



CITY MANAGER'S OFFICE

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CITY COUNCIL INFORMATIONAL MEMORANDUM

Meeting: April 4, 2023

To: Cupertino City Council
From: Pamela Wu, City Manager
Benjamin Fu, Community Development Director
Sean Hatch, Acting Building Official
Monica Diaz, Senior Code Enforcement Officer

Re: Code Enforcement Process

Background

On July 7, 2022, during a Special Meeting of the Cupertino City Council, Councilmembers Jon R. Willey and (Mayor) Hung Wei requested Code Enforcement Processes be added to a future agenda. Below please find Code Enforcement processes for Council's information.

Code Enforcement Division:

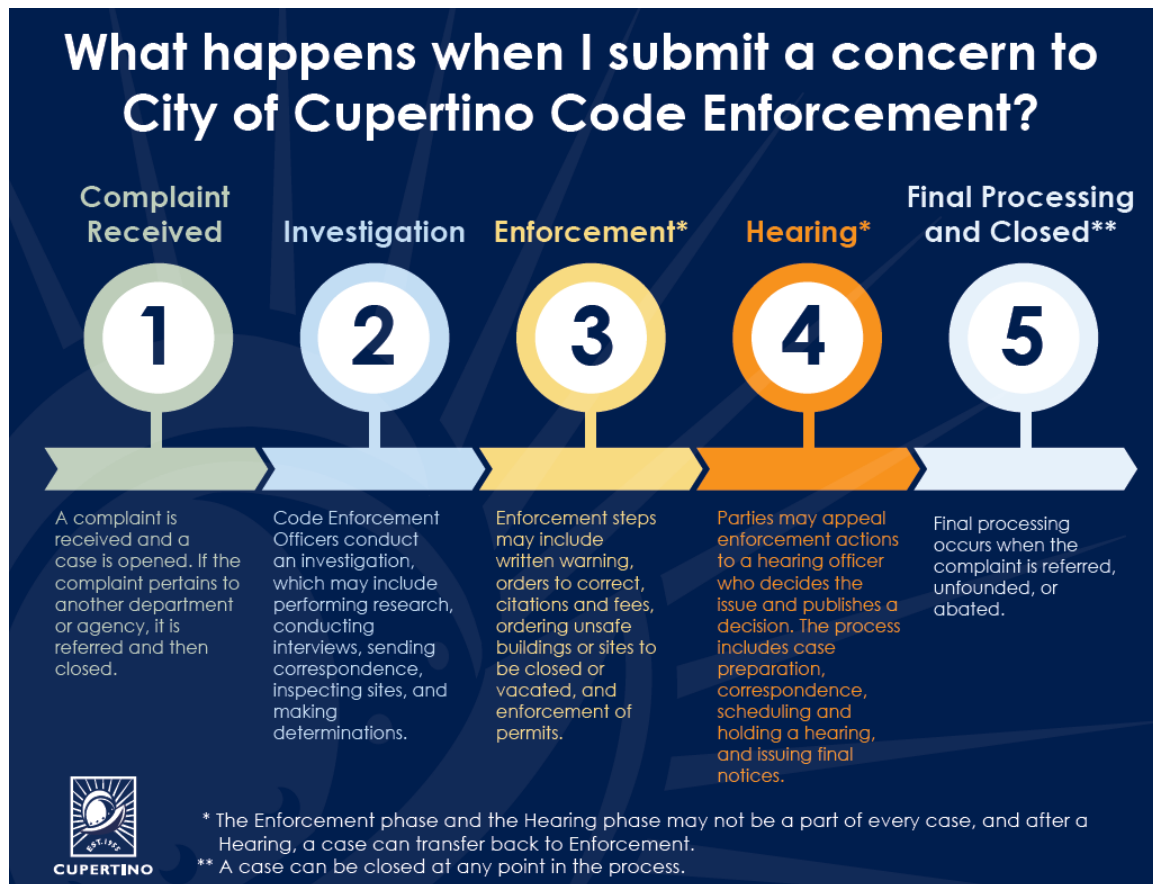
Under Community Development Department, the Code Enforcement Division is currently comprised of two full-time Senior Code Enforcement Officers, one full-time Code Enforcement Officer and a part-time Code Enforcement Officer. Together, staff ensures residents have coverage for services seven days a week, between 8am and 5pm. After-hour concerns received outside of 8am – 5pm are handled by the Santa Clara County Sheriff's Office.

