“Consider a building with a few broken windows. If the windows are not repaired, the tendency is for vandals to break a few more windows. Eventually, they may even break into the building, and if it’s unoccupied, perhaps become squatters or light fires inside. Or consider a sidewalk. Some litter accumulates. Soon, more litter accumulates. Eventually, people even start leaving bags of trash from take-out restaurants there or even break into cars.”

- James Q. Wilson and George L. Kelling
The City of Dana Point takes great pride in maintaining its aesthetic appearance and promoting involvement of community members and neighborhood organizations in assuring the City remains a healthy and welcoming place to live, work, and visit. The Code Enforcement Operations and Strategic Plan provides a framework for City staff to provide code compliance in a manner which is clear and concise for our residents, visitors and businesses. This manual also provides the Code Enforcement Officer with guidelines on how to perform his/her job in an efficient and responsible manner.

The strategy of the division is not to concentrate on the proactive versus reactive nature of a code compliance group within a local municipality. The City of Dana Point’s Code Enforcement Division will be both proactive and reactive in nature, responding to citizen complaints in a timely and effective manner, while handling a wide range of code issues that the Code Enforcement Officer acknowledges and pursues for the betterment of the community. Code Enforcement programs which are specialized and proactive are more likely to develop the expertise and efficiency to respond to various complex issues. It is the Code Enforcement Officer’s purpose to educate the community so that code compliance is understood as being an integral part of our community fabric. It is the department’s intention to move the conversation away from proactive versus reactive and toward an understanding of gaining voluntary compliance for code abatement, utilizing the tools afforded to the division.

The Code Enforcement Division promotes, maintains, and enforces ordinances and laws to preserve, protect, and enhance the quality of life in Dana Point. Code compliance operations are pivotal in preventing, monitoring, and resolving conditions in the environment that pose a threat or that may be detrimental to the health and well-being of residents and visitors, and to the City’s reputation as a world-class destination.

The City of Dana Point City Council recognizes the importance of community-wide code compliance and has made it a focus of the strategic plan update.

**STRATEGIC GOAL 1: Livable Community and World Class Place**

**Objective:** Maintain and Enhance Dana Point’s unique sense of place

**Measures:** Code Enforcement (Voluntary Compliance Through Progressive Enforcement (CD))
- Year over year reduction in Code Enforcement cases
- Number of cases resolved with initial contact

**Projects:** Develop and obtain Council approval of Code Enforcement Strategy (CD). Proactively communicate and consistently enforce City Codes so that the rules of conduct for residents, visitors, and business are understood and adhered to

The division keeps accurate records of all cases and will understand the number of cases handled per year, the stage or enforcement action in which the cases were closed, the number of cases handled by each officer, number of Short Term Rental (STR) licenses issued, and the amount of Transient Occupancy Tax (TOT) collected for STRs.
**OUR VISION**
A vibrant world class place.

**OUR MISSION**
Dana Point’s mission is to set the standard for an exceptionally livable city.

**OUR VALUES**

**Fiscal Responsibility and Stewardship**
We are trustworthy and responsible stewards of the public funds and City assets entrusted to our care.

**Honest and Integrity**
We are trustworthy and ethical in serving our community.

**Service Excellence**
We are committed to excellence by providing efficient and effective service in a friendly, professional, and responsive manner.

**Forward Thinking and Innovative**
We successfully plan for the future and are innovative and entrepreneurial in how we work.

**Teamwork and Collaboration**
We achieve success through teamwork, collaboration, and partnerships.

*Photo Credit: JPVS*
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CHAPTER 1: INTRODUCTION

The City of Dana Point takes great pride in maintaining its aesthetic appearance and promoting involvement of community members and neighborhood organizations in assuring the City remains a healthy and welcoming place to live, work, and visit. The Code Enforcement Division promotes, maintains and enforces ordinances to preserve, protect and enhance the quality of life in Dana Point. Code compliance operations are pivotal in preventing, monitoring, and resolving conditions in the community that pose a threat or that may be detrimental to the health and well-being of residents and visitors, and to the City’s reputation as a world-class destination. As the City strives to maintain a desirable, healthful image, it is important that the City’s Code Enforcement Officers receive important information that provides both historic and current information about the City and have up to date knowledge of the City’s governance.

The Code Enforcement Operations and Strategic Plan provides a framework for City staff to provide code compliance in a manner which is clear and concise for our residents, visitors, and businesses. This manual also provides the Code Enforcement Officer with guidelines on how to perform his/her job in an efficient and responsible manner. Included in this manual are forms, information, instructions, letters, policies, and procedures for code enforcement operations. The basic concepts presented in this plan will be augmented by training, experience, research, discussion and team collaboration. This plan will guide the Code Enforcement Officer with the tools to proactively communicate and consistently enforce the Dana Point Municipal Code (DPMC) to set clear expectations for residents, visitors and businesses.

CITY OF DANA POINT MISSION STATEMENT
To set the standard for an exceptionally livable city.

GOAL
The goal of the Code Enforcement Division is to proactively communicate and consistently enforce the DPMC so that the rules of conduct for residents, visitors, and businesses are understood and adhered to.

This goal is achieved by obtaining voluntary compliance through progressive enforcement.

PURPOSE OF CODE ENFORCEMENT
While many local agencies respond to enforcement issues on a complaint-only basis, this method is not necessarily the most effective use of staff resources. Code Enforcement programs which are specialized and proactive are more likely to develop the expertise and efficiency to respond to the issues and objectives which are the combined goal of the agency and its constituents. It is our purpose to educate the community in order that code compliance is understood as being an integral part of our community fabric. It is our intention to move the conversation away from proactive versus reactive and toward an understanding of gaining voluntary compliance for code abatement, utilizing the tools afforded to the division.

Voluntary compliance with the City’s municipal code is met through preventing the deterioration of neighborhoods and buildings, rehabilitating existing housing and buildings, educating individuals on preventative maintenance, protecting the public from unsafe and substandard buildings, preventing future blight/decline of property values, and improving water quality as instructed by State and City codes and ordinances.
CHAPTER 2: CODE ENFORCEMENT JOB DESCRIPTION AND OPERATIONS

CODE ENFORCEMENT OFFICER

Definition:
Under general supervision, the Code Enforcement Officer will perform technical office and field work involving the inspection, investigation and enforcement of all City codes and ordinances. The Code Enforcement Officer will serve as the primary contact person regarding code compliance regulations pertaining to building and construction, encroachments, hoarding, housing, noise, property maintenance, public nuisances, short-term rentals (STRs), signs, water quality, professional business licensing, and zoning/land use. The Code Enforcement Officer will seek to gain compliance through investigations, notices of violation (NOV), creating reports, educating the community, assisting residents in code interpretation, issuing Stop Work notices, collaborating with other City staff, preparing City issued permits/licenses, issuing administrative citations, and representing the City in legal matters in cooperation with the City Attorney.

Class Characteristics:
The Code Enforcement Officer within the Code Enforcement Division of the Community Development Department is responsible for performing advanced inspection and code enforcement for buildings and property in the City of Dana Point. The ideal candidate for this position will be able to work both collaboratively and independently. The individual will exercise sound judgment and negotiation skills, be assertive, and demonstrate flexibility while obtaining compliance.

Examples of Essential Duties:
• Enforces and applies the Zoning and Municipal Codes, Uniform Housing Codes, California Building Codes and other related codes and regulations related to community preservation, health, and safety
• Conducts field investigations and site surveillance of residential, commercial, and industrial properties to uncover possible violations of State and City codes and ordinances
• Issue notices of violation and administrative citations for violations relating to public nuisances including: zoning infractions, building maintenance, accumulation of litter and debris, abandoned vehicles, overgrown weeds, irrigation runoff, and general property neglect
• Photographs evidence, prepares diagrams, takes measurements, interviews potential witnesses, and composes letters and follows-up to ensure remedial action has been taken to abate the violation
• Receives complaints from citizens and other sources; issues corrective notices, performs routine follow-up inspections; effects removal if necessary
• Prepares memos and investigative reports; initiates procedures on suspected violations; explains and provides alternative mitigating measures to property owners to resolve violations
• Responds to inquiries from the public regarding code and ordinance requirements, interpretation, policies, and applicability
• Prepares code violation cases for presentation at public hearings, City Council meetings, administrative hearings, and judicial proceedings
• Files written complaints and works collaboratively with the office of the City Attorney to gain compliance
• Assists in the preparation of depositions, affidavits, stipulated judgments, inspections, and abatement warrants
• Serves legal documents
• Participates in and coordinates joint inspections of properties with other agencies and City departments
• Researches property ownership and zoning, building and parcel histories; interprets building and planning project entitlements
• Compiles statistics and prepares periodic reports
• Makes presentations to local: civic, education, professional, community and neighborhood groups
• Reports to work as scheduled, works a variety of schedules including evenings, weekends, and holidays as required; maintains regular and consistent attendance record
• Responds positively to policy and procedural changes, not limited to changes in record keeping, case management, statistical analysis and programmatic upgrades

