

Effingham County Development Services Office of Code Enforcement



Standard Operating Policy and Procedure Manual



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I. Mission

The mission of Effingham County's Code Enforcement Program is to protect the health and safety of the County's residents and visitors, and the livability of the community, by assuring compliance with the County's land use, environmental and construction codes. The County will assure County Code compliance both by encouraging voluntary compliance and by sanctioning code violators who do not comply.

II. Purpose

The purpose of the Effingham County Code Enforcement Program Policy and Procedures Manual (hereafter "manual") is to provide written guidelines for:

- A. The prioritization of code enforcement cases;
- B. Initiation and investigation of code violation complaints;
- C. Enforcement of the County Code through voluntary compliance;
- D. Prosecution of code violators who do not comply;

These written guidelines are intended to increase consistency and predictability within the County's Code Enforcement Program, and to educate the County's residents and property owners about code compliance and the consequences of violating the County Code.

III. Interpretation

This manual describes the standard policies and procedures for code compliance, and should be interpreted so as to maximize both the efficiency of the program and operations as well as compliance with County Code. This manual should be followed unless otherwise directed by the Director of Development Services or designee, the County Manager or designee, or the Board of County Commissioners (hereafter "Board").

IV. Code Enforcement Philosophy

Policy: The County's policy is to achieve compliance with County Code in all cases of reported and verifiable code violations. However, the County may not always have sufficient resources to expeditiously address all cases. Consequently, the County has established, through this manual, both a priority ranking for code enforcement and procedures designed to maximize available code compliance resources. The Code Enforcement Program should follow the priority ranking set forth in Section V of this manual. It also should be flexible enough to allow the level of enforcement that best fits the type and circumstances of the code violation(s), within clear and objective criteria set forth in this manual and consistent with the priorities.

A. Enforcement Levels. The levels of enforcement available to the County are:

1. Mediated settlement of code violation complaints;
2. Pre-Enforcement Notice (hereafter "PEN");
3. Obtaining voluntary compliance;
4. Warning letters;
6. Citation and prosecution of violation in Magistrate Court or Notice of Violation and Proposed Civil Penalty (hereafter "NOV") through County administrative hearings;
7. Petition for injunction in circuit court;
8. Nuisance or dangerous building abatement;
9. Permit revocation

B. Sequence of Enforcement. The levels of enforcement are not mutually exclusive, and may be used alone or in sequence or combination with other levels. However, in most code violation cases, the County will use the code enforcement levels in the sequence they appear in Paragraph A.

C. Criteria for Choosing Level of Enforcement. Some code violation cases may have aggravating circumstances requiring a different sequence for enforcement activity than that set forth in Paragraph A. The County may choose a different sequence if one or more of the following circumstances is present:

1. The code violation is severe (e.g., deviates greatly from the Code);
2. The violation poses a significant threat to public health and safety, or to the environment as determined by the Development Services Director or designee;
3. The violation may cause economic harm to residents or to the County as a whole;
4. The physical size or extent of the violation is significant as determined by the Development Services Director or designee;

5. The violation has existed uncorrected for a significant period as determined by the Development Services Director or designee;
6. There is a previous history of complaints and code enforcement on the subject property and/or with the alleged code violator;
7. There is good potential for combining enforcement action on the violation with other violations;
8. There is little likelihood of obtaining voluntary compliance

V. Priorities for Code Enforcement

Policy: County staff shall attempt to investigate and resolve all code violations within budget and staffing resources. However, because of limited code compliance resources, there may be times when all code violations cannot be given the same level of attention and some code violations may receive no attention at all for a period of time as determined by the Development Services Director or designee. In circumstances where not all code violations can be investigated, the most serious violations, as determined under the priorities set forth in this section and the criteria for enforcement in Section IV(C) of this manual, shall be addressed before the less serious violations are addressed, regardless of the order in which the complaints are received. However, complaints alleging both priority and non-priority violations should be processed together to maximize efficiency.

A. **Priority Cases.** The Board has established the following priorities for Code Enforcement violations:

1. Violations that present an imminent threat to public life, health and safety;
2. Violations which impact rivers, streams, floodplains, and wetlands,
3. Solid Waste Code violations, Environmental Soils violations, and Building Code violations consisting of ongoing non-permitted construction or failure to obtain permits;
4. Land use violations.

