write letters requesting corrective action, perform a follow up

inspection and potentially have further discussions with involved parties. There is no formula, either objective or subjective to determine when City efforts have been unsuccessful. In determining whether City efforts has been unsuccessful staff will consider the following:

1. How much time the City has invested in working with the parties to address the City Code violation.
2. Whether the City has recommended a viable solution that is achievable within a reasonable amount of time (90 days).
3. Whether the nature of the violation is creating a dangerous situation that puts people and property at risk.
4. Whether the essential basis of the dispute is civil.

Once a determination is made, staff may consult with the City Attorney to determine the City's legal obligations and options. All future complaints from the parties must be in writing. Staff will investigate any subsequent and unrelated complaints received from the parties and take the appropriate action. The staff will not follow-up with the complainant.

## **VI. REPEAT/RECURRING VIOLATIONS**

The Repeat / Recurring Violation process is designed to provide resolution through an expedited enforcement / compliance mechanism for responsible parties who repeatedly violate City ordinances and who have demonstrated an inability, or unwillingness, to responsibly maintain their property.

### **A. NOTIFICATION POLICY**

Investigations where Repeat/Recurring Violations are identified will proceed through a procedural fast track. The discovery of a repeat offense is cause to:

1. Issue a repeat/recurring violation warning notice

The Repeat Recurring Violation Warning Notice will be a final notice of violation that will be mailed directly to the responsible party(s), via U.S. Mail, to the address as listed on the Scott County Assessor Record. This written notice will advise the responsible party that repeat/recurring violations may be present on their property. Educational material describing other common code violations may be included with the warning notice. As specified in the final notice of violation, a compliance inspection will be made. At the time of this compliance inspection, any unresolved repeat/recurring violations are cause to:

1. Issue a citation;
2. Initiate an abatement process

Note: An extension for Repeat/Recurring Violations may be reviewed and approved by the City.

## **VII. IMMEDIATE ENFORCEMENT VIOLATIONS**

Certain types of illegal activities constitute an imminent public safety and health hazard. The following types of illegal activities may result in the issuance of a citation without the benefit of receiving a written notice:

1. Person(s) found illegally dumping litter, or waste, onto any property, vacant parcels, or City Right of Ways.
2. Food vendor(s) who are selling food products without a license.
3. Merchandise vendors who are soliciting customers without a license.

4. Person(s) who allow a vehicle to remain unattended in a condition that it is openly accessible to the public and that presents a life-safety hazard.
5. Person(s) found responsible for causing an obstruction of a public street, or sidewalk.
6. Other violations as determined by the City.

#### **VIII. ADVANCED CUSTOMER SERVICE**

The City is a governmental body that places a high-value on providing professional, advanced customer service to the citizens with which we interact and serve. Governmental transparency, performance efficiency, and public accountability are core values that guide our operational processes.

We Strive to Provide the Following Advanced Customer Related Services

- An emphasis on public education and voluntary compliance.
- When requested, keep complainants informed when contact information is provided.
- Refer low-income qualified, owner occupied, property owners who may require special assistance to known hardship assistance programs such as: non-profit volunteer organization.

#### **IX. ANNUAL POLICY REVIEW**

In April of each year, the City Council should receive a report from City staff regarding code enforcement activity from the previous year. The number of violations by type should be communicated as well as the number of proactive vs. reactive complaints.