**Minimum Qualifications:**
Any combination of education, training, and experience that would likely provide the knowledge, skills and abilities to successfully perform in the position is qualifying. A typical combination includes:

*Knowledge of:*
• Building, zoning, and housing codes and regulations
• Legal descriptions and boundary maps
• Basic principles of land use planning
• Research practice and techniques
• Rules of evidence related to public hearings and judicial cases
• Personal computer and standard business software
• Departmental policies and procedures
• Conflict resolution techniques
• Quality service principles and practices
• Appropriate safety methods and techniques

*Ability to:*
• Read, interpret and enforce applicable codes
• Analyze and compile technical information
• Apply investigative techniques
• Inspect properties with unknown hazards
• Utilize appropriate interpersonal skills when interacting with diverse communities or confrontational individuals
• Prepare clear and concise reports
• Maintain and follow department processes
• Communicate effectively written and orally
• Issue administrative citations
• Operate standard office equipment and city vehicles
• Establish and maintain effective working relationships with those contacted in the course of work
• Deliver quality customer service
• Work independently and as a team member

*Education and Experience:*
• High School diploma or equivalent. College-level coursework in Code Enforcement or related field highly desirable
• Two years of responsible code enforcement experience is desirable
• Bilingual (English/Spanish) is desirable

*Licenses or Certificates:*
• Possession of or an ability to obtain a valid California driver’s license
• PC 832 training is desirable
• Code Enforcement Training Modules are desirable
CHAIN OF COMMAND

Code Enforcement cases, complaints, and issues touch all neighborhoods, commercial areas, residents, and businesses owners. It is important to treat all individuals in a consistent, fair, and friendly manner. There may be times when problems, conflicts, or questions need to be addressed or city management needs to be aware of complaints or issues. It is desirable that conflicts be resolved at the earliest possible time and through your immediate supervisor. Issues that could be elevated to the city management level need to be brought to the attention of the Code Enforcement Manager as soon as possible.

OFFICER CONDUCT

The Code Enforcement Division is an important part of the Community Development Department. The division supports all other the City departments through the administration of the DPMC. Our responsibilities and duties are varied and often place us in the public view. Because of the high profile of this vocation, the following standards are set for our appearance, demeanor, professionalism, work habits, and customer service.

Appearance:
- Dress cleanly and neatly
- Your appearance will considerably advance public impression of the City and its employees

Demeanor:
- Be courteous and friendly
- A handshake and a smile will accomplish much in the way of achieving success

Professionalism:
- Research the problem; be familiar with the DPMC. Know the situation when writing a correction notice; write plainly and cite the correct code
- You may be asked technical questions. If you don’t know the answer, say so honestly and inform the person that you will find the answer and respond to him/her as quickly as possible
- Clearly demonstrate your integrity, honesty, and fairness in all transactions
- Constantly strive for excellence in all matters with ethical conduct

Work Habits:
- Accept no personal favors for services rendered and conscientiously avoid all circumstances that could compromise professional integrity
- If someone perceives an act as unethical, it is unethical
Customer Service Goals:

- Provide responsive and expedient service to all
- Be honest, fair, and consistent in our enforcement efforts
- Present a professional attitude and image at all times, conveying respect and sincerity
- Practice great communication skills. This includes listening with an empathetic ear
- Ask clarifying questions to ensure understanding, and reiterate for accuracy and clarity on information exchanged
- Educate the property owner, using plain English, or language appropriate, to clearly communicate the issues involved and our expectations, goals, and time-frames for necessary actions
- Offer options, resources, and solutions when initiating enforcement actions; be open and creative to alternative resolutions that are within the law
- Provide accurate and clear information, including alternate methods and formats available to customers to access this information
- Acknowledge and apologize for our mistakes or misunderstandings. Take responsibility, including corrective action, and follow up promptly
- Draw upon your own professional background, experience/knowledge to assist your team members, and contribute to the overall success of the division
- Be open to new ideas/solutions/methods suggested by team members. Expand your “toolbox” and increase your knowledge
- Acknowledge and respect the diversity of the team; utilize its dynamics, passions, experience, and commitment to accomplish our goals
- Be respectful of differing opinions and methods, avoid negative comments, and keep a positive focus

Customer Service Standards:

- Hand out business cards, offer additional contact information as appropriate
- Return calls the same day or within 24 hours
- Update voicemail to reflect your availability/schedule
- Provide educational/outreach materials as needed. Direct to other information, resources, or services that are available
- Verify the property owner’s needs are met before ending communication
- Project a professional image at all times. This includes your clothing, comments and language, work area, and city vehicle
- Operate city vehicles in a courteous/safe manner. Obey all traffic and parking laws
- Recognize and compliment compliance efforts
- Apologize for misunderstandings and mistakes; take responsibility, fix it, ask for help if needed
CHAPTER 3: DANA POINT MUNICIPAL CODE

The City of Dana Point is a general law city, governed as a council-manager form of local governance. The City Council has five council members, who are elected by registered voters of the City. The City is divided into five districts with a Council person elected by each voting district to represent that area of the community. These voting districts correspond to the districts that Code Enforcement Officers are assigned to in the community. Council members each serve four-year staggered terms. Dana Point has a two-term-limit for elected officials. Annually, the city council appoints a Mayor and a Mayor Pro Tem from its own membership to serve a one-year term. The Mayor presides over City Council meetings, represents the City Council at various business and ceremonial events, and executes all City ordinances, resolutions, and contracts. The Mayor Pro Tem performs these duties in the absence of the Mayor. As a legislative body, the City Council is responsible for the enactment of local laws (ordinances), the adoption of the annual City budget and Capital Improvement Program (CIP), and the review and adoption of proposed policies, agreements, contracts, and other City business items. Many of the daily operations and interactions of the City are governed by the Dana Point Municipal Code (DPMC), and additional ordinances adopted by the City Council.

The City of Dana Point first adopted the DPMC in 1989 shortly after incorporating as a City. Much of the Municipal Code at that time was based on County and other local municipality codes. As needs arise, the City often updates the existing codes and/or adds new code sections. The City has also adopted a wide variety of State and County Codes, such as the California Building Code and Uniform Housing Code. If a State or County Code has not been adopted in the DPMC, it cannot be enforced in Dana Point. A list of commonly used and useful codes is attached as Appendix A.

The Code Enforcement Officer is responsible for understanding, interpreting, and enforcing all chapters of the DPMC. The following is the list of current chapters found in the DPMC:

- Title 1 General Provisions
- Title 2 Administration and Personnel
- Title 3 Revenue and Finance
- Title 4 Misc. Provisions
- Title 5 Business Regulations
- Title 6 Health and Sanitation
- Title 7 Subdivisions
- Title 8 Building and Construction
- Title 9 Zoning
- Title 10 Animal Control, Welfare and Licensing Requirements
- Title 11 Peace, Morals and Safety
- Title 12 Vehicles and Traffic
- Title 13 Parks and Recreational Facilities
- Title 14 Streets and Sidewalks
- Title 15 Water and Sewers

LOCATION OF MUNICIPAL CODE BOOKS

There are four “official” copies of the DPMC books in the Code Enforcement Division (one at each work station). The City Clerk’s office provides periodic “hard copy” updates to the Municipal Code. The Municipal Code is also available online for easy reference at: https://qcode.us/codes/danapoint
CHAPTER 4: DAILY OPERATIONS

CODE COMPLIANCE

The procedures in this manual are essential to ensure a code compliance program that proactively communicates and consistently enforces the DPMC. They assure the uniform and equitable enforcement of the Code, while ensuring the rules of conduct for residents, visitors and businesses are understood and adhered to. Each Officer is responsible for understanding these procedures and following them in the daily course of their work.

Clearly defined and carefully followed procedures provide assurance that the City treats each case fairly and consistently. Accordingly, the Officers and public alike know what to expect and what is expected of them. If cases must be brought to trial, the City can provide documentation which reflects that all applicable courtesy and procedures have been given each person charged with a code violation. Our record of abatements will reflect this professional approach.

