



Code Enforcement Policy Manual

Adopted on August/28/2018

By the Fremont County Board of Commissioners

I. MISSION.

Code Enforcement’s mission is to preserve and enhance Fremont County’s livability, health, safety, and general welfare of the County’s residents and visitors.

II. PURPOSE.

The purpose of Fremont County’s Code Enforcement Policy and Procedures Manual (hereafter “manual”) is to provide guidelines for:

- Prioritization of code enforcement cases;
- Investigation of code violation complaints;
- Enforcement of County regulations and ordinances through *voluntary compliance*;
- Prosecution of code violators who do not comply;
- Recovery of the County’s investigation and enforcement costs.

III. CODE ENFORCEMENT PHILOSOPHY.

The County’s policy is to achieve *voluntary compliance* with reported and verified code violations. However, not all violations have an equal degree of severity, or circumstances. As such, through this manual, the county establishes priority ranking and procedures. The intent is to allow the level of enforcement that best fits the type and circumstances of the code violation(s), and maximize available resources.

IV. PRIORITIES FOR CODE ENFORCEMENT.

It is the County’s policy to investigate and attempt to resolve all reported and verified code violations. There may be times when code violations cannot be given the same level of attention, or when some code violations may receive no attention at all. In such circumstances the most serious violations, as determined through application of priority criteria in this section, will be addressed before the less serious violations are addressed, regardless of the order in which the complaints are received. However, complaints alleging both priority and non-priority violations may be processed together to maximize efficiency.

The following is a list of criteria for determining priority and level of enforcement. This list is not designed nor meant to be an exclusive list, nor are the criteria listed in any particular order.

1. The physical size and/or extent of the violation is significant;
2. The deliberate nature of the violation(s);
3. The alleged violator is receiving economic benefit from the violation(s);
4. History of complaints and violations on the subject property and/or with the alleged violator;
5. Impacts to the complainant and neighboring properties;
6. The code enforcement benefit compared to the associated costs (e.g. correction should be quick and inexpensive to accomplish);
7. Likelihood of obtaining voluntary compliance.

V. APPLICABILITY.

A. General Applicability.

This manual applies to all code enforcement carried out by Fremont County Code Enforcement Officers. Except as otherwise provided, the policies and procedures in this manual apply to all alleged violations.

B. Non-Applicability to Covenants, Conditions, and Restrictions.

Many subdivisions and planned communities are subject to recorded private, covenants, conditions and restrictions (hereafter “CC&R’s”). The conditions and restrictions included in the CC&R’s are generally enforceable through private legal action. The County does not enforce private CC&R’s. However, simultaneous violations of both County regulations and CC&R’s can exist and partnerships may occur to resolve the violations.

VI. INITIATION OF CODE ENFORCEMENT.

A. Citizen Complaints.

Any person can make a complaint alleging one or more violations.

1. Complaint Form.

A citizen must complete and *sign complaints* on a County Complaint form. The complaint must contain information as to how the violation *directly affects* the complainant. Failure to provide this information may result in dismissal of the complaint. The form is available at the County Administration Building located at 615 Macon Ave., Room 210, Cañon City CO 81212, and online at www.fremontco.com. Complainants may attach a supplemental information sheet and photos to the form provided by the County.

2. Email Complaints.

Email complaints will be accepted *provided* it is marked as a complaint and contains complainant contact information, type of violation, address/location of subject property, and how the complainant is directly affected. A response requesting required information or additional information shall be sent if needed.

3. Anonymous Complaints.

Anonymous complaints will not be accepted.

4. Confidentiality.

The County policy is to maintain the confidentiality of Code Enforcement complaint files and computer records, including the identity of the complainant to the extent legally possible. The County recognizes that some complainants do not wish to have their names disclosed to the alleged code violator for fear of retaliation. However, in some cases it may be necessary for successful prosecution and enforcement of the violation for the complainant to be identified and to testify in court. Additionally, the County’s Code Enforcement files are subject to the state statutes governing public records and disclosure.

5. Complainant Communication.

Complainant shall be notified that a case has been issued upon receipt of the complaint, a status update periodically, and a case closure letter when the case is closed. Notification shall include the case number and contact information.

B. Observations by Code Enforcement Staff.

Code Enforcement staff may document any potential code violations observed on property

within the same vicinity as the subject property.