B. Lower Priority Cases

Policy: Complaints alleging code violations that do not fall within the priority ranking above should be processed in the order in which the complaints are received, and as code enforcement resources allow.

Exception. At the discretion of Code Compliance Specialists and in consultation with the Development Services Director or designee staff, complaints may be processed in any order that maximizes the efficiency of enforcement.

Procedure: All complaints concerning a particular type of code violation (e.g., non-permitted manufactured homes in manufactured home parks), or all complaints of violations occurring in a particular geographic area, may be processed together, regardless of the order in which the complaints are received.

VI. Applicability

Policy: This manual applies to all code Enforcement administered by the county Development Services office, its employees and agents. Except as otherwise provided, the policies and procedures in this manual apply to all alleged code violations whether or not they existed or were known by the County on the effective date of this manual. The policies and procedures in this manual supersede any conflicting County policies and procedures.

Non-Applicability to Covenants, Conditions and Restrictions. Many subdivisions and planned communities are subject to private, recorded covenants, conditions and restrictions (CC & Rs). The County's policy is not to enforce private CC & Rs.

Non-Applicability to Private Legal Action. Residents may undertake private legal action to enforce County Code, including civil litigation against the alleged code violator, as well as personally filing citations and prosecuting County Code violations in court. The policies and procedures in this manual do not apply to private legal action to abate violations. Neither should they be interpreted to suggest that the County will participate in such private legal action.

VII. Initiation of Code Enforcement

Code enforcement may be initiated by any of the following methods:

A. Resident Complaints. Any person may make a complaint to the County alleging one or more code violations.

1. *Form.* A resident may initiate a complaint by submitting a letter or email, electronic complaint form (available online), or by contacting Development Services in person or by telephone. If a resident submits a complaint by phone or written communication other than a completed electronic complaint form, County staff shall complete the electronic complaint form. If the County receives a written complaint other than the County approved electronic complaint form, the written complaint shall be attached electronically to an electronically complaint form completed by County staff. To be investigated, a resident complaint must contain all information required on the complaint form (ie. Name, Address, Telephone Number).

2. *Anonymous Complaints Policy:* The County's policy is to not accept anonymous County Code violation complaints. The County believes that anonymous complaints are not as reliable as those made by complainants who are willing to identify themselves. In addition, in many cases, the complainant's identification and testimony in court may be necessary for successful prosecution of Code violators and code enforcement.

Exceptions. The County recognizes there may be cases justifying an exception to this policy. These are cases where the nature of an anonymous complaint reliably suggests the existence of code violations presenting an imminent threat to public life, health and safety or to the environment, which threat easily may be verified by County staff. In such cases, as determined by the Development Services Director or designee, County staff shall accept the anonymous complaint for investigation.

3. *Confidentiality Policy:* The County's policy is to maintain the confidentiality of code enforcement complaint files and computer records, including the identity of the complainant, to the extent legally possible. The County believes it is important to maintain this confidentiality to assure effective investigation and prosecution of code violations. In addition, the County recognizes that some complainants do not want their names disclosed to the alleged code violator for fear of retaliation. However, in some cases it may be necessary for successful prosecution and enforcement for the complainant to be identified and to testify in court.

Exceptions. In cases where the County chooses to cooperate with, or defer to, federal or state agencies for code enforcement, the contents of the file may be disclosed, as necessary, to the other agency.

Procedure: In order to maintain the confidentiality of code enforcement complaint files and the identity of the complainants, while assuring effective prosecution and enforcement and compliance with state law, the following procedures apply:



a. Code enforcement files will be maintained as confidential files throughout investigation, violation prosecution and/or other types of code enforcement to the extent legally permissible.

b. The contents of code enforcement files will not be disclosed to anyone other than County staff who have a reason to know about and who are involved in the investigation, or to similar staff of an agency with which the County is cooperating. The contents of the file will not be disclosed to any other person absent court order, until:

- 1) the investigation is complete and a citation discovery request is made; or
- 2) the file is closed and disclosure is made pursuant to the public records law.

B. Observation by Code Enforcement Staff. Code enforcement staff often observe additional potential County Code violations while conducting complaint investigations. Such observations may form the basis for additional investigation and enforcement action.

Policy: The County's policy is that code enforcement staff document any potential code violations the staff observes on property that is the subject of their current investigation. Code enforcement staff shall investigate documented additional potential violations. If substantiated, staff may address noted additional violations. Staff may also document and address code violations observed on any property adjacent to the subject property, which violations are observable from the subject property.