The citizens of the community deserve courteous, prompt, and professional attention to complaints concerning code violations. Violations must be abated quickly, but with due regard to the needs and circumstances of the violator. In this regard, violations must be handled courteously and with sensitivity. The overriding concern is for the safety and needs of the community at large. Deviations from procedures may be considered on a case-by-case basis, utilizing the professional discretion of the Code Enforcement Officer in communication with management.

Complaint-generated enforcement goes hand in hand with pro-active enforcement in that the Officer should seek out proactive violations in the surrounding neighborhood when following up on a complaint. This will prevent the image of “selective” enforcement. Proactive cases are handled in the same manner as complaint reference cases, except there will be no response directed to the complainant. Code Enforcement Officers will also handle cases as they are witnessed in the field. For instance if they are responding to a complaint in their district and notice other code violations in the neighborhood they are responding to, the Code Enforcement Officer will proactively open cases on all violations observed.

COMPLAINTS

Complaints come into the city via letters, telephone calls from the public, calls into the hotline, emails, Q Alert messages, or brought to the department at the permit counter. It is imperative that complaints get directed to the appropriate Code Enforcement Officer already assigned to the case or in the appropriate district. Front desk staff and code staff should always direct a complaint to the officer providing oversight of a district. Every complaint should be handled effectively and efficiently. The complainant should be heard out prior to the officer investigating the merits of the complaint.

Each Officer will need to determine the extent of research required prior to conducting a field investigation. The property address and assessor’s parcel number can be verified by the Officer using the City GIS System and a history of the property should be researched in Trakit.

Once a field investigation has occurred, the Officer can administer an NOV to the property owners and tenants if necessary. Follow-up with the complainant should occur to ensure they are informed of the City actions toward abatement of the issue. It is the responsibility of each Code Enforcement Officer to determine if the violation has been abated in the given amount of corrective time. If the violation has been corrected, the Officer can send a thank you letter to the owner and notify the complainant that the case is closed.

If the violation is not corrected, the Code Enforcement Officer will follow the outlines provided in this plan to determine next steps. Steps can vary dependent on the severity of the case, case history, enforcement tools available, and the type of violation being abated. Chapter 5 goes into detail concerning directives for steps in various case types and directives for special enforcement directives. In general, a second NOV should be sent out at this time that indicates if compliance is not gained, the City may issue an administrative citation and/or seek prosecution through the City Attorney. It is imperative that cases be treated in a fair and systematic manner when progressing through the enforcement channel. The Officer needs to be cognizant of deadlines given and warnings issued and take appropriate enforcement actions when compliance is not met.
COMPLAINANT CONFIDENTIALITY
Code enforcement case files are confidential while there is an active case being investigated or prosecuted. We do not provide the complainant or the public with copies of case files. Whenever this office receives a complaint, the complainant’s name, address, and phone number should be entered into the case file. Unless directed by the City Attorney or Court, the complainant’s information shall not be given out for public use. If a member of the public is seeking information pertaining to a property, such as prior code violations, case history or building permits, please direct them to submit a public records request with the City Clerk’s office or research through danapoint.org.

If you receive a complaint from a City Council member, Commissioner, or other person of known political interest, notify the Code Enforcement Manager of the complaint concerning the subject property.

CASE OVERVIEW
Officers will verify a complaint through on-site inspection of the property. A written record of the Officer’s on-site inspection is documented in Trakit, by opening a code case, updating the chronology section, and attaching an NOV if the complaint is verified. Complaints/violations will be verified by photographs taken from the public right-of-way or from a neighboring property with that owner’s permission.

If a violation exists and the course of action necessary for correcting the violation is clear, the officer will contact the property owner or tenant to explain the violation and the corrective action expected. It is imperative that the notification is in writing and a copy of this notice is sent to the property owner, if different from the person responsible for the violation. Time periods for correcting violations will be in accordance with department’s best management practices, unless special circumstances dictate otherwise (see Appendix B for typical code compliance time frames). The time period given must be specified in the first letter of notification.

If the presence of a violation is not clear, this field survey may be deferred until clarification is possible via contact with the complainant, further research, and/or immediate supervisor review.

All code complaints will be actively investigated until a resolution is reached and the violation is corrected, or it is determined that a violation of the DPMC does not exist.

In accordance with the date established on the first NOV, the property will be re-inspected for abatement of the violation(s). If compliance has not been met the Code Enforcement Officer will elevate the case to the next response level, either issuing a second NOV or going immediately to an administrative citation. If compliance has commenced but is not completed, the officer will contact the owner and determine if an extension for work completed shall be issued in writing.

INVESTIGATIONS
The Code Enforcement Division is responsible for enforcing public nuisance statutes or ordinances which have been enacted by state and local legislative bodies. These statutes or ordinances exist to protect the health, safety, and welfare of Dana Point citizens and to contribute to neighborhood vitality by setting minimum standards for structures and surrounding property. Code Enforcement Officers enforce these statutes or ordinances through on-site inspections, interviews, and other means of investigation.

Properties are inspected as a result of citizen complaints, referrals from County or outside agencies, or as part of a systematic inspection program. Code Enforcement Officers inspect the property for compliance with the ordinance and attempt to contact property owners, contractors, property managers, or occupants about apparent violations. The goal of the Code Enforcement Officer is to gain voluntary compliance, however it is sometimes necessary to inspect or abate public nuisances or dangerous conditions on private property without the consent of the owner or occupants. Emergency inspections and abatements are also sometimes necessary to protect the public’s health or safety and must be coordinated with the City Attorney’s office.
INSPECTIONS

In order to protect the health and safety of the public in a way that is consistent with the rights of citizens to be free from unreasonable intrusion onto their private property, this section sets forth the policy for Code Enforcement Officers inspections on private property.

To determine whether a reported code violation exists, the City’s first step in the field investigation is to make a visual inspection of the site. Field inspections may require the City staff enter onto the property to make observations and notes. While not peace officers, Code Enforcement Officers must closely adhere to the legal limitations and constitutional rules governing the search of private property. In most cases, Code Enforcement Officers will obtain the resident’s or tenant’s consent to inspect the property. If entry is refused, the investigating officer may need to obtain an administrative inspection warrant. Whether inspection is consensual or at the behest of a court order, Code Enforcement Officers must exercise diligence in adhering to standards set forth by the United States Constitution and California state law.

Search and Seizure - A Note About the 4th Amendment

Search and seizure are generally thought of in connection with obtaining physical evidence, but they may also pertain to the receipt of information, or the inspection of papers or property. Although there is a tendency by many persons to use “search and seizure” as if they are one act, legally and technically, this is incorrect; a search is one act, and a seizure is another. It is possible to make a search and not a seizure, or there may be a seizure without conducting a search.

What is a Seizure?

Although a seizure has been defined as forcibly taking an object, this definition may give a false connotation. It is believed that this term may be more meaningful in the sense used here to state that a seizure is taking possession of an object to the exclusion of the former possessor, and usually against his will.

The Exclusionary Rule

The exclusionary rule merely provides that illegally obtained evidence will be excluded from use in a criminal trial. Generally speaking, this rule excludes the introduction into evidence of physical objects found in connection with the investigation of a case as a result of an improper search or obtained by an improper seizure. The exclusionary rule is unique to the American justice system. Neither the English nor the Canadian legal system has adopted our exclusionary rule. Not until 1855 did any court in this country display concern over evidence illegally obtained being admitted in court. In that year, the United States Supreme Court gave some thought to the matter, but no formal action was taken until the Weeks case was decided in 1914. The decision placed in operation an exclusionary rule applicable to federal officers. The court held that illegally seized evidence was in violation of the Fourth Amendment and therefore not admissible in federal court.

The Fourth Amendment prohibition against unreasonable searches and seizures applies to administrative inspections by Code Officers.

The Fourth Amendment to the United States Constitution provides: “The right of the people to be secure in their persons, houses, papers, and effects, against all unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the things to be seized.”

As stated by the United States Supreme Court in the case of Stone v. Powell, 428 U.S. 465 (1976): “[The Fourth] Amendment was primarily a reaction to the evils associated with the use of the general warrant in England and the writs of assistance in the colonies, and was intended to protect the “sanctity of a man’s home and the privacies of life,” from searches under unchecked general authority.”
Simply put, the amendment was adopted to prevent a general unauthorized invasion by government agents into homes and places of business of the people of this nation in an effort to obtain incriminating evidence. The exclusionary rule not only excludes illegally obtained evidence, but it also excludes any information received by an illegal act or from illegally seized evidence. This is known as “fruits of the poisonous tree” doctrine. This doctrine holds that if an act is illegal, it is a poisonous tree, and any information obtained from that illegal act is the fruit of the poisonous tree, and is consequently also unlawfully obtained and must be excluded.

