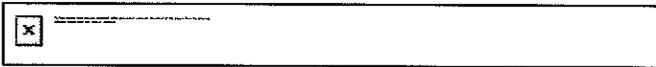


<https://www.useful-community-development.org/code-enforcement.html>

# Code Enforcement Is Vital to Community Development



"Code" means a particular part of the law in the U.S., so code enforcement occurs when cities and towns enforce their local laws. When used in the context of community development, the term pertains to property upkeep and standards for new construction. Aggressive but sensible approaches to bringing property owners into compliance with the law can be an important part of maintaining the appearance, functioning, and property values of a neighborhood.

Typically codes other than construction codes deal with the exterior maintenance of structures, overgrown vegetation, outdoor storage, provisions specifically pertinent to fire safety and to health in commercial establishments, and such. A zoning ordinance may be considered a type of code as well, but we have devoted a separate section of this site to that complex subject.

In addition to this introductory article, this section includes three specialized discussions shown below. Use the site search box if unsure. This article continues after the grid; keep reading if you do not understand how codes work in general.

## **Topics in This Section:**

Just to be clear, the aim of code enforcement should be compliance, not punishment or vengeance. Reasons for lack of compliance include not only defiance and carelessness, but also lack of knowledge about how to remedy the problem and inability to afford the needed repairs.

A good municipal or county code enforcement program should be rounded out to provide information about resources for finding good advice and for obtaining financial assistance if needed. In other words, policies and programs, as well as finding and prosecuting violations of the law, are encompassed in quality code enforcement.

We also should mention that some entire states have adopted a housing code, building code, or other law similar to what we describe in this section. In this case, individual municipalities aren't tasked with passing their own ordinance, but state law not only adopts the codes but also describes how enforcement proceeds. We will focus on the local level on this site, but we did want to refer to that possibility.

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## **Value of Codes to a Neighborhood**

Older neighborhoods especially need to rely on code enforcement to make sure that buildings are maintained sufficiently to keep up property values and also to keep pace with new technologies and safety research.

While property owners often think that the way they take care of their property is their own business, the major impact that neighboring properties have on one another's value and enjoyment means that building maintenance and safety becomes the business of everyone in the neighborhood.

When you hear someone loosely talking about code violations and why the city isn't enforcing the codes, the first question to ask yourself as a neighborhood leader is whether your town actually has adopted by ordinance a code that would cover the offending situation.

If so, you might have a clear path toward making property owners accountable for maintaining their buildings (both the main building and any garages, storage sheds, and such). You also may have a way to deal with some ugly or inappropriate things people keep outdoors.

But if your neighbor leaves their old sofa on the porch, and you don't like it, that doesn't necessarily mean it is a code violation. Your particular code would have to speak directly to the situation. Although there's a bit of personal judgment on the part of the inspector involved, it doesn't stretch far. Codes do not necessarily address everything that you might find offensive aesthetically. I hope you can appreciate that what you may think is an "old sofa" might be considered a quirky porch chair by your neighbor. In the end, your local codes won't address anything and everything you might find ugly, but they certainly help maintain a basic standard.

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## **Types of Codes**

The building code feels different from the others discussed in this section, in that it deals with the integrity of a structure from the beginning of construction.

However, we included that subject in this topic area because the origins and administrative principles are the same, even though typically a neighborhood isn't depending on the building code to resolve community appearance and neatness issues. Note that separate plumbing, electrical, and mechanical codes pertaining largely to heating and cooling often are enacted, and in many communities all of these collectively are referred to as "the building code" in common conversation.

In contrast, the property maintenance code, if you have one, and the existing building code do deal directly with aesthetics and cleanliness, and thus the neighborhood impact, of buildings.

Those are the topics most commonly associated with code enforcement. We should note that the latter two codes fall under an umbrella term sometimes used by governments, inspectors, activists, and property owners, who may speak of "the housing code," even when actually there are one or more separate codes that have been adopted that are relevant to housing. Even these, however, ultimately are related to safety at least as much as to neighborhood quality.

Some communities have an energy conservation or other newer code. Nuisance ordinances governing outdoor storage, junk automobile storage, overgrown vegetation, and such may be standalone laws, or some provisions might be in the zoning ordinance.