C. Permit/Approval/Conditions Monitoring by Enforcement Staff.

The County issues permits and licenses with a variety of requirements, conditions, and timelines. Code violations exist when timelines, requirements, and conditions are not met.

D. Report by County Staff.

In many cases, County staff may be in a unique position to observe potential code violations. The County's policy is that all County Staff may report to Code Enforcement staff possible code violations they observe while conducting County business.

VII. RECORDING COMPLAINTS AND OPENING FILES.

A. Recording Complaints.

To the extent possible, all complaints received shall be maintained in the County Code Enforcement records. The complaints shall be entered into the records with the following information:

1. Case Number;
2. Complainant's name and telephone number;
3. The subject property location;
4. Type of complaint.

B. Opening a File.

After a complaint is validated, recorded, and assigned a case number, a file shall be opened. The file is the official record of complaint, its investigation, and resolution. The file shall contain the following:

1. The complaint form;
2. A map of the area and property;
3. An investigation worksheet;
4. Assessor's information for the subject property;
5. Photographs or other exhibits that support the complaint(s);
6. Written or Verbal correspondence with all associated parties.

VIII. INVESTIGATION.

A. Establishing the Elements of a Violation.

A valid and accepted complaint, must demonstrate a code violation. If it does not, the case will be closed. Code Enforcement staff with the assistance of the other County staff and/or legal counsel, and after any necessary field investigation, shall determine if the following elements have been established:

1. Jurisdiction. The property upon which the alleged code violation has occurred must be in unincorporated Fremont County;
2. Zoning. Zoning of the subject property;

3. Permit Status. The status of any land use permit, and/or construction permits for the subject property;
4. Property Ownership. All persons with a recorded legal interest in the subject property should be identified from the Assessor's records and may include the owners, contract purchasers, lessees, and lien holders or other security interest holders;
5. Other Responsible Persons. Any other persons potentially responsible for the alleged code violation(s) shall be identified. These persons could include tenants, land developers, and contractors;
6. Identification of Applicable Code Provisions. Code Enforcement staff, with the assistance of other County staff and legal counsel shall identify the provisions of the County codes that have been violated according to the complaint;
7. Time Frame. Code Enforcement staff shall determine whether there is a basis to believe that the alleged violation did occur or is occurring. If a violation cannot be verified in a reasonable period, the case may be closed.

B. Assignment of Investigation and Enforcement Responsibility.

All cases and violations are worked collectively by Code Enforcement Staff. The person who initially makes contact with the complainant and/or alleged violator will be the lead officer for the case.

C. Field Investigation.

Field investigations will be conducted during normal business hours

The purpose of a field investigation is to:

1. Verify the existence and severity of code violation(s);
2. Document code violations by means of written notes, photographs, witness interviews, etc. If a violation is visible, any investigation that establishes such violation, or confirms there is no violation shall include pictures;
3. If possible, contact and discuss with the property owner, occupant or other responsible person:
 - a. The nature of the violation(s);
 - b. Methods for compliance;
 - c. Timelines for compliance;
 - d. Enforcement procedures; and
 - e. Potential consequences for failure to comply.

D. Preparations and Precautions.

Staff shall take whatever actions are reasonable and necessary to minimize any potential risk of violent confrontation or injury to themselves or others when conducting a field investigation:

1. Law Enforcement Assistance.

When appropriate, Code Enforcement staff or other assigned staff will contact the Sheriff's Office to determine if there have been criminal complaints or investigations concerning the subject property or alleged code violator, and whether, in the opinion of the Sheriff's Office, a field investigation might present any threat to the safety of staff, the alleged code violator, or other persons present during a field investigation. Staff may

request law enforcement assistance for the field investigation

2. Announced/Unannounced Field Visits.

At the discretion of Code Enforcement staff or other assigned staff, a field visit to the vicinity of the subject property may be conducted with or without prior notice to the property owner, occupant, or alleged code violator. The determination of whether or not to give prior notice shall be made on the basis of the following:

- a. The nature of the alleged violation;
- b. Whether or not prior notice will make detection and documentation of the alleged violation more difficult; and
- c. Whether or not prior notice will unnecessarily increase the risk of violent confrontation or injury to staff.