The Fourth Amendment to the U.S. Constitution protects the “right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizure.” This protection also extends to the area surrounding a residence that is known as “curtilage.” Often, the area outside the curtilage is properly classified as “open fields” and is subject to no Fourth Amendment protection. Whether a particular action in relation to the curtilage is controlled by the Fourth Amendment depends on whether the action constitutes a “search or seizure” for Fourth Amendment purposes.

If a search or seizure is not involved, the Fourth Amendment will not apply, and it is not necessary for an officer to factually justify his actions. A search, for Fourth Amendment purposes, occurs when government action intrudes into a person's “reasonable expectation of privacy.” Assessing whether a particular action by the government intrudes into a person's “reasonable expectation of privacy” is a critical component in the determination of what Law Enforcement and Code Enforcement Officers may lawfully do in and around a subject property. The Code Enforcement Officer should be wary of this on all investigations and ensure the rights of the property owner are considered and documented in each investigation.

Areas Open to the General Public
Code Enforcement Officers may enter areas of private property if it reasonably appears that the area to be entered is open for use by the general public. Areas that may be considered open for use by the general public include, but are not limited to, driveways, vehicle parking areas, walkways leading up to the main entrance(s) of residential and commercial structures, and customer areas of retail businesses. An officer, positioned in a place where he has a right to be outside the curtilage of a residence, may generally look into the curtilage without performing a “search.” This is true because the officer is observing nothing more than any other member of the public might see from the same viewpoint, and what a person knowingly exposes to the public, even in his own home or office, is not subject to Fourth Amendment protection. For example, when agents of the Internal Revenue Service hid in a cornfield adjacent to a residence's backyard and observed illicit whiskey transactions therein, their actions did not constitute a search, even though the backyard was clearly a part of the curtilage.

Inspection by Valid Consent
If a person gave consent for their property to be inspected or searched, it would seem unusual for that person to question the legality or reasonableness of the search at a later time. Yet there are a number of issues that affect the giving of consent which may in turn affect the legality of the search. For the inspection to be legal, the consent must have been given from a person that is capable of consenting, that is, by a person of sound mind, or one who is old enough to comprehend the meaning of the consent. Also, the person who gave the consent must have done so freely and voluntarily. Whether or not the consent was voluntarily given may depend on many things. Any showing that the consent was induced by threat, promise, duress, fear or deceit will affect the validity of the consent.

Entry into Unoccupied Structures
If structures on the property are unoccupied and secured, the investigator shall first make a reasonable attempt to notify the owner or other persons having charge or control of the property and request entry to the structures. If entry is refused, or if a responsible party cannot be located, the Code Enforcement Officer will notify the City Attorney, who will then determine whether to start the process for obtaining an inspection warrant or other appropriate legal order from a court of competent jurisdiction. If the structures are unoccupied and open, the investigator may enter to determine if imminently hazardous conditions exist. If hazardous conditions exist, the investigator shall notify the owner of the condition and order the premises immediately secured against the entry by unauthorized persons.
Emergency Creating Immediate Hazards
Where emergency circumstances are found, such that prior application for a warrant is not possible without severe immediate danger to the health, safety, or welfare of the occupants, or that of the general public, an inspection or abatement may occur without a warrant.

Inspection Warrants
Except as described above, if a Code Enforcement Officer is denied access to a property for the purpose of an inspection or abatement on the premises, such inspection shall not be conducted without an administrative inspection warrant, or without such other authority as a court may grant in an appropriate legal proceeding. If an officer is denied access to a property, he or she shall notify the Code Enforcement Manager, who may then determine whether to start the process for obtaining an administrative inspection warrant or other appropriate legal order from a court of competent jurisdiction.

Case Files
Much of the Code Enforcement Officer’s most complex work is accurately documenting the investigation and enforcement of violations for each case. Every case has the potential of ending up at an administrative hearing or being referred to the City Attorney for prosecution. It is therefore critical that proper procedures are followed in each case and detailed written records, which includes a documented written chronology, are kept on all cases.

Contents of any case file will include a record of the complaint, correspondence from complainants, records of all conversations, NOVs, other letters, parcel number/assessor’s parcel maps, photographs, dates, names, addresses, and telephone numbers of all parties involved or contacted, photocopies of the property owner tax rolls, other addresses for property owners or managers, a property inspection form, Planning Commission or City Council decisions, a draft legal brief, a completed legal brief, and the decision of hearing officer.

A code enforcement case file reflects a chronological account of the facts related to a case that becomes the subject of the compliance actions and abatements. Well written case files are concise, clear, complete, objective, accurate, correctly spelled, legible, and grammatically correct. The case files will be stored in the Trakt database. The file will include all the relevant issues and all correspondences with the complainant, property owner, tenant, or property manager.
Correspondences
Notices of violation (NOVs) are standard form letters that are sent out for municipal code violations. In general, a first NOV, second NOV and citation letter will be the progression for the majority of our code cases. Below is a general description of these three letters. Specific examples for code NOVs can be found in the form letters in the Appendix C.

Initial NOV
The first NOV is a standard form used to open communication and notify property owners and/or tenants of existing conditions on property that appear to be in violation of the code. The initial NOV going to residential properties is sent to the property owner as listed on the tax rolls. A copy may also be sent to the resident on-site if the property owner is an absentee owner. For commercial properties, the first letter is sent to the business owner or manager, with a copy of the letter also sent to the property owner. The letter should list and describe in detail conditions that appear to be violations. The letter requests voluntary correction of conditions listed and provides a specific time period for the abatement.

Second NOV
The second NOV is used to notify the property owner that the conditions mentioned in the first letter have not been corrected. The second NOV requests voluntary compliance and gives a specific timeline for correction of the violation(s). The timeline for correction of each violation may be determined by the officer, utilizing City of Dana Point Code Division best management practices (Appendix B). Correction time frames are based on how long it would reasonably take to correct the violation, how long they were previously given in the first notice, provisions in the Municipal Code and best practices. Be aware that the Municipal Code Nuisance Abatement Ordinance sections states that “violators be given a minimum of 7 days and a maximum of 30 days to correct a violation.” The letter must issue a warning that if the nuisance is not abated, it will result in an administrative citation or referral to the City Attorney, in order to legally move to the next step in the code case progression.

Citation Letter
If compliance is not gained with the second NOV in the period prescribed by the officer, an administrative citation will be issued. The citation will be accompanied by a letter prescribing the reason for the citation, method of paying for the citation, and means to dispute the citation.

Administrative Citations
Administrative citations are issued when voluntary compliance is not gained by the Code Enforcement Officer. The process for writing and administrating citations is clearly defined in the DPMC, Section 1.10. The citation shall be a written document and shall describe with reasonable detail the violation so that the responsible party may properly correct it. The citation shall provide a reasonable time for correction, given the circumstances of the violation. The Code Enforcement Officer shall attempt to issue the citation to the responsible party at the site of any violation and obtain the signature of the responsible party, if possible. Failure or refusal of the responsible party to sign the citation shall not affect the validity of the citation. If the responsible party is not located, citations will be mailed to the property owner via both certified and regular mail.

The Code Enforcement Officer shall enter the citation amount into Trakit, update the case file, and ensure that the fine is paid within 30 days. If the fine is paid and contested, the Code Enforcement Officer will work with the Code Enforcement Manager to schedule and oversee an administrative hearing. If the fine is not paid, the Code Enforcement Officer will issue another letter notifying the owner that a late fee is being added to the fine, and the issue may be forwarded to collections or the City Attorney. It is the City’s intent to utilize a third-party vendor to collect and enforce payment on administrative citations. This section may be updated when vendor and procedures are in place.
CODE ENFORCEMENT TOOLS

**Trakit**
Trakit is the main program utilized by the City of Dana Point Community Development Department for tracking permits, fees and code enforcement cases. Each officer will be given their own log-in and will be expected to maintain their case load and files thoroughly and effectively utilizing this tool. All NOVs, communications, images, reports, fines, and citations will be attached to the case file kept in Trakit. It is imperative that an accurate chronology is kept with detailed accounts of all interactions, including details of communications with all parties involved such as the property owner, tenant, complainant, contractors, and neighbors. This chronology is often used to recreate the case if requested by the City Attorney, a public records request, and city management.