C. Proactive Code Enforcement. Within available code enforcement resources, the County may undertake a number of County-initiated procedures for proactive code enforcement. These procedures may include:

1. Investigations and prosecutions of code violations in particular geographic areas;
2. Investigations and prosecutions of code violations of a particular type throughout the County;
3. Timely and regular follow-up by Development Services staff for compliance with conditions and requirements for permits and approvals;
4. Reporting by County staff of code violations observed while conducting County business;
5. Examination and comparison of County files for evidence of code violations;
6. Revocation of permits and approvals for failure to comply with requirements or conditions;
7. Cooperation with code compliance by other regulatory and licensing agencies; and
8. Cooperation with utility companies to terminate service, to the extent authorized by law, to non-permitted uses on property.

D. Permit/Approval Condition Monitoring by Development Services Staff. The County routinely issues land use, environmental and construction permits with a variety of requirements and conditions, and timelines for meeting them. For example, a land use approval may require landscaping the site by a certain date, and building permits expire if construction progress and inspections are not made within periods set by state law. Code violations occur when these permit and approval conditions are not timely met.

Policy: The County's policy is that Development Services staff may conduct timely and regular monitoring of conditions of approval and similar permit requirements for all permits and approvals.

Procedure

1. All persons issued permits or approvals shall be given written notice of the consequences of failure to comply with requirements and conditions, including potential code enforcement.
2. If any permits and approvals are found not to be in compliance with conditions of approval or other permit requirements, staff in the appropriate Development Services division assigned to the permit or approval monitoring shall undertake appropriate action to obtain compliance.
3. If the assigned Development Services staff are unable to obtain compliance within a reasonable time established for that purpose, they shall report the violation and any enforcement action already taken to Code Enforcement staff for further code enforcement action.

E. Report by County Staff. In many cases, County staff may be in a unique position to observe potential code violations. For example, a property appraiser in the Assessor's office may be the only person able to observe new construction for which there is no permit.

Policy: Any County staff member may report to code enforcement staff possible Code violations observed while conducting County business.

Procedure: Reports by County staff under this subsection shall be made on an electronic complaint form in the Development Services records system.

F. Report by County Commissioner. A County Commissioner may report a potential code violation, or request that code enforcement staff investigate a resident report of a potential code violation by submitting an electronic complaint form or in any other written form or requesting code enforcement staff to submit a complaint form on behalf of the Commissioner, along with necessary information to initiate an investigation.

G. Information from Official County Records. Potential code violations may be discovered by examining the County's own official records. For example, cross-referencing between the Assessor's records and Development Services records may reveal construction or land use activity without necessary permits or approvals. Development Services staff may also discover code violations by comparing the County's own land use, environmental health and construction permit records with each other.

Policy: Development Services staff may regularly compare all pertinent County records to identify potential Code violations.

Procedure: Code violations discovered through comparison of information in County files shall be reported to Code Enforcement on an electronic complaint form.

VIII. Recording Complaints

All complaints received by the Code Enforcement Office shall be recorded in Development Services electronic documentation system. The Complaint Record is the official record of the complaint and its investigation and resolution. The Complaint Record shall include the following minimum information:

1. An assigned complaint number;
2. Which code enforcement staff is assigned to the case;
3. The complaint form if in e-mail or written form;
4. Documentation of investigation;
5. Finalization of record

IX. Notice of Investigation

When Code Enforcement staff initiates an investigation, they may provide notice to any Development Services division, other County department, or federal or state agency that may have an interest in the alleged code violation.

X. Investigation

A. Preliminary Matters. At the beginning of each investigation, the following shall be established:

1. *Jurisdiction.* The property upon which the alleged code violation exists must be in the County's code enforcement jurisdiction.
2. *Zoning.* The zoning of the subject property shall be determined.
3. *Permit Status.* The status of any land use, environmental soils, building, electrical, construction (including, but not limited to structural, mechanical, plumbing) or other similar permits on the subject property shall be determined.
4. *Property Ownership.* All persons with a recorded legal interest in the subject property should be identified. These persons should include the owners, contract purchasers, lessees and lienholders or other security interest holders.
5. *Other Potentially Responsible Persons.* In addition to the persons listed in subparagraph 4 of this paragraph, any other persons potentially responsible for the alleged code violation(s) should be identified. These persons could include tenants, construction and landscape contractors and excavators.
6. *Identification of Applicable Code Provisions.* Code Enforcement staff, with the assistance of other Development Services staff and County Legal Counsel as necessary, shall identify the pertinent provisions of the County Code that may have been violated according to the complaint.
7. *Prior Complaint History.* Code Enforcement staff shall examine Development Services records to determine the existence and status of any prior or existing code violation complaints on the subject property or concerning the alleged violator.