3. Entering Upon Property or Premises.

Code enforcement staff will conduct investigations from public roads and rights-of-way when feasible. However, it may be necessary for code enforcement to lawfully enter onto the property to evaluate the alleged violation. If access is denied Code Enforcement staff shall contact the appropriate departments and/or seek legal counsel for a search warrant.

IX. ENFORCEMENT PROCEDURES

A. Land Use.

1. Compliance Advisory.

a. A Compliance Advisory (CA) will be presented to the violator and/or other responsible parties through hand delivery on site, or by certified mail.

- b. When issuing a CA the Code Enforcement Official shall:
 - i. State the violation in plain language and cite the County code reference;
 - ii. State what must be completed to come into compliance;
 - iii. Establish a deadline for compliance;
 - iv. Inform the responsible parties of other potential actions or consequences;
 - v. Provide the violator with Code Enforcement contact information to discuss the case.

2. Notice of Violation.

a. A Notice of Violation (NOV) will be issued either in person or by certified mail, when the requirements of the Compliance Advisory have not been met. A NOV may also be directly issued if the violation(s) on the property are a second occurrence within a short timeframe (e.g. a similar violation within a 6 -18 month period).

- b. When issuing a NOV the Code Enforcement Official shall:
 - i. State the violation in plain language and cite the County code reference;
 - ii. Establish a deadline for compliance;
 - iii. Inform the responsible parties of other potential actions or consequences;
 - iv. State what must be completed in order to come into compliance;
 - v. State that the requirements of the CA were not met;

- vi. State that the NOV will be recorded with the County Clerk and Recorder's office;
- vii. Provide the violator with Code Enforcement Office contact information.

3. Notice of Noncompliance.

- a. A Notice of Noncompliance (NONC) will be issued either in person or by certified mail when the requirements of the NOV, and/or CA have not been met.
- b. When issuing a NONC the Code Enforcement Official shall:
 - i. State the violation in official language and cite the County code reference;
 - ii. State that they have failed to comply with the requirements in the CA and/or NOV;
 - iii. State what must be completed in order to come into compliance;
 - iv. Establish a deadline for compliance;
 - v. Inform the responsible parties of other potential actions or consequences;
 - vi. Provide the violator with Code Enforcement Office contact information;
 - vii. State that the case may be presented to the County Attorney for prosecution.

4. Other Correspondence.

Other means of correspondence, such as letters, may be sent to violators at the discretion of Code Enforcement, the County Attorney, the Director of Planning and Zoning or the Board of County Commissioners.

5. Voluntary Compliance without Penalty or Legal Action.

It is the County's policy to encourage and promote voluntary code compliance by providing violators the opportunity to correct the violation with little or no penalty, by working with them, using available resources, and avenues. Voluntary compliance is generally less expensive for all parties and provides a more satisfactory and lasting result than involuntary compliance.

6. Physical Abatement by County.

- a. Abatement Procedures. Where voluntary compliance cannot be obtained, the County may physically abate the violation following the procedures established by Colorado State Statute;
- b. Assessment of Costs. When the County finds it necessary to physically abate a violation, costs shall be assessed following the procedure established by law;
- c. Physical Abatement not Exclusive. The County may pursue any and all available legal remedies for compliance.

7. Restricting Issuance of Permits and Revocation of Permits for Property with Unresolved Code Violations.

The County is authorized to refuse issuance of permits for properties under violation. It is the County's policy to maximize code compliance by withholding permits for property under violation. However, the County may issue permits for properties under violation if the permit process and issuance is included in the violation, compliance can be achieved through the issuance of a permit, and such a permit will bring the property into compliance.

2. Ordinances.

A. Notice of Pending Citation.

1. Issuance of a Notice of Pending Citation (NOPC) is for violations easily corrected or minimal in nature.
2. When issuing a NOPC the Code Enforcement Official shall:
 - a. State the violation in plain language and cite the County Ordinance reference;
 - b. Establish a deadline for compliance;
 - c. Inform the responsible parties of other potential actions that may be taken;
 - d. State what must be completed to come into compliance;
 - e. Provide the violator with Code Enforcement Office contact information.
3. Issuance of Citation shall be by Code Enforcement Staff or other Agencies authorized to issue citations.