Trakit can also be used to notify other divisions (i.e. Building and Planning) of active cases against individual properties. By putting restrictions on properties, the Code Enforcement Officer can let other staff know to check relevant code information before processing new permits. The Code Enforcement Officer can also request double fees be paid (DPMC 8.02.001 - Adoption of California Building Code Section 109) for permits when stop work orders are issued in the field for construction without permits. Lastly, it is imperative that citation amounts are input and kept up to date for both the finance department and the Cashier to ensure payments are collected.

**City GIS**
City GIS is a web-based geographical information system utilized for gaining information concerning properties in Dana Point. The system has records for all properties located in Dana Point. It is useful to determine the owner of a property, the parcel information, transactions history, zoning information, and property boundaries. The owner information is updated every year via the County tax records. It is only updated annually and may not be up to date at a given point in the year. When property ownership cannot be verified via City GIS, it is recommended to contact a title company for reference.

**Q Alert**
Q Alert is both a web-based platform and mobile application (Report2DP) for the public to report to the City work orders or concerns on public and private property. The public can report concerns regarding streets, sidewalks, public property, trees, graffiti, private property, public nuisances, etc. These, in turn, are routed automatically to the City Department who oversees the issue at hand. For code enforcement concerns, all Q Alert notifications are emailed to both the Community Development Director and the Code Enforcement Manager. The manager will, in turn, re-route the complaint to the appropriate Code Enforcement Officer based on the geographic location.

The Q Alert program allows the City to reach out directly to the complainant. It is imperative the officer respond to the complainant within 24 hours of the alert to notify them that the issue is being investigated. Once the complaint is founded, the Code Enforcement Officer should respond to complainant via the program and notify them as to the status of the complaint. If a code case is opened and a NOV is sent, the case should be closed in Q Alert, as it is now being documented in Trakit.

**Trello**
Trello is a cloud-based program that allows work flow to be tracked and shared amongst various users. Trello is being used by the Code Enforcement Division to track cases that go beyond a first NOV. This is necessary for two reasons. First, it allows the Code Enforcement Manager and Community Development Director to get a quick look at priority cases, and second, it allows the division to track cases that are not voluntarily corrected after the first notification. This was a goal and matrix set by City of Dana Point City Council in their strategic plan set in 2017.
**Host Compliance**

Host Compliance is a web-based program that tracks Short Term Rentals (STRs) in the City of Dana Point. The third-party vendor employs analysts who scour various web-based platforms that offer vacation rental homes. They track and verify where these homes are and how they are being advertised. Host Compliance provides the City with an online portal to reference both the permitted and unpermitted STRs in town. The vendor will also send NOVs on behalf of the City if STRs are operating illegally without permits.

**Data Ticket**

Data Ticket is a third-party vendor the City uses to track and collect on our administrative citations. Once an officer writes a ticket, they will send that ticket, NOV, and various information to Data Ticket to collect on the citation. If the citation is contested, Data Ticket will arrange an administrative hearing and provide a hearing officer.

**Complaint Hotline**

The City maintains a 24-hour complaint telephone hotline. At the beginning of each regular shift and at the beginning of each weekend or off-hours shift, Code Enforcement Officers will check the hotline for complaint calls (call 248-3526 and at the beginning of the recording press 7573 then 3573 security code, and follow directions; enter password 1234, press pound (#) follow directions.)
COMMUNICATION
Keep communication simple and business-like. Follow the goals and standards for customer service presented in Chapter 2 of this manual. Pay attention to your body language during enforcement and ensure verbal communications are clear, concise, and to the point. Attempt to avoid confrontational situations by not providing reasons for agitated and/or angry individuals to focus anger on you, as this can result in an altercation. When dealing with difficult members of the public, don’t argue, don’t turn your back on the violator, don’t allow the violator to physically grab you, and leave the scene as soon as possible.

OFFICER SAFETY
The State of California recognizes and validates the work in the code enforcement profession as hazardous by including it with other protected classifications (i.e., peace officer, firefighter, emergency medical technician). Under the California Penal Code, assault and battery charges, as well as fines and penalties can be brought against those who threaten or attack Code Enforcement Officers. The Code Enforcement Manager will discuss procedures on how to deal with difficult situations encountered in the field. It is important for Code Enforcement staff to be aware of their surroundings and continuously assess and monitor situations to ensure that events do not deteriorate to a point at which the officer is endangered.

CITY VEHICLES
City vehicles are maintained by the City Fleet Manager. It is up to the manager to determine when vehicles are replaced and whom is driving which vehicle. Your unit will be assigned to you by the Code Enforcement Manager and it is up to the officer to maintain the vehicle in a clean and usable fashion. To report an accident with a City vehicle, use the forms located in the vehicle glove box. Submit all forms to the City’s Risk/Management Coordinator (Director of Finance and Administration).
CHAPTER 5: POLICIES AND PROCEDURES FOR COMMON CASE TYPES

The following chapter covers general practices for different Code Enforcement cases that will be encountered while working at the City of Dana Point. These are general practices and guidelines. Each code case will have specific details and nuances that will warrant the discretion of the Code Enforcement Officer, however, in general the guidelines set forth in this chapter shall be followed to create consistency across cases and Officers.

There are a handful of case types that can be solved immediately in the field with a written NOV. These include, but are not limited to, banners, pennants and flags, illegal dumping in progress, portable signs, signs in the process of being installed where no permit has been issued, signs in the right-of-way, vendors, and water quality prohibited discharge. Complaints or proactive investigations that are observed in the field and can be solved through standard procedure enforcement include burned out or unsecured vacant homes, substantial accumulation of trash and/or debris, weeds, a business operating in the wrong zone (including obvious home occupations), construction or remodeling without approval or permits (coordinate with building division), garage/yard sales, graffiti, obvious dilapidation of structures, occupied trailers, over-height fences, parking on residential properties and/or vacant lots, signs which have already been installed and/or altered without required permits, and trash cans in view (seen from public right-of-way 24 hours before/after scheduled trash pick-up). Most of these cases can be corrected by the DPMC 6.14.002 and will be handled through the procedures described below.

CASE TYPES

Public Nuisance

The public nuisances designated portion of the DPMC is the most commonly cited code section for City of Dana Point Code Enforcement Officers. The section covers both commercial and residential properties and describes in detail what is considered a nuisance. Public nuisance cases are typically straightforward in terms of process. In general, after the violation has been investigated and documented, the case will progress with a written NOV, a second NOV if the case is not abated, and then an administrative citation if still not in compliance (see schematic below). Once the administrative citation is issued, the information will be forwarded to Data Ticket for collection and further processing.

In some cases, the public safety and or quality of life for surrounding community may create an opportunity for the Code Enforcement Officer to seek immediate abatement of the issue. This can be accomplished through a nuisance abatement hearing and warrant. The hearing and warrant is typically coordinated with the City Attorney’s office and is initiated with a letter from the Attorney’s office.

Nuisance Abatement

In some cases, a nuisance may need immediate corrective action. Failure of the property owner to respond to NOVs and citations can lead to the City taking a more aggressive approach to abatement. The Code Enforcement Officer shall work with the City Attorney’s office to work towards the City taking corrective action. Steps could include a City Attorney letter, administrative hearing, nuisance abatement hearing and abatement warrant issued by the County Courts. The Officer will prepare the case file and legal brief to be sent by request to the City Attorney. The Code Enforcement Officer will work with the City Attorney’s Office and the Code Enforcement Manager to abate the nuisance.
Work Without Permits

The City often receives complaints for construction work occurring without proper building permits. These complaints can occur for both residential and commercial buildings. The Code Enforcement Officer will also conduct inspections of properties that they notice have active construction taking place to ensure proper permits have been pulled with the City. These cases are typically solved by checking Trakit and the building files for active permits. If active permits are not on file at the City, an investigation should occur to determine if the ongoing construction work is within the scope of the permits on file. If there are no permits or the construction is happening outside the permitted work, the Code Enforcement Officer shall issue a Stop Work notice. The notice must include the property address, the work that is occurring without a permit, the DPMC code section for adoption of the California Building Code and the CBC Section 105.1, and corrective actions, including how to obtain permits and time frame allotted to do so. Once the owner of the property obtains proper permits, the case will be closed by the Code Enforcement Officer.

If there is an immediate life, health, or safety issue at a construction site (either with or without a legal building permit), a Stop Work order must be issued. Consultation with the Code Enforcement Manager is suggested after the Code Enforcement Officer issues a Stop Work order.
**Dangerous/Substandard Building**

If the Code Enforcement Officer finds property conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants, and the property owner fails to correct the matter(s), the property will can be declared a Substandard Building. A formal declaration of Substandard Building will be sent to the property owner and the Orange County Recorder's Office. The substandard notice restricts the owner’s ability to sell, refinance, or qualify for certain property tax write-offs. Release of the substandard declaration can be attained after inspections reveal corrective actions have been completed.