B. Establishing the Elements of a Violation. Before a Pre-Enforcement Notice ("PEN") is sent, it must be determined whether the complaint establishes a code violation. If it does not, the case will be resolved by file closure as provided in Section XII of this manual. Code Enforcement staff may, in some instances, make mediation referrals where such referral is anticipated to protect safety or livability. Code Enforcement staff, with the assistance of other Development Services staff and County Legal Counsel as necessary, and after any necessary field investigation, shall determine if the following elements have been established.

1. *Responsible Person.* The person or persons who are reasonably believed to have committed the code violation, or who are or may be legally responsible for the alleged code violation, have been identified.

2. *Alleged Violation Occurred or is Occurring.* A complaint may allege a code violation that occurred in the past (e.g., construction without a permit) or that occurs only intermittently (e.g., surfacing sewage from a drain field, or periodic non-permitted commercial activity in a residential zone). Code Enforcement staff shall determine whether there are reasonable grounds to find the alleged violation occurred or is occurring. Such grounds may be established either by personal observation by Code Enforcement staff or by reliable evidence from a complainant. If Code Enforcement staff determines that reasonable grounds do not exist, no enforcement action will be taken until the complainant or the Code Enforcement staff has had a reasonable opportunity to develop such grounds. If no reasonable grounds are developed within a reasonable period, the case will be resolved by file closure as provided in Section XII of this manual.

3. *Relevance of Statute.* In some instances, a complaint may allege a code violation on property subject to other protections. A common example is the State's prohibition on local laws governing forest and farm practices. Code Enforcement staff shall, with the assistance of other Development Services staff and County Legal Counsel as necessary, consider the relevance of statutes in substantiating a County Code violation. If Code Enforcement staff verifies conflicting relevance under the law, the case should be resolved by file closure as provided in Section XII of this manual.

C. Assignment of Investigation and Enforcement Responsibility

Policy: The responsibility for field investigation and code enforcement should be assigned to the Code Enforcement staff that is most able and qualified to conduct the investigation and undertake appropriate enforcement action. For example, alleged violations of environmental soils/health codes may best be investigated and resolved by County Public Health Specialists. However, all code enforcement activity should be coordinated with Code Enforcement staff and all PEN's and/or citations will be drafted by Code Enforcement staff.

Procedure:

1. *Assignment.* Assignment of field investigation and code enforcement responsibility shall be made by the Development Services Director or designee, on a case-by-case basis or pursuant to standing policies in this manual or elsewhere. The following criteria shall be used for assignment of responsibility:

- a. The nature of the code violation(s) alleged in the complaint;
- b. The knowledge and expertise needed to investigate the alleged violation;
- c. The history of prior code enforcement on the subject property or with the alleged violator;
- d. The status of permits and approvals on the subject property; and

e. The workload of the relevant Code Enforcement division staff and the projected timeline for investigation and resolution of the complaint.

2. *Coordination.* Whenever responsibility for code enforcement activity is assigned to Code Enforcement staff, they shall consult with other Code Enforcement staff and keep them advised of their activities. When Code Enforcement staff other than the assigned Code Enforcement staff is assigned to investigate a code violation complaint for which a Complaint Record has been created, such staff shall enter into the record a report of any action undertaken to investigate or to obtain compliance.

D. Field Investigation

1. *Purpose.* The purposes of code enforcement field investigation are to:

- a. Verify the existence and severity of code violations;
- b. Document code violations by means of written notes, photographs, witness interviews, etc.; and
- c. Obtain supporting evidence such as photographs, measurements, names and statements of potential witnesses, etc.

2. *Coordination.* Whenever responsibility for field investigation is assigned to Code Enforcement staff other than originally assigned Code Enforcement staff, the coordination and notification described in Paragraph C (2) of this section shall occur.