B. Issuance of Citation

1. Citations shall be issued in accordance with law;
2. State the violation in common language and cite the County Ordinance reference;
3. Establish a deadline for payment and/or court date

3. Permits: Special Review Use (SRU), Conditional Use Permit (CUP), Temporary Use Permit (TUP).

A. Notice of Violation of License or Permit Requirements and/or Conditions.

1. Issuance of a notice of violation of license or permit shall be delivered by certified mail with return receipt.
2. When issuing NOVOP the Code Enforcement Official shall:
 - a. State the violation(s) in plain language and cite the permit/license condition reference;
 - b. Establish a deadline for compliance;
 - c. Inform the responsible parties of other potential actions or consequences;
 - d. State what must be completed to come into compliance;
 - e. Provide the violator with Code Enforcement Office contact information.

B. 2nd or Subsequent Complaint.

1. Schedule a *violation* hearing at a regular Board of County Commissioners meeting;
2. Provide notice of the violation(s), date and time of hearing;
3. Mail notice no later than 14 days prior to the hearing date by certified mail with return receipt.

4. Licensed Medical Marijuana Facilities

A. Notice of Violation of License Requirements and/or Conditions

1. Issuance of a notice of violation of license shall be delivered by certified mail with return receipt;
2. Odor complaints shall be verified using Code Enforcement's Protocol for Odor Monitoring for Licensed Medical Marijuana Grow Facilities; Complainant's location of work and or residence shall be verified to determine if they work or reside in within a ¼ mile radius of the facility;

3. When issuing NOVOL the Code Enforcement Official shall:
 - a. State the violation(s) in plain language and cite permit/license condition reference;
 - b. Establish a deadline for compliance;
 - c. Inform the responsible parties of other potential actions or consequences;
 - d. State what must be completed to come into compliance;
 - e. Provide the violator with Code Enforcement Office contact information.

B. 2nd or Subsequent Complaint.

1. Schedule a violation hearing at a regular Board of County Commissioners meeting;
2. Provide notice of the violation(s), date and time of hearing;
3. Mail notice no later than 14 days prior to the hearing date by certified mail with return receipt.

X. ASSISTING ENFORCEMENT BY OTHER REGULATORY OR LICENSING AGENCIES.

In some cases, County code violations also may constitute violations of federal and/or state statutes or administrative rule. For example, surface mining or working within a flood plain or wetlands without County land use approval may also violate federal laws or state statutes and administrative rules governing the conduct of licensed contractors. Code Enforcement may notify other agencies of known violations.

XI. RESOLUTION OF CODE COMPLAINTS

It is the County's policy to attempt to reach final, satisfactory resolutions of all code violation complaints. However, the County recognizes that not all complaints may be resolved successfully, due to factors outside the County's control. These factors may include the indigence of the code violator, the lack of County or other resources to assist the violators, statutory limitations on penalties for code violations, and the large volume of complaints to be resolved. Where the County determines that a code violation may not be successfully resolved within reasonable timelines, the file may be closed and alternative methods of enforcement may be explored.

A. File Closure

A code violation complaint will be resolved by file closure in the following cases:

1. When no code violation is found after investigation;
2. When there is voluntary compliance;
3. When the violations have been corrected after a conviction of judgment, or other court action;
4. When the prosecution of the violations has been completed by a federal, state, or other agency to which the county deferred code enforcement;
5. When the violation is not under County enforcement jurisdiction;
6. When it is determined, by the Board of County Commissioners, the County Manager or other designee that the code violation(s) are not likely to be successfully resolved due to factors outside County control.

B. Notice of Resolution.

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The county will note the reason for file closure and send written notice (Case Closure Letter) to the complainant when the complaint is resolved. The violator will be notified of case closure letter via a Case Closure Letter or Notice of Compliance depending on the progression of the case and method of enforcement.

C. Follow-up.

For cases with extenuating circumstances, Code Enforcement staff may conduct a follow-up site inspection within a three (3) to six (6) month period after file closure to ensure continued compliance.

D. Alternative Methods of Resolution.

The County may explore alternative methods of enforcement as authorized by law to resolve code violations, fines, and liens.

XII. FILE MAINTENANCE.

Code Enforcement files are official records of the County. As such, files and records shall be maintained in accordance with state law.

XIII. ADOPTION OF POLICIES.

The County may alter these policies at any time, including rectifying any portion as necessary to accommodate changes in applicable statute and/or regulations.

The policies contained herein have been adopted by the Fremont County Board of County Commissioners on August/28/2018.