



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Ben Harvey, City Manager
MEETING DATE: September 7, 2016
SUBJECT: Code Compliance Priorities
CEQA STATUS This action does not constitute a “project” as defined by the California Environmental Quality Act (CEQA) guidelines section 15378.

RECOMMENDATION

Direct the City Manager to implement updated Code Compliance priorities as part of the revised Code Compliance Standard Operating Procedure.

DISCUSSION

Processes that generally apply to administrative enforcement efforts in the City are set forth in PGMC Chapter 1.19. Currently, all aspects of the City’s Code Compliance program, from fielding and following-up on complaints, conducting investigations, ensuring compliance with corrective actions and transitioning matters that move to administrative hearings is performed by the Housing Program Coordinator/Code Compliance Officer (one individual). Considering the significant demands of the Code Compliance program, and the fact that the Housing Program Coordinator/Code Compliance Officer’s time is split between two separate programs with substantial competing priorities, the amount of long-term progress that is able to be made within the Code Compliance program is understandably limited.

Following the enactment of the Short Term Vacation Rental program in May of this year, the City Council made a policy decision as part of the adoption of the Fiscal Year 16-17 municipal budget to fund a full-time Code Compliance Officer. This decision was partly based on the perceived code compliance and short term rental program enforcement needs that were anticipated to arise. Funding for the new Code Compliance Officer position was anticipated to be provided through proceeds generated from application fees, as well as an increase in residential transient occupancy tax revenue. Unaudited figures for residential transient occupancy taxes for Fiscal Year 15-16 are approximately \$1,000,000; the forecast for this revenue segment was for approximately \$700,000.

Upon adoption of the Fiscal Year 16-17 municipal budget, City staff began the recruitment process for the Code Compliance Officer position. A successful candidate was selected, and the intended incumbent is currently moving through the pre-employment screening process, with an anticipated start date of the middle to the end of September, 2016.

Prior to bringing the new Code Enforcement Officer on board, City staff reviewed its existing Code Compliance program to determine what areas of the Pacific Grove Municipal Code (PGMC) simply need to be updated, rather than creating unnecessary Code Compliance enforcement action. PGMC regulations pertaining to signs and parking were among the areas identified. City staff will be coming back to the City Council at a future date with proposed revisions for City Council review, discussion and policy determination.

As an additional part of City staff's review of the Code Compliance program, proposed revised priorities for Code Compliance were also identified. These proposed general priorities were based upon past direction from City Council, community need and vision for the future. The proposed general priorities are listed below:

Tier 1 (listed in order of priority):

- a) Life safety-related code violation;
- b) Attractive nuisance, or property condition that could lead to illness or injury;
- c) Property maintenance and/or blight issues that may impact the quality and/or character of the neighborhood;
- d) Zoning Code violations;
- e) Complaints/concerns related to and/or generated by the City's Short-Term Vacation Rental Program;
- f) Illegal housing units and/or rental properties;
- g) Illegal parking in residential zones;
- h) Any complaint brought to the attention of CCO by City staff for clarification of existence of violation; or
- i) Any violation whereby a citation may be issued.

Tier 2:

- a) Public complaints, non-Tier 1.

It is important to note that priorities listed above provide general enforcement guidance, but the list is not exhaustive. This list shall not limit the reasonable exercise of management or prosecutorial discretion which, from time to time, may warrant enforcement of a lower priority occurrence due to relevant facts or circumstances.

The proposed priorities were folded into a revised version of the City's existing Code Compliance Standard Operating Procedure (SOP). A redlined version of the SOP showing the proposed changes is attached to this agenda report, along with a corresponding flow chart. The SOP provides an interpretative guide to PGMC Chapter 1.19, but it cannot supersede that provision of the Municipal Code.

OPTIONS

1. Take no action and make no modification to the City's existing Code Compliance priorities.
2. Make different modifications to the proposed revisions to the City's Code Compliance priorities.

FISCAL IMPACT

Funding for the Code Compliance Officer position in the approximate amount of \$75,000 for salary and benefits has been allocated in the Fiscal Year 2016-17 Operating Budget which Council adopted on June 15, 2016. Additional revenues are anticipated to be received by the City from citations, fines and fees which will further offset the Code Compliance program.