3. *Preparations and Precautions Policy:* Code Enforcement staff and other assigned Development Services staff, as well as members of the public, should not be exposed to unreasonable risks of violent confrontation or injury during the course of field investigations. Code Enforcement staff and other assigned Development Services staff shall take whatever actions are reasonable and necessary to minimize the known risk of violent confrontation or injury to themselves or others in conducting their field investigations.

Procedure:

a. *Law Enforcement Assistance.* When appropriate, Code Enforcement staff or other assigned Development Services staff should contact the Sheriff's Office to determine if there have been previous criminal complaints or investigations concerning the subject property or alleged code violator, and whether, in the opinion of the Sheriff's Office, a field investigation would present any threat to the safety of Code Enforcement staff, other staff, the alleged code violator or other persons present during a field investigation. Code Enforcement staff or another assigned Development Services staff person may request law

enforcement assistance in conducting the field investigation, and may postpone such investigation until law enforcement assistance is available.

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

1. The nature of the alleged violation;
2. Whether or not prior notice will make detection and documentation of the alleged violation more difficult; and
3. Whether or not prior notice will unnecessarily increase the known risk of violent confrontation or injury to Code Enforcement staff or other assigned Development Services staff.

c. *Entering Upon Property or Premises Policy:* It is the County's policy that Code Enforcement staff and other assigned Development Services staff shall not enter upon private property or premises to conduct a field investigation without authority to enter.

Procedure: Code Enforcement staff may enter unposted property to seek permission to investigate on the premises. Unless permission is granted, the investigation shall be conducted from public roads or property where permission to enter has been granted. If Code Enforcement staff or other assigned Development Services staff does not have permission or other authority to enter upon property or premises, and entry upon the property or premises is necessary to conduct the investigation, Code Enforcement staff or other assigned Development Services staff shall consult with the Sheriff's Department or County Legal Counsel about obtaining a search warrant.

E. Report of Field Investigation. Upon completion of the initial investigation, Code Enforcement staff or other assigned Development Services staff shall complete a report of investigation in the Case Record. The Field Investigation Report should be completed as soon as reasonably possible after the date and time of the field visit to ensure a complete and accurate report.

1. *The report shall include at least the following information:*

- a. Name of investigator;
- b. Date, time and place of field visit;
- c. Code violation(s) observed;
- d. If no code violation(s) observed, an explanation;

- e. Witnesses, if any, interviewed and other persons present, if known, on site at the time of the investigation;
- f. Evidence, if any, obtained (e.g., photographs);
- g. Discussion, if any, of violation with owner, occupant or other responsible person;
- h. Action necessary, if known, to correct violation; and
- i. Recommended enforcement action.

2. *Complainant Notification.* Upon completion of the initial investigation, Code Enforcement staff shall notify all resident and other agency complainants of the status of complaint investigation. This notification should include information on whether a case will be opened, the reason a case will or will not be opened, and name and contact information of the staff member assigned the code enforcement case.

XI. Enforcement Procedures

A. Voluntary Compliance Policy: The primary objective of the Development Services Code Enforcement Office is voluntary compliance. Staff encourages voluntary code compliance by providing code violators and other responsible persons with information about the County Code and an opportunity to comply with the County Code within reasonable timeframes and with little or no penalty. The County believes that voluntary compliance generally is less expensive for all parties and of a more satisfactory and lasting nature than involuntary compliance. Notwithstanding this objective, the County believes that allowing Code violators the opportunity to voluntarily comply any time during code enforcement, or outside reasonable time limits for such compliance, may actually result in abuse of this opportunity in order to delay compliance. Therefore, it is the County's policy to limit the time frame during which Code violators may come into voluntary compliance with little or no penalty.

Procedure: The following procedure shall apply whenever a Code violator brings his or her property into compliance during the code enforcement process:

1. *Compliance Timing and Staff Response.*

Timing of Compliance	Disposition
After complaint/ before citation or NOV	File closed. Application of permit investigative fees where applicable.
After citation/before trial or hearing before hearings officer	Code Enforcement recommends dismissal of citation, no cost recovery, application of permit investigative fees where applicable.
At time of trial or hearing before hearings officer	Code Enforcement recommends prosecution, conviction or guilty plea, fine or civil penalty.

2. *Limited Time Frames.* Opportunities for voluntary compliance, where provided, shall be of limited duration. The facts in each case differ. Therefore, Code Enforcement staff shall consider the appropriate time frame for compliance on a case-by-case basis.