**Power/Utility Hold(s)**

The City of Dana Point can work with the utility companies to pull the power at locations that are dangerous and/or substandard. The Code Enforcement Officer must work in collaboration with the Code Enforcement Manager and/or the Building Official to post the property and coordinate with the utility company to hold the power. A power hold is useful when a unit will be (or has been) vacated or when a building is vacant and the owner is resistant to correct code violations.
Expired Permits

The Code Enforcement Division will often aid the Planning, Engineering, and Building Divisions when permits for active construction sites have expired. Expired permits are violations of the California Building Code as adopted by the DPMC. Initial contact for an expired permit will be with an NOV informing the owner of the expired permit, a second NOV will be issued if they do not respond, and finally notice of pendency will be filed with the County if there is still no response, and the case will be closed.
Sober Living Homes

Sober Living Homes (SLHs) or Residential Recovery Facilities (RRF) in residential neighborhoods is a significant issue throughout Orange County. Per federal and state regulations, those who obtain treatment for alcohol and drug dependency are considered a disabled class. State law also constitutes that residential recovery homes are permitted by law to operate in residential areas. If the home is connected with other homes, a treatment center, or doing in-house treatment, they must have a state license. The California Department of Health Care Services licenses, inspects and keeps pertinent records on all RFF.

Homes where there is no house manager and no treatment occurring for those living there may be considered true SLHs. The City cannot regulate a group of individuals living together with like or similar interests, and therefore homes of this nature are outside the scope of the DPMC and are allowed by right per state law.

If the Code Enforcement Officer receives a complaint concerning a proposed SLH, the officer will conduct research to determine if the home is operating as a state licensed RRF. If there is a state license, the Code Enforcement Officer can verify that the occupancy is within the limits of the permit and that there are no other existing code violations at the property. If there is no license and the home is acting as RFF, the City will issue a NOV that states the home requires a license. If there is no response from this letter, it will be referred to the City Attorney’s office for prosecution.
**Short Term Rentals**

Short Term Rentals (STRs) are permitted in the City of Dana Point as defined in the City’s Business Regulations DPMC Section 5.14. The City currently has over 150 active STRs that have been vetted and permitted by the Code Enforcement Division. These properties must abide by the ordinances established in Section 5.14, including limits on the number of individuals, parking spots, good neighbor policies, and safety and building inspections. Owners must also pay quarterly Transiency Occupancy Taxes (TOTs) to the City.

In May 2016, a voter referendum concerned over STRs and their impact on standards of living and the residential community's character was circulated to limit new STRs. The City Council, in turn, directed staff to not administer new STR permits until zoning regulations could be discussed with Council and the California Coastal Commission. The City of Dana Point has taken reasonable steps to protect residential units from conversion into de facto hotels, while also allowing individuals to share their homes with guests for compensation in authorized circumstances per our business regulations. However, at present new STR permits are not being issued and the City staff is working with Council to update business and zoning regulations.

If the property does not have an STR permit, the property will be issued an NOV for advertising without a permit. If not abated, the property owner will receive an administrative citation. Host Compliance will also issue first NOV for properties they identify to be advertising without proper permits. Advertising can be verified through this website for any issues regarding STRs. A complaint line for STRs is also maintained by the third party vendor and the Code Enforcement Officer in charge of STRs should check the complaint log at least once per day.

If complaints are received concerning STRs and it is determined the property has a valid City STR permit, the Code Officer will contact the owner to immediately to abate the violation. If the officer finds evidence of a violation of Section 5.38 the Code Enforcement Officer will issue an NOV or Citation, dependent on the severity and history of offenses at the property.
Water Quality / Irrigation

DPMC Chapter 15.10, Storm Water/Surface Runoff Water Quality (water quality ordinance) protects the health and safety of the waters of the State of California by effectively prohibiting discharges into the storm water drainage systems and reducing pollutant loads to the maximum extent possible. The intent of the chapter is to enhance and protect water quality in a manner that is consistent with the Clean Water Act. Code Enforcement Officers will investigate all complaints concerning water quality issues within their district. If violations are determined, the Code Enforcement Officer will write the first NOV. The severity and immediacy of the violation will determine the next course of action. Actions can include a second NOV, coordination with the Water District, an administrative citation, or referral to the City Attorney. Collaboration with the Public Works Department, the Water District and the Code Enforcement Manager is highly suggested with water quality cases of increased complexity.
Weed Abatement and Landscaping

The City of Dana Point administers an annual Weed Abatement Program, authorized by state law, to abate noxious weeds on private property. Many of the areas considered for abatement are vacant lots, empty slopes, and open space corridors. The City Council must consider and pass resolutions to obtain the right for the City to abate the nuisance. Council must declare weeds to be a public nuisance on known properties, offer notice to property owners, provide property owners with the opportunity to abate the weeds or to be heard as to why said weeds should not be abated, and notice property owners that abatement procedures will proceed as required.

The Code Enforcement Officer overseeing the weed abatement program will inspect properties, create the abatement list, notify owners, write the staff reports and corresponding resolutions, and oversee abatement of the nuisance.
Bulky Item Pick-Up
Bulky Items that are discarded on the street and public right-of-way constitute a nuisance, but it is often difficult to determine the culprit of the drop off and/or to what property to send an NOV. Therefore, the Code Enforcement Officer will call into CR&R for pickup of these items, and log it into Trakit to the nearest address. The City's franchise agreement with CR&R contains a special service provision that provides 20 callouts per month to dispose of illegal or unauthorized dumping of bulky items or solid waste at no cost to the City. The specific provisions of the agreement are cited below:

“Contractor shall respond to calls from City’s Maintenance Department, Police and Fire Departments, or Code Enforcement Division to dispose of bulky items and solid waste as a result of illegal or unauthorized dumping which is discarded and/or abandoned in the City. City shall be limited to twenty (20) completed bulky item and/or illegal solid waste dumping collections. Contractor shall create a specific work order in response to each call and/or written request received from City departments and shall provide City with a monthly “Summary of Bulky Item Work Orders Completed.”

In addition, the agreement provides for the pickup of bulky items on an on-call basis for residents. Specifically, the agreement provides as follows, “Contractor shall provide bulky item collection services on an on-call basis. Bulky items shall include, but not be limited to, refrigerators, mattresses, rugs, water heaters, and other items which can be handled by a two-man crew and would not otherwise be accommodated within the automated collection container furnished by Contractor. There shall be a limit of two (2) on-call pickups per year at no extra cost.” This is relevant when dealing with residents who may have items accumulating on their property. The Code Enforcement Officer may encourage the owner to call CR&R to request pick up of accumulating items.
Fences and Walls (Permits Required)
The current DPMC Section 9.05.120 exempts lightweight fences less than 6 feet and masonry walls less than 36 inches from requiring permits, unless permits are required as a condition of project approval.

In order to ensure that block masonry wall foundations, steel placement, and grouting are correct, permits will be required for all fences or walls 36 inches or more in height. A masonry wall (non-retaining) is defined as a structure, primarily constructed of continuous masonry units (brick, stone, concrete block, etc.) 36 inches or more in height. Engineering calculations are required for all fences or walls over 6 feet in height. All permits for masonry construction must show the location, height, and front yard setbacks, foundation, masonry unit size, rebar size, and spacing. The City has a handout available detailing the minimum construction requirements for 6 feet and 8 feet garden walls.

Trash Cans in View from the Public Right of Way
Trash containers are permitted to be at curbside 24 hours before and after collection day. Enforcement of those violating this mandate will be a combination of complaint and proactive, with enforcement occurring on the same street or neighborhood where similar problems exist. Door hangers can be used on the property door, or hung on the trash receptacle to educate the tenant/owner of the code violation. It is encouraged for the Code Enforcement Officer to attempt to educate the owner prior to initiating the NOV process.