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## **How Code Enforcement Usually Works**

If a town or county has a code, someone employed by the city government has responsibility for inspecting new construction and investigating complaints. Occasionally code enforcement is outsourced to some consultant or sometimes nearby towns will share one officer, but that's not typical.

After the enforcement officer sends a notice of violation to the property owner, usually a property owner has a short amount of time to correct the violation. If reinspection shows that the violation still exists, in the opinion of code enforcement personnel, the property owner is sent a summons to a municipal or county court. Often these hearings are somewhat informal in tone, but consist of both the code enforcement officer and the property owner having a chance to explain conditions and circumstances. The judge has punishment options at his or her disposal, generally emphasizing fines and repeated court appearances until the violation is corrected ("abated" in the jargon of the subject).

Understand that the code enforcement or building inspector isn't usually a police officer. Some municipalities do use the police for those functions, but in larger towns and cities, even police spotting a code violation turn the matter over to another department that handles codes.

Fire codes typically are administered and enforced by the fire department, since they tend to apply only to commercial land uses; topics related to residential fire safety are simply incorporated into relevant housing codes. Similarly, health codes are enforced on commercial property owners by the health department, and many health-related topics form part of the rationale for housing codes.

Zoning also is separately enforced in many jurisdictions; often a compliance officer is placed in the planning department.

A few progressive communities have established formal or informal systems, inside government or inside of a non-profit organization, to handle neighbor disagreements within a mediation framework. It's a splendid idea, especially for recurring feuds where neighbors simply don't get along.

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## **What If There Is No Voluntary Compliance?**

In theory fines, which often are imposed for each day that the violation continues, can continue indefinitely in a contest of wills between a property owner and the judge.

In practice, usually the property owner will give in after a while and perform minimal maintenance or even optimal maintenance, unless he or she cannot afford to do so.

Many codes provide that after a certain period of non-compliance, the city or county can perform the work and charge the property owner. If no immediate payment is forthcoming, the local government has the right to file a lien against the property. This means that when the property is sold, the government collects its money back. Unpaid fines also may result in a lien; sometimes state law even allows imprisonment due to unpaid fines.

Some municipal or county codes, operating under state law, provide that if the owner does not pay for the local government's work, property ownership can be transferred to the local government. Usually this provision is confined to vacant land, however, and its actual implementation is fairly rare.

Penalties may be harsher in the case of businesses or vacant land that is out of compliance. A business might lose its business license, as often fire and health violations especially are addressed to the business owner, not the property owner. Vacant land penalties may be more severe than the penalty for a comparable debris violation on a homeowner's property.

Absentee out-of-state owners may present a particular problem, as the local government may not be able to even issue a summons. In those cases, voluntary compliance or a lien against the property are usually the only realistic options.

Special attention to what happens in low-income neighborhoods is warranted. Remembering that compliance is the goal but that some may not be able to afford compliance, it does nothing good for the neighborhood to tote up daily fines for someone who already cannot afford to make repairs. We maintain that a quality program should establish some formal partnerships either with philanthropic organizations or financial institutions that will make low-cost loans. Sometimes governments even make forgivable loans to those who hold the property for a given number of years, if the state constitution permits. The municipality does not benefit if it forces property turnover in a neighborhood where demand is low.

Obviously positive owner reaction is more likely where property values are high, so the slow market city will have to be particularly careful to offer a well-rounded program that offers resources as well as the prospect of punishment.

A program for educating homeowners on their code responsibilities will prevent some of the most emotional conflict situations and help neighbors inclined to complain to weigh their options carefully. In any case, resident understanding of the available codes and how they are applied and enforced is important in maintaining good relationships between government and resident.

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## **Systematic Versus Complaint-Based Code Enforcement**

Most towns and cities practice only complaint-based code enforcement, largely for cost reasons. The opposite approach, called systematic code enforcement, most typically is employed when a local community determines that a particular area needs a concentrated maintenance effort to remain vital. We discuss this tool in more detail below.

The opposite of a complaint-based system is often called a systematic or methodical program. Note that a building code is methodical because inspections during new construction occur when certain items are complete and prior to their being enclosed by future phases of construction.

In some cases the block by block "systematic" program of enforcing nuisance laws, or property maintenance codes, is important. If your neighborhood is in trouble, and you feel that property owners can afford to keep up their properties, but they aren't doing so, this is when the systematic, house-by-house program could prevent the neighborhood from moving into total decline.