Code Enforcement is responsible for the enforcement of the Cupertino Municipal Code as well as various other codes, all to ensure the enjoyment, health, and safety of all within Cupertino. Staff strives to obtain compliance through intervention, communication, de-escalation, education, and cooperative efforts. Enforcement actions are generally a last resort tool used to ensure compliance. Staff strives to partner with the community in enforcing property maintenance standards, as it is our goal to help maintain property values and create a healthy, peaceful, safe, and aesthetically pleasing community for all to enjoy.

Current Practices:

Code Enforcement activities are complaint-based. Staff responds at the request of residents and the public at-large. The only exception would be if staff encounters a safety

concern or hazardous condition, particularly when it affects the public right-of-way. Code Enforcement staff collaborate with other City agencies and departments to resolve the issue as soon as possible. In the event the hazard is associated with private property, staff attempts to work with that individual and engage in cooperative efforts to resolve the situation. The current Code Enforcement Process is published on the city's [website](#) and illustrated in the graphic below:



Due Process:

Before any action is taken, a member of the public is given notice of a pending enforcement action that may affect them. Courtesy notice can be provided verbally or in writing. Formal notices are written and can be served in-person, by posting at the property, via email and/or via USPS mail. Types of written notices can include Courtesy Notice, Notice of Violation, 2nd Notice of Violation, and Pre-Citation Notice. Deadlines on Notices can vary depending on the severity of a violation. Generally, the deadlines provided are 15 days or more. If the recipient does not respond or correct a violation after staff contact and Notices issued, staff will continue with escalated enforcement actions. These may include administrative citations, initiation of abatement proceedings and/or referral to the City Attorney's Office for legal action.

Filing a Concern or Complaint:

Currently, code enforcement complaints are registered in the following ways:

- Online/Cupertino 311 – www.cupertino.org/cupertino311.
- Email – code@cupertino.org. Emails received are routed to all Code Enforcement staff. All emails are provided a response within one business day.
- Phone – (408)777-3182. Members of the public can call a main line, where any available Code Enforcement staffer is able to respond. The caller also has the option to leave a voice message that all staff have access to retrieve. All calls are responded to, with messages returned within one (1) business day.
- In Person – during office hours. This method is the least preferred since staff is not always in the office and available for walk-ins.

Although complaints are received by multiple methods, the preferred method is via the City's Cupertino 311 system (mobile app or website). Through reporting on Cupertino 311, information is automatically routed hence allows for a faster response.

Responses for a Complaint:

After a complaint is received, an acknowledgment response is provided to the complainant. Staff also informs the complainant that an investigation will commence soon. However, confidential information that can affect a property owner or resident pertaining to a case or complaint will not be shared. Staff does not provide step-by-step updates to a reporting party, due to an ongoing investigation. Staff can share the status of a case as well as dispositions for closed cases upon request either in-person, over the phone or via email. When complaints are initiated with outside staff it's important to route the reporting party back to Code Enforcement staff so a full account of details may be obtained from the reporting party.

Other Reported Issues:

Among complaints received by the Code Enforcement Division, some reported issues are not code violations. A list of non-violation examples is listed below:

- Civil matters. The City does not become involved in civil matters between two private parties, such as disputes involving good neighbor fencing or an overhanging tree.
- Legal matters. Code Enforcement staff are not attorneys and thus cannot provide private residents with legal advice, such as contractual issues between a property owner and a vendor or discussions about legal interpretations.
- Reports of unsightly items. There are times when people have differences of opinion, particularly with aesthetic choices on their property. While unkempt property could be displeasing to the eye, it is not a determining factor for violations of the codes.
- Property line disputes. The City does not provide land surveyor services. Property owners must hire a licensed professional surveyor to determine and mark property line boundaries.
- Landlord and tenant disputes. Staff encourages resolution through respectful communication or mediation. We do refer residents to Project Sentinel, who offers helpful services for such instances.