Garage and Yard Sales
Residential properties are limited to four (4) garage/yard sales per year. Garage sale signs are not permitted in the public right-of-way, including on street signs, medians, or in parks. Signs may be removed by the Code Enforcement Officer if found on public property.
**Graffiti**

One Code Enforcement Officer is designated as the Graffiti Coordinator for the City. The City’s Graffiti Program is structured so that the Graffiti Coordinator will be notified of all graffiti on public and private property. The Graffiti Coordinator will coordinate with Public Works, Police Services, the Volunteers in Police Services (VIPS), private property owners, and any other affected agencies to have any graffiti removed within 24 hours of him or her being notified. Currently, the City contracts with Bonanza Mobile Wash and Steam Cleaning to remove graffiti from walls and public right-of-ways. Bonanza offers to the City pressure washing and steam cleaning, sandblasting, applying a bio-degradable graffiti remover, and painting and matching paint color.

The Graffiti Coordinator will log and keep all pertinent information, including the date of notification of graffiti, date graffiti was reported to Police Services with a photo of the site, date graffiti was reported to Public Works for removal, and date of graffiti removal.

**Non-Operative Vehicles**

The State of California Vehicle Code Section 22669(d) defines, in part, that a vehicle lacking an engine, transmission, wheels, tires, doors, windshield, or any other part of equipment necessary to operate safely on the highways of the State is considered an inoperative vehicle. Vehicles with expired registration in excess of six months and one (1) day cannot operate legally on a public street. In most circumstances, officers will not consider a vehicle inoperative solely on expired tags, although some exceptions will apply.

**Portable Signs**

Portable signs for commercial businesses need to be approved and permitted through the Planning Division. Code Enforcement Officers may contact business owners with a pamphlet and appropriate information regarding temporary signs and instruct the businesses to remove the signs until a permit has been obtained through the Planning Division.
Signs in the Public Right-of-Way
The City's sign code prohibits placement of signs on or extending over any public property, public easement, or in the public right-of-way. In order to provide consistent application of this code provision, the Code Enforcement Division will remove any signs that are witnessed in the public right-of-way. Any confiscated signs will be retained by the division for five (5) calendar days. There is no fine to reclaim confiscated signs. If the sign is not claimed within this time period, the sign will be disposed of.

Sound Ordinance Complaints
The City often receives sound complaints from residents. These complaints are generally regarding continued noise disturbance typically caused by special events, commercial business, landscape maintenance, and/or air condition units. Officers will use the City's sound level meter to record sound levels for any complaint received concerning a noise level violation.

Professional Business Related Licensing
Business related licensing is to be regulated by the Code Enforcement Division in coordination with the City Manager's office. These include home-based businesses, massage parlors, gun dealers, pool rooms, and secondhand stores. Licensing is issued by the Orange County Sheriff's Department in collaboration with the Code Enforcement Division. One Code Enforcement Officer will keep records of said licensing and forward to the City Manager's office for signature/approval.

Topics of Concern: Past and Future
The landscape of code enforcement is continually changing. What is a community issue in one community will differ. For example, previous issues with Medical Marijuana Dispensaries are no longer an issue in Dana Point due to aggressive action taken by Code Enforcement personnel, city management and the City Attorney's office. It is important for the Code Enforcement Officer and the Code Enforcement Division to stay up to date on relevant laws, ordinances and issues that relate to the field. These can quickly change on a state, county and local level. Code Enforcement staff are encouraged to attend relevant trainings and local round tables to stay abreast of current law changes and issues in southern California. This document will be updated to ensure that the Code Enforcement Division is proactively addressing new issues pertaining to the compliance of code issues in our community, maintaining the quality of life for our citizens and visitors alike.
## APPENDIX A: FREQUENTLY USED CODES

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## APPENDIX B: SUGGESTED COMPLIANCE TIMES FOR SELECT CODE CASES

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<td>7 days</td>
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<tr>
<td>Illegal Discharges</td>
<td>Immediately</td>
</tr>
</tbody>
</table>
Date

Owner Address

RE: Notice of Violation
Subject Property

Dear Property Owner,

It has recently come to the City’s attention that (insert code violation here). This is a violation of the City of Dana Point Municipal Code as shown below:

Copy of relevant copy of DPMC here in italics

The following actions are required by (date to comply):

• Compliance action

If you have any questions regarding this letter, please call (949) 248-35__ or e-mail (insert email).

Sincerely,

Code Officer
City of Dana Point
Email address
Dear Property Owner,

On (insert date of first NOV) you were notified of (brief description of violation). This letter serves to notify you that the violation has not been corrected within the time prescribed in the letter.

As previously stated, the noted condition is a violation of the Dana Point Municipal Code, Section (insert DPMC). A copy of said Code Section(s) was included in the first letter for your reference.

The City is again requesting your voluntary compliance by taking the following action(s) no later than (insert date):

A. _______
B. Please contact me when compliance has been obtained.

In the event you do not take the action described within the time period prescribed, the City will have no choice but to turn this matter over to the City Attorney for legal action and/or issue you a citation in the amount of $100, per day that the violation persists. We seek your cooperation in this matter.

If you have any questions regarding this letter, please call (949) 248-35__ or e-mail (insert email).

Sincerely,

Code Officer
City of Dana Point
Email address
Date

Owner Address

**RE:** Administrative Citation #(insert cite number)

Subject Property

Dear Property Owner,

The purpose of this letter is to notify you that the violation(s) described in letters dated (insert date of first NOV) and (insert date of second NOV) regarding the (briefly describe the code violation) was not corrected within time prescribed in said letter(s). The noted violation(s) is/are a violation of the Dana Point Municipal Code, Section(s) (insert DPMC) and a copy/copies of said code section(s) was/were provided in previous letters.

The City has issued Citation # (insert cite number) for failing to correct the noted violation(s) within the time frame prescribed in the previous notice of violation letter(s). If the citation is not paid or contested within thirty (30) days additional late fees will be added to the fine amount. The back of the citation will give you directions on how and where to pay the citation along with additional information.

Payment of the fine does not dismiss the Municipal Code violation. If the violation persists, an additional citation will be issued with fines accruing daily from the date the citation was issued.

The City would like your cooperation in solving this matter. If you fail to comply, the City may seek additional enforcement actions such as additional administrative citations, referral to the City Attorney and/or administrative abatement.

If you have any questions regarding this letter, please call (949) 248-35__ or e-mail (insert email).

Sincerely,

Code Officer
City of Dana Point
Email address
Date

Owner Address

RE: Administrative Citation
Subject Property

Dear Property Owner,

On (date of citation) an Administrative Citation # ______ was issued for failing to abate (______) that constituted a violation of the Dana Point Municipal Code, (DPMC) Section ____. In accordance with the DPMC, Section 1.08.080 Satisfaction of Administrative Citation, any individual who is in receipt of an administrative citation shall:

- Correct the violation by the correction date that appears on the citation,
- Pay the specific fine to the City within thirty (30) days,
- Pay the fine and contest the administrative citation within thirty (30) days as outlined on the back of the citation.

Correction of the violation does not excuse or discharge the requirement to pay the fine. As of the date of this letter, the City has not received your payment of the original fine amount of $xxx. In accordance with the DPMC, Section 1.10.070, any responsible party who fails to pay an administrative citation fine on or before the due date, shall also be liable for the late payment charge of twenty-five percent (25%) of the fine.

Please remit payment (checks payable to City of Dana Point) in the full amount that includes the late payment charge no later than ______. If you fail to remit payment by the due date, the City may take any available legal action to collect such money without further notice.

If you have any questions regarding this letter, please call (949) 248-35__ or e-mail (insert email).

Sincerely,

Code Officer
City of Dana Point
Email address
Date

Contractor Address

RE: Notice of Violation
Permit Number(s)
California State Contractors License #

Dear (Contractors Name),

A recent review of a building file showed that a building permit was secured on (insert date), for a (insert building permit description). Per the Dana Point Municipal Code, Section §8.03.010, building permits expire six (6) months from the date of issuance, or the date of last recorded inspection(s). Our records indicate that this permit has expired and will be entered into our records with an expired status.

An expired permit is a violation of the Municipal Code if the work was started and not completed or finalized. In addition, expired permits may present problems to future heirs, assigns and successors of the property, as well to insurance coverage, if this code infraction is not subsequently abated by appropriate new permits to complete the work. In addition, a notice for the failure as a contractor to final a building permit may be sent to the CA State Contractors Board for continued action.

The City is requesting that you obtain/renew the permit no later than (insert date), and request a final inspection if the work is completed. Due to the lack of time which has passed, additional permit fees must be paid to renew these permits.

If you have any questions regarding this letter, please call (949) 248-35__ or e-mail (insert email).

Sincerely,

Code Officer
City of Dana Point
Email address
Dear Property Owner,

A recent review of your building file showed that building permits were secured on _____, for ______. Per the Dana Point Municipal Code, Section §8.03.010, building permits expire six (6) months from the date of issuance, or the date of last recorded inspection(s). Our records indicate that these permits have expired and will be entered into our records with an expired status.