The technique sometimes is called a windshield survey. This means that a code inspector or consultant drives through the neighborhood and peers through the windshield to identify apparent violations of the existing housing code or property maintenance code. They also note weeds, grass that is taller than allowed by code, fences that are falling down, abandoned unlicensed cars, animals that are not permitted under the ordinance, or other and any other potential nuisance that is spelled out in the code.

Reasons for systematic code enforcement could be:

1. A relatively large number of complaints in a particular geographic area are received.
2. A jurisdiction receives many complaints about aesthetics, as opposed to structural defects such as a porch that's falling off the house. Cosmetic complaints might be about peeling paint, derelict cars, high weeds, or piles of junk left strewn about the lawn randomly.
3. A neighborhood has a high percentage of rental property or a small sub-area that doesn't measure up to the standards of other community folks.
4. The potential still exists for a viable neighborhood if relatively superficial problems are remedied, or if landlords can be forced to reinvest in their properties to the extent that the community demands.

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## **Tips for Neighborhoods Dealing with Nuisances**

- Whether your enforcement is systematic or complaint-based, watch your manners with code inspectors. Surprise, surprise, you'll get more done if you're nice to them!
- Nevertheless, persist, persist if you have a situation in your neighborhood that is not being resolved. But before you repeat your complaint, ask questions about whether the property owner actually was cited, any communications received from the property owner, any summons to court and the disposition of the matter in court, so that you will not be complaining again if the property owner was sent to court and given a grace period for compliance or found by the judge not to be in violation.
- A major issue in some places is that the municipal judges may not be very sympathetic with the neighborhood. If you're the person complaining, it's not always fair to blame the inspector; sometimes it's the judge who lets the property owner off with a wink. To deal with this situation, you will need to provide plenty of documentation to your mayor and city council, who usually will be reluctant to interfere with their judge.
- If you feel that your code enforcement officers are biased against your neighborhood or feel it is futile to write up violations in your neighborhood since people cannot afford to

comply, be especially careful not to complain about situations that annoy you but that are not actually in violation of the code. All cities, towns, and counties with codes should have an inspection copy of that code available for you to read; neighborhoods could divide up the work of reading different parts of the codes and noting provisions most likely to apply to them.

- If you get a reputation with the code official of being a pest, you won't have the attention you deserve when a genuinely obnoxious situation presents itself.
- Especially if you're a neighborhood association, and you provide excellent information about potential code violations, this builds good will that your neighborhood will want.
- If you want to complain anonymously, most places allow that. However, be sure to give enough detail and a correct address. You think this is really a silly thing for me to say, but I assure you that many folks call and just think the city knows about the yellow house on the corner. Since figuring out what that means gets a little frustrating for the code enforcement officer, don't expect results any time soon if you leave vague information.
- If you're in a smaller town that hasn't enacted any codes, you can become an educator of your local city council or whatever it is called in your location. Explain that someone else actually writes these standard codes and they only pass a simple ordinance to adopt the code, adding in any exceptions or changes that they want. Your town doesn't have to write codes by themselves or hire a consultant to do it.
- When code enforcement fails to address a problem, and that will happen, your neighborhood or community organization should meet face-to-face with the property owners themselves. If this happens frequently, appoint a committee that can figure out the right approach to property owners in your locale.

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## Opposition to Code Enforcement

Many people resist the very idea of code enforcement, especially those whose lifestyle often makes them a target. Folks with a strong libertarian bent, artists, and eccentric people of all stripes will argue against the entire idea or a particular application of the law.

We've had a couple of interesting exchanges with our site visitors about the limits of code enforcement and avoiding code violations.

In some areas, usually upscale suburbs, code enforcement employees become unreasonably aggressive in response to pressure from elected officials who hear from vocal complainers.

If your neighborhood association thinks the enforcement program is too intolerant, one or two of you should meet with elected officials about the delicate balance between too much enforcement and not enough.

Wise use of standard international codes, typically developed and led by the International Code Council right now, can improve both the appearance and the longevity of the community's buildings. It can improve property owners' return on investment and preserve your reputation as a fine neighborhood or town in which to live.

The benefits of adopting and enforcing good codes far outweigh the infringement on unfettered personal liberty. Indeed even the target of the enforcement action benefits through increased property value.

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