B. Pre-Enforcement Notice (PEN)

1. *Timing.* When Code Enforcement staff or other assigned Development Services staff determines there are reasonable grounds to find a violation did or does occur, based upon the information in the complaint and any field investigation, a PEN shall be sent on a standard form approved by the Development Services Director or designee in a letter or notice sent by the appropriate Development Services division staff.

2. *To Whom Sent.* A PEN shall be sent to all persons liable for the violation under Effingham County Code.

3. *How Sent.* PENs shall be sent by certified mail or by other method of delivery as approved by the Development Services Director or Designee to the best available address for the persons described in Subsection 2 above. Email may be used in addition to certified or other mail delivery options to expedite the notification process.

4. *Follow Up.* If, within 15 days of the mailing of the PEN, the liable persons have not contacted Code Enforcement staff, staff shall determine the next step in the code enforcement process, including warning and/or citation.

5. *Compliance.* If the Code Enforcement staff determines that the required corrections have been made or the liable persons have provided evidence that no violation exists, the date and method of compliance shall be noted in the Complaint Record and the case shall be resolved by file closure pursuant to section XII of this manual.

6. *Corrective Action.* In some cases, corrective action may consist of both applying for and obtaining necessary permits or approvals. In such cases, the permit or approval application alone will not be sufficient to assure compliance. The liable person must complete the

application process, including all appeals, within a reasonable time and not allow the application to expire. Once permit approval is obtained, the liable person must complete all permit conditions prior to the expiration of any permit approval.

Policy: All code violation cases shall remain open until all permit conditions and other required corrective measures are completed.

Procedure:

1. Where the required corrective action consists of both applying for and obtaining permits or approvals, Code Enforcement staff, in consultation with other appropriate Development Services staff, shall determine a reasonable time frame for applying for and obtaining the necessary permits or approvals.
2. If at any time during the process for obtaining necessary permits or approvals the alleged violator fails to meet the reasonable timelines established by Code Enforcement staff and such failure does not result from the actions of others, Code Enforcement staff shall cite the alleged violator pursuant to Paragraph C of this section.
3. If the alleged code violator is not granted the necessary permits or approvals, Code Enforcement staff shall cite the alleged violator pursuant to Paragraph C of this section unless a lender has begun foreclosure proceedings and, in the opinion of Code Compliance staff, is likely to address the violation within a reasonable time after the foreclosure.

C . Citation and Complaint.

1. *Non-Compliance.* Where voluntary compliance cannot be obtained by Code Enforcement within a reasonable timeframe, staff may cause a citation to issue or may issue a Notice of Violation and Proposed Civil Penalty (NOV) and initiate administrative enforcement hearing proceedings in accordance with County Code.
2. *Investigation Required.* No citation to Magistrate court or NOV shall be prepared unless and until an investigation has verified the existence of a Code violation.
3. *Form.* All citations to Magistrate court shall be on a uniform citation and be accompanied by a copy of the investigative report.
4. *Issuance of Citation.* Any person authorized by County Code may issue a citation or NOV. The person issuing the citation or NOV must verify the conduct or circumstances constituting a violation.
5. *Service.* All citations to Magistrate court shall be served by hand to violators.
6. *Setting Arraignment/Administrative Hearings.* For citations to Magistrate court, the officer serving the citation shall set the date for arraignment no sooner than thirty (30) days from citation date.
7. *Arraignment in Magistrate Court*
 - a. *Purposes:* The purposes of arraignment are to:

1. Allow the defendant to enter a plea to the citation;
2. Resolve any jurisdictional issues;
3. Set a trial date if the plea is not guilty; and
4. If the plea is guilty, allow the defendant and other County Code Enforcement staff the opportunity to provide information to the court regarding penalties and related matters.
 - b. *Appearance by County Legal Counsel.* County Legal Counsel shall not represent the County at arraignment. If the defendant fails to appear at arraignment, Code Enforcement staff may request that the court enter a default judgment in favor of the County and impose penalties against the defendant.
8. *Trial.* If the defendant pleads not guilty to the allegations in the citation, Code Enforcement staff shall proceed with the presentation of the case in Magistrate Court.
 - a. *Burden of Proof.* The County has the burden of proving at trial, by a preponderance of the evidence not beyond reasonable doubt, the allegations in the citation.
 - b. *Responsibility of Code Enforcement Staff.* At trial, the responsibility of Code Enforcement staff is to prosecute the case by presenting evidence, calling witnesses and offering any relevant documents and other exhibits in support of the citation.
9. *Fines*
 - a. *Schedule.* The schedule of maximum fines for County Code violations is set forth by both county code and the Magistrate Court.
 - b. *Amount.* If the defendant is convicted, Code Enforcement staff shall request that the court impose a fine in an amount consistent with the County Code.
10. *Suspension of Fines.* The Magistrate Court has authority to suspend the imposition of all or a portion of a fine. In some cases, the court may wish to suspend imposition of a fine or a part thereof on the condition that the defendant comply with County Code within a specified time period.
 - a. *Policy:* It is the County's policy to increase the effectiveness of code enforcement activity and the incentives for code compliance by discouraging any suspension of fines in County Code violation cases.
 - b. *Procedure:* If a defendant is convicted, Code Enforcement staff shall advise the court of the County's policy against fine suspension and shall ask the court not to suspend imposition of fines.
11. *Collection and Distribution of Fines.* Fines imposed by the Magistrate court for County Code violations are collected by the Magistrate Court Administrator and are remitted in part to the County.

D. Injunctions

Policy: Code Enforcement staff shall seek injunctions from the court in cases where other methods of code enforcement may be inadequate or have been unsuccessful.

Procedure:

1. *When Sought.* Code Enforcement staff may request County Legal Counsel to obtain/coordinate injunctions in any case in which:
 - a. Code violation(s) present an imminent threat to the public life, health and safety or to the environment; or
 - b. Code violations have not been corrected within a reasonable time after a defendant was found by the court or County Hearings Officer to be guilty of a code violation.
2. *By Whom.* Code Enforcement staff may request that the court order injunctive relief and/or abatement as part of the penalty in a code enforcement proceeding. Alternatively, County Legal Counsel may initiate a separate legal action for injunctive relief and/or abatement of a violation.
3. *How Enforced.* After issuance of an injunction, if the defendant fails to comply within the time period specified in the injunction, the Sheriff's Office or CDD staff shall request that County Legal Counsel initiate civil contempt proceedings against the defendant.

E. Permit Revocation

Policy: To maximize code compliance, the County shall revoke permits and approvals to the extent authorized by law in appropriate cases. Revocation of permits are particularly appropriate in cases in which corrective action may not be effective in bringing the subject property into code compliance due to the nature of the violation and the deliberateness of the code violator's actions in violating the Code.

Procedure:

1. *Report to Code Enforcement Staff.* If the County staff responsible for monitoring and/or reviewing a particular type of permit determines that the conditions or requirements of a permit or approval have not been met, that staff member shall inform Code Enforcement staff of such violation, and Code Enforcement staff shall enter the information in the code enforcement electronic files.
2. *Revocation Procedure.* The County staff responsible for monitoring and/or reviewing a particular type of permit shall determine whether to undertake permit revocation proceedings as authorized under the applicable County Code provisions. The following factors shall be considered:
 - a. Whether the criteria for permit revocation set forth in the applicable County Code provisions exist;

- b. The severity of the deviation from the permit or approval requirements or conditions;
- c. The deliberateness of the deviation from the permit or approval requirements or conditions; and
- d. Whether compliance can be achieved more effectively through other code enforcement methods.

F. Nuisance Abatement. Various violations in county code qualify under standards of “public nuisance”. These various codes have different methods and steps to initiate abatement procedures. Code Enforcement personnel shall consult with the Director of Development Services and county legal counsel to pursue these matters.

Policy: County Code violations constituting public nuisances may be abated pursuant to steps required of the Code and within available resources.

Procedure: When County staff discovers or receives a verified complaint of a code violation that may constitute a "public nuisance," staff shall provide the information to Code Enforcement staff who shall enter the information into the code enforcement file. Code Enforcement staff or other assigned Development Services staff may consult County Legal Counsel to initiate nuisance abatement proceedings.

G. Dangerous Building Abatement. Chapter 8.7 of the Code authorizes the abatement of buildings containing violations rendering them "dangerous buildings" as defined in the Code.

Policy: County Code violations that may render a structure a "dangerous building" shall be abated pursuant to Chapter 8.7 of the Code and within available resources.