An expired permit is a violation of the Municipal Code if the work was started and not completed or finalized. In addition, expired permits may present problems to future heirs, assigns and successors of the property, as well to insurance coverage, if this code infraction is not subsequently abated by appropriate new permits to complete the work.

The City is requesting that you obtain/renew your permits no later than XXXXXXXX and request a final inspection if the work is completed. Due to the lack of time which has passed, additional permit fees must be paid to renew these permits.

If you have any questions regarding this letter, please call (949) 248-35__ or e-mail (insert email).

Sincerely,

Code Officer
City of Dana Point
Email address
Dear Property Owner,

As part of the City of Dana Point’s Water Quality Program, the City notices properties that have excessive water runoff due to over irrigation, broken sprinkler heads or incorrect sprinkler system timing. It was observed that a significant amount of water had flowed from the referenced property at _______.

Sprinkler/irrigation runoff is a prohibited discharge and is in violation of the City of Dana Point’s Municipal Code(s) as defined below:

**9.55.030 General Provisions.**
(d) All irrigation systems shall be maintained in proper operating condition. Water line breaks, head/emitter ruptures, overspray or runoff conditions and other irrigation system failures shall be repaired immediately.

**15.10.050 Prohibited Discharges and Prohibitions on Illicit Connections.**
(a) No person shall:
(1) Cause, permit, allow or facilitate any prohibited discharge.

We would appreciate efforts to eliminate sprinkler/irrigation runoff to help protect creek and beach water quality and eliminate water waste. Please take the following actions by Monday, July 2.

1. Conduct an inspection of your system while running (you or your landscaper) to determine issue(s) causing runoff - Is the watering cycle(s) too long? Are any sprinkler heads broken or spraying the sidewalk instead of lawn? Are there any leaks?
2. Make effective adjustments, as necessary:
   a. Decrease watering time or "cycle and soak", i.e. run multiple shorter cycles with a break in between to give time for the water to soak into the ground so it does not run off;
   b. Adjust the sprinkler heads so that water is directly onto landscaping, not sidewalk or into streets or other pavement areas;
   c. Replace any broken sprinkler heads;
   d. Repair any leaks, if observed.
3. If you need assistance, you may contact SCWD Customer Service to schedule an irrigation assessment to determine issues and discuss solutions, 949-499-4555, ext. 1.
4. Call to notify me when irrigation system is in compliance: 949-248-35XX.
If the issues cannot be addressed in a timely manner, the system should be turned off until proper remedies can be implemented to prevent the runoff.

If you have any questions regarding this letter, please call (949) 248-35__ or e-mail (insert email).

Sincerely,

Code Officer
City of Dana Point
Email address
Date

Owner Address

RE: Notice of Violation
Subject Property

Dear (Insert Property Owner),

It has come to the City’s attention that the following condition(s) exist(s) on your property:

• Description of violation here (bullet each violation)

OR

A visual inspection of your property was conducted on xxxxxxx and the following condition(s) exist(s):

• Description of violation here (bullet each violation)

This/These condition(s) is/are considered a public nuisance in violation of the Dana Point Municipal Code, Section 6.14.002 xxx as follows.

It shall be unlawful and a misdemeanor subject to punishment in accordance with Section 1.01.200 of this Code, and it is hereby declared to be a public nuisance, from any person owning, leasing, occupying, or having charge of any residential, agricultural, commercial, industrial, business park, office, educational, religious, vacant, or other property within the City of Dana Point, to maintain such property in such a manner that any of the following conditions are found to exist thereon:

(Subsection here)

The City is asking for your voluntary compliance by taking the following action(s) no later than XXXX:

A. Description of action to be taken
B. Please contact me when compliance has been obtained (last after list of actions)

Sincerely,

Code Officer
City of Dana Point
Email address
RE: Notice of Violation

Dear (Owners Name),

The City of Dana Point is committed to maintaining the highest livability standards for our residents and a vibrant business environment for our business establishments. In keeping with this goal, Code Enforcement confirmed the following violation(s) of the City of Dana Point Municipal Code (DPMC) as shown below:

Prohibited Use in Residential District per DPMC, Appendix A, Master Land Use Matrix (Drug and Alcohol Rehabilitation / Treatment Facility)

As the owner of the property located at __________, within the City of Dana Point (APN:_____) you are the responsible party for the violation(s). You may not have personally caused the violation or you may be unaware of the violation. The purpose of this letter is to provide notice that such violation is occurring and inform you that you are the responsible party.

As a representative of the City, I am requesting that within ten (10) days of the date of this letter you comply with one of the following options:

1. Provide a copy of a valid California, Department of Health Care Service’s license to operate a Drug and Alcohol Rehabilitation facility with six (6) or fewer residence. (Please note that local jurisdictions cannot require a Conditional Use Permit or zoning clearance for State licensed facilities operating with six or fewer residents); or

2. Immediately cease all Drug and Alcohol Rehabilitation Facility operations and schedule an inspection with City Code Enforcement staff to verify compliance.

The City of Dana Point would like your voluntary cooperation in resolving this matter. However, if you fail to comply, the City will be forced to take legal action. Please understand that you are the responsible person for your property and could be held responsible for any court costs/legal fees incurred to the City of Dana Point.

If you have any questions regarding this letter, please call (949) 248-35__ or e-mail (insert email).

Sincerely,

Code Officer
City of Dana Point
Email address
Date

Owner Address

**RE: Notice of Violation**

Subject Property

Dear (Insert Property Owner),

It has come to the City's attention that you are advertising a property for a Short Term Rental without a City permit, this constitutes a violation of the Dana Point Municipal Code, Section 5.38.030 as follows.

**Title 5 BUSINESS REGULATIONS**
**Chapter 5.38 SHORT-TERM RENTAL PERMITS**
**5.38.030 Permit Required.**

No owner of a short-term rental located within a zoning district where residential uses are allowed shall rent, offer to rent, or advertise for rent the short-term rental to another person without a valid short-term rental permit approved and issued in the manner provided for by this Chapter. (Added by Ord. 13-01, 4/2/13)

The City is requesting your cooperation in solving this matter by ceasing all advertisements on websites that advertise short term and vacation rentals. Please contact our office no later than ten (10) days from the date of this letter to notify us of your voluntary compliance. Failure to comply may result in the issuance of an administrative citation with a $250.00 fine, per day, should the violation persist.

If you have any questions or if you feel that the described condition is not in violation with the referenced code section, I can be reached at (949) 248-35__.

Sincerely,

Code Officer
City of Dana Point
Email address
Re: Notice of Violation

Subject Property

Date

Owner Address

Dear Property Owner,

An inspection has revealed that your property, described by the above Assessor’s Parcel Number, contains vegetation (grass, brush, weeds, trees,) dirt and/or litter which has the potential to create a hazardous condition if not properly maintained. The City is seeking your cooperation in eliminating hazards that may contribute to the spread of fire, thus preventing damage to your property and that of your neighbor. As the owner, you are responsible for the maintenance of your property.

In conformance with the provisions of the abatement of weeds and rubbish sections of the California Government Code, you are hereby notified to remove hazardous vegetation, dirt or litter from the above referenced property by ________.

Enclosed is information that will assist you through this process and outlines requirements for clearing property. Please review these requirements. If your property does not meet these requirements, you must take measures to bring it into compliance.

After ________, property not complying with this notice will be cleared by the City when manpower and equipment are available. The charges for property cleared by the City, plus an administrative fee, will be added to the property owner’s tax statement. The total cost for the City to clear a given property may exceed the cost of owner initiated clearing.

Property that is not cleared by the City still remains the responsibility of the owner and legal action may be initiated to obtain compliance. Regrowth of vegetation as the result of late rainfall may necessitate additional clearing later in the year.

If you no longer own this property, you are required by law to disclose the contents of this notice to the new owner. This disclosure must be made through escrow or by notifying this office of the new owner’s name and address. Failure to properly notify the new owner may result in you being liable for clearing charges assessed to the property.

With your cooperation, the City of Dana Point and the Orange County Fire Authority will have a better chance to protect your property and its improvements should a wildfire threaten the area.
If you have any questions regarding this letter, please call (949) 248-35__ or e-mail (insert email).

Sincerely,

Code Officer
City of Dana Point
Email address
Appendix D: References

City of Pasadena Planning and Development Department, Building and Neighborhood Revitalization Division. *Code Compliance Officer Training Manual.*