ATTACHMENTS

1. Revised Code Compliance SOP
2. Code Compliance Flowchart

RESPECTFULLY SUBMITTED:



Ben Harvey
City Manager

Standard Operating Procedure

City of Pacific Grove Code Compliance Program

SUBJECT: Code Compliance Case Processing		SOP # 3
Date: 11/26/12 Last update on: 09/07/16	PREPARED BY: Terri C. Schaeffer REVISED BY: Ben Harvey	APPROVED BY:

Procedure:

This Standard Operating Policy provides an interpretative guide to PGMC Chapter 1.19, but it shall not be construed to supersede any provision of the Municipal Code.

- A. In general, an administrative code compliance case is initiated in one of 4 ways:
- A complaint is made (e.g. a complaints generated via the City's established Short-Term Vacation Rental hotline);
 - A previously established compliance file, if not previously closed out, is reviewed by the Code Compliance Officer (CCO);
 - City staff requests review of a potential code violation;

Code Compliance Officer observes a code violation.

- B. Determine priority of case.¹
- C. Initial review of complaint and alleged violation; see Steps 1-3 of Flow chart.
- D. If case priority is determined as Tier 2, ordinarily stop at Step 2 & 3A. of the Flow chart until resources are available to pursue Tier 2 Cases. (Exceptions may apply as noted in footnote 1.)
- E. If a Tier 1 case, attempt to schedule a meeting with the property owner or tenant in occupancy, as case circumstances may allow, and follow Step 5A. to 6.
- F. If property in compliance, case is closed. (See 5C. & 8A.)

¹ Determination of general priority case:

Tier 1 (listed in order of priority):

- a. Life safety-related code violation;
- b. Attractive nuisance, or property condition that could lead to illness or injury;
- c. Property maintenance and/or blight issues that may impact the quality and/or character of the neighborhood;
- d. Zoning Code violations
- e. Complaints/concerns related to and/or generated by the City's Short-Term Vacation Rental Program;
- f. Illegal housing units and/or rental properties;
- g. Illegal parking in residential zones;
- h. Any complaint brought to the attention of CCO by City staff for clarification of existence of violation; or
- i. Any violation whereby a citation may be issued.

Tier 2:

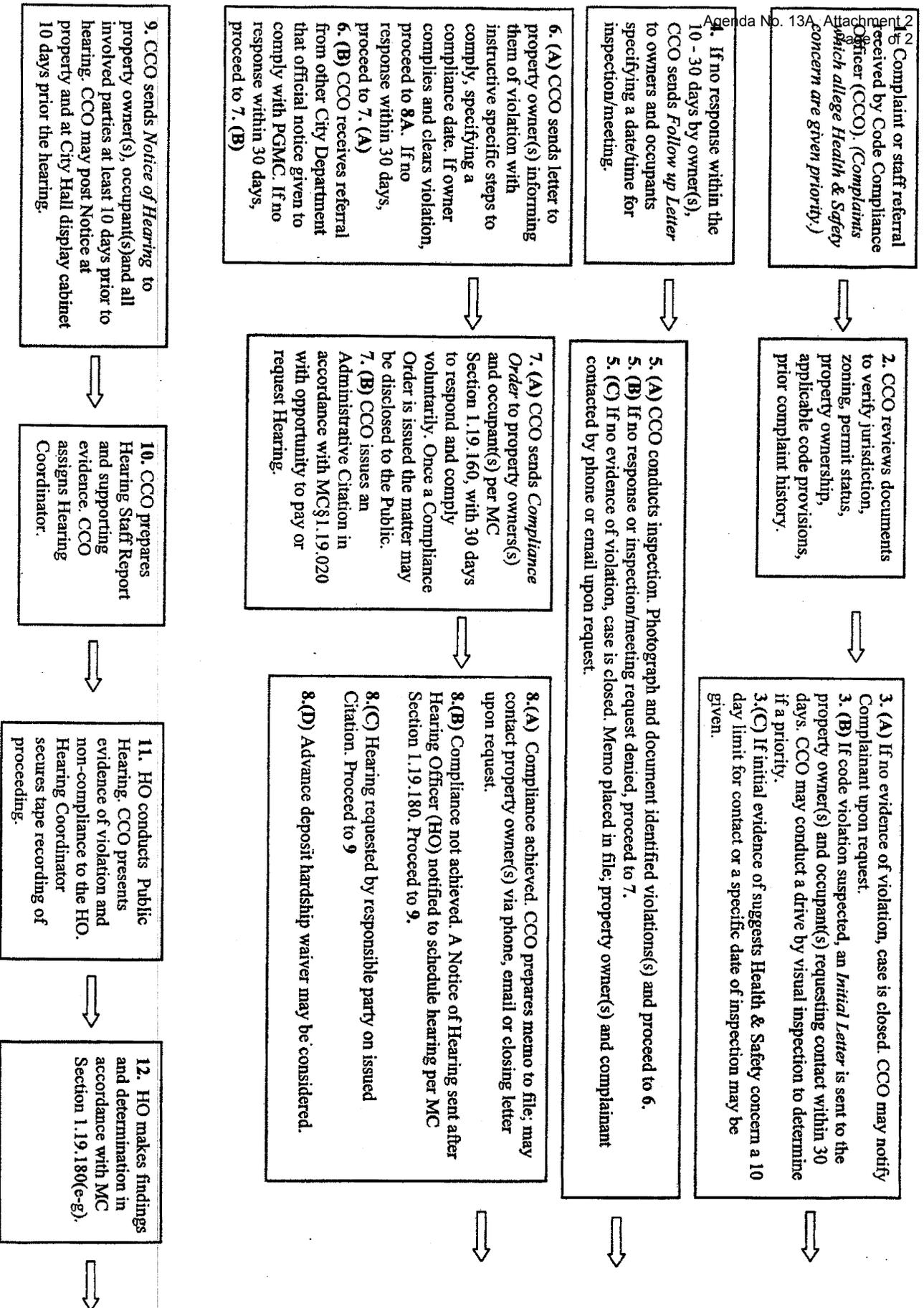
- a. Public complaints, non-Tier 1;

It is important to note that priorities listed above provide general enforcement guidance, but the list is not exhaustive. This list shall not limit the reasonable exercise of management or prosecutorial discretion which, from time to time, may warrant enforcement of a lower priority occurrence due to relevant facts or circumstances.

- G. If an owner does not contact the CCO within the allotted time, or after direction from a Building Official or Manager, the CCO may issue a Compliance Order or an Administrative Citation, see Step 7.
- H. If case proceeds to Administrative Hearing, see Steps 9-17 of Flowchart.
- I. The primary goal of the program is to resolve each case through voluntary compliance.
- J. Depending on caseload and resources, if case is not deemed a priority (Tier 2), it is placed on hold as an open but inactive case.
- K. If there is a violation of state law, CCO may seek assistance from the State Attorney General's Office.
- L. If there is a criminal, animal code, or parking code violation, CCO shall seek assistance from the Police Department.
- M. The Code Compliance process shall not impair the independent prerogative of the City Attorney to enforce any provision of law, in accord with the City Charter.

Pacific Grove Administrative Code Compliance Procedures

Revised October 4, 2012



13.A If HO finds a violation, HO issues an Administrative Order (AO) per MC Section 1.19.190.
13.B IF HO finds no violation or the violation is corrected within the time specified, the HO issues a finding as to those facts. Case closed.

14. HO sends notice of entry of the Administrative Order, copy of Order and findings to owner(s) and occupant(s).

15.A. Property owner fails to comply. Case referred to civil attorney for enforcement pursuant to MC Section 1.16.
15.B Property owner submits evidence but City Manager disputes compliance, proceed to 17. Owner may dispute City Manager's decision by requesting a HO hearing.
15.C Property owner submits evidence of compliance in accordance with the schedule. If City Manager agrees *Compliance Report* submitted to Hearing Panel. Case closed.

16.A Compliance Dispute. Compliance Hearing upon request per MC Section 1.19.250.
16.B If no hearing request, case referred to City Attorney for enforcement pursuant to MC Section 1.16.

17.A HO holds hearing and finds compliance.
17.B HO holds hearing and finds no compliance.

Post Hearing Process