Procedure: When Code Enforcement staff or other Development Services staff discovers or receives a verified complaint of code violations in a structure that may render the structure a "dangerous building," the staff shall provide the information to Code Enforcement staff, who shall enter in the information into a Complaint Record. The Effingham County Building Official (hereafter "building official") shall be notified and shall promptly consult with County Legal Counsel to initiate abatement proceedings under chapter 8.7 of the code.

H. Assisting Enforcement by Other Regulatory/Licensing Agencies. In some cases, County Code violations also may constitute violations of federal and/or state statutes or administrative rule. For example, surface mining without County land use approval may also violate state statutes and administrative rules governing mining, and performing building construction without necessary permits may also constitute violations of state statutes and administrative rules governing the conduct of licensed contractors.

Policy: To maximize code enforcement and the incentives for compliance, County staff shall promptly advise the appropriate federal and/or state agency of County Code violations reported or discovered that may also violate the statutes or administrative rules of that agency. The County shall also cooperate with federal or state agencies, to the

extent authorized or required by law or by intergovernmental agreement, to obtain voluntary compliance or to punish violations. The County may defer investigation and prosecution to the appropriate federal or state agency in cases in which, as determined by the Director of Development Services or designee, the federal or state agency enforcement procedure will result in more effective correction of the violation(s).

Procedure:

1. *Reporting.* Whenever County staff discovers or receives a verified complaint regarding a County Code violation that may also constitute a violation of federal or state statute or administrative rule, the staff shall advise the appropriate federal or state agency.
2. *Cooperation.* To the extent authorized or required by law or by intergovernmental agreement, County staff shall cooperate with the federal or state agency to obtain voluntary compliance or to prosecute and punish violations. That cooperation may include sharing information, conducting joint investigations, appearing as witnesses and/or providing evidence in enforcement proceedings, and coordinating the timing of investigations and/or enforcement proceedings to maximize their effectiveness.
3. *Deferral to Other Agency.* The County may defer some or all code enforcement to a federal or state agency, and forego County Code enforcement, where the Board, Director of Development Services or the Director's designee determines that the federal or state enforcement activity will be more effective than County Code enforcement. In making the determination to defer to other agencies, the following factors shall be considered:
 - a. The nature of the violation and necessary corrective action;
 - b. The comparative severity of the penalties available to the federal or state agency and to the County; and
 - c. The comparative time frames required for enforcement by the federal or state agency and by the County.

I. Liens. In many cases, the most effective way for the County to recover its code enforcement costs, as well as to collect any civil penalties assessed through administrative hearings, is to file a legal claim for those costs or penalties against the property subject to code enforcement, or against other property owned by the code violator.

Procedure: In the appropriate cases, the County staff will explore with County Legal Counsel the means by which liens may be placed against the real property of the code violator for the collection of code enforcement costs and civil penalties assessed through County administrative hearings.

XII. Resolution of Code Complaints

Policy: It is the County's policy to attempt to reach final, satisfactory resolution of all code violation complaints. However, the County recognizes that not all complaints may be resolved successfully, due to factors outside the County's control. These factors can include the indigence of the code violator, the lack of County or other resources to assist the violator, statutory limitations on potential fines or other penalties for code violations, and the large number of complaints to be resolved. Therefore, the County shall focus its code enforcement resources on the code violations that meet the priorities set forth in Section V of this manual, and attempt to resolve those violations within a reasonable period. It is the County's policy not to close a case until it is resolved.

Procedure:

A. *File Closure.* A code violation complaint will be resolved by file closure in the following cases:

1. When no code violation is found after investigation;
2. After there is voluntary compliance;
3. After the property owner and/or other responsible person has been found guilty of a violation and has corrected the violation(s);
4. After an injunction has been issued and the property owner or other responsible person has corrected the violation(s);
5. After investigation and prosecution of the violation(s) have been completed by a federal or state agency to which the County deferred code enforcement;
6. When the property on which the violation exists is sold or transferred and a new Code Enforcement case is opened in the name of the new owner.

B. *Notice of Resolution.* The County shall notify complainant when the complaint is resolved, describing the resolution.

C. *Alternate Methods of Resolution.* The County may explore alternate methods to resolve Code violations including mediation.

XIII. AMMENDMENTS

This manual may be amended when deemed necessary by the Director of Development Services or designee, County Manager, or the Board. Amendments may be proposed by County staff, Board members and other interested persons.