- Personality differences between neighbors. Unfortunately, there is not a municipal code section that requires people to be considerate toward one another.

Code Violations:

Common violations addressed by Code Enforcement staff are as follows:

- Unmaintained and/or hazardous landscaping per CMC § 9.22.020(C), CMC § 9.08 et seq. This can range from dry and overgrown weeds to dead, diseased, or decayed trees. This can also include vegetation that is encroaching into the public right-of-way.
- Accumulations of trash and/or debris on a property per CMC § 9.22.020(B)(2). This includes improper storage of miscellaneous items.
- Deteriorated and dangerous buildings per CMC § 9.22.020(F), UCADB § 302.
- Trash cans stored on public right-of-way per CMC § 6.24.070(D).
- Insufficient trash service per CMC § 6.24.030(A).
- Inoperable and/or abandoned vehicles per CMC § 11.04.019, California Vehicle Code. This applies to vehicles both on private and public property.
- City Park use related violations and nuisances per CMC § 13.04 et seq. This includes use of recreational areas without prior authorization, noise nuisance violations at the park, unauthorized field use and such issues, as needed.
- Sign violations per CMC § 19.04 et seq. This applies to both public right-of-way and private property.
- Animal related nuisances per CMC Title 8 et seq. This ranges from animal bites, dangerous animals, barking complaints, owners not cleaning up after their pet, and not adhering to leash laws.
- Business license violations per CMC § 5.04.080.
- Mobile food vendor violations per CMC § 5.48 et seq., CMC § 9.04 et seq.
- General noise nuisances per CMC § 10.48 et seq., including the community noise control for leaf blower regulations.
- Graffiti per CMC § 10.60 et seq. This applies to both private and public property.
- Protected Trees per CMC § 14.18.050, including privacy screening.
- Parking enforcement per California Vehicle Code, CMC Title 11, including Street Sweeping enforcement.
- Substandard housing per CA H&S § 17920.3, UCADB § 302, UHC Chapter 10. This includes any related life safety issues involving rental housing units.
- Smoking regulation violations in residential areas per CMC § 10.90 et seq.
- Short-term rentals related violations per CMC § 5.08 et seq.
- Alarm System violations (repeated false alarms) per CMC § 10.26 et seq.
- Enforcement assistance to the Planning and Building Divisions, and Public Works Department:
 - Zoning related violations (e.g., land use, unpermitted ADUs, fences, setbacks, lack of permits, and others).
 - Construction and alterations related violations (e.g., work without permits, change of occupancy, improper occupancy, general life safety issues, fire damaged structures, and others).
 - Unsafe structures and fire hazards.

- Grading and drainage issues, as needed.
- Encroachments into the public right-of-way, as needed.

Regulatory Permits Review:

Code Enforcement staff receives, processes, and issue permits related to Massage Establishments, Bingo game licenses, Handbill distribution, Solicitors, Taxicabs, Dangerous Animals, Animal Establishments, and Noise Exemptions. Staff collaborates and coordinates with associated agencies to obtain pertinent information. Such agencies include but are not limited to California Massage Therapy Council, Santa Clara County Sheriff's Office, and/or San Jose Animal Care & Services.

Unhoused Persons and related issues:

Code Enforcement staff has been participating in the City's and County's unhoused persons support efforts. This group works closely with the County of Santa Clara's Office of Supportive Housing staff to bring all available resources when coming across a situation affecting unhoused individuals in the city. Code Enforcement staff supports the process of assisting unhoused individuals by responding to citizen reports of encampments, establishing a rapport with an unhoused individual, monitoring an encampment for signs of distress or worsening conditions so the appropriate resources may be deployed as needed, coordinate encampment resolutions as needed, and assists with any other outreach as needed.

Sustainability Impact

No sustainability impacts.

Fiscal Impact

No fiscal impact.

Prepared by: Monica Diaz, Senior Code Enforcement Officer

Reviewed by: Sean Hatch, Acting Building Official

Benjamin Fu, Community Development Director

Approved for Submission by: Pamela Wu, City Manager