

Code Enforcement Services

Enforcement Categories + Process Guide



City of Encinitas

Planning and Building Department
Community Services Section

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Welcome to the City of Encinitas

Encinitas is five unique communities thriving as ONE great city.

The City's mission is to preserve, protect, and provide innovative services that enhance the quality of life for residents, visitors, businesses and our communities. Located along the coast of the northern San Diego region, Encinitas residents are proud of their quality of life. The Planning and Building Department is organized to align itself with the priorities and philosophies of the [City's Strategic Plan](#), within one of three key service areas:

- [Management Services](#): Encompasses services and functions that ensure the efficient operation of the Department
- [Development Services](#): Encompasses services and functions that are specific to applicants (i.e., customer counter, building inspection, ministerial and discretionary permits)
- [Community Services](#): Encompasses services and functions that are broadly applicable to the City or one of its communities (i.e. Advanced Planning, Housing Resources and Code Enforcement)

The Code Enforcement Division of the Community Services Section has the primary responsibility of ensuring compliance with the City's various land use codes and regulations. It handles complaints on numerous municipal code regulations ranging from unpermitted structures, abandoned vehicles and hoarding to illegal signs, graffiti and noise.

The Planning and Building Department and its partner enforcement agencies (i.e., Sheriff's Office and Fire Department) try first to obtain compliance through education and collaboration, as opposed to focusing on punitive measures such as penalties and fines. We have found this approach successful in resolving many code violation cases soon after notification.

In many cases, code compliance requires review and approval of a City-issued permit. We understand this process can seem intimidating, but should you find yourself faced with an enforcement action, we will assist you in navigating the code enforcement and any permit process as expeditiously as possible. Our objective under this program is not to be punitive, but to ensure compliance with our established codes and regulations, which are intended to protect public health and safety and maintain the unique quality of life we currently enjoy in Encinitas.

Jeff Murphy

Director



Department and Property Owner Responsibilities and Expectations

Mission Statement and Guiding Principles

The Planning and Building Department staff collectively prepared and implemented a [mission statement and guiding principles](#). The Department adheres to these and reinforces them daily. The Community Services Section provides services and functions that are broadly applicable to the City or one of its communities, along with assisting property owners in understanding and adhering to City rules and regulations. The staff assigned to a code enforcement action serves as the primary point of contact and is expected to keep responsible parties informed and on schedule until the violation is resolved.

Educating the community about the rules and standards is one of the best ways that the City and community can prevent violations.

Timely Resolution

The Encinitas City Council enacts ordinances for the good of the entire City. These ordinances include rules and regulations that take into consideration the safety and wellbeing of the public, such as building codes, fire regulations and general property standards. Enforcement of these ordinances can be essential to the provision of safe and healthy living conditions for Encinitas, along with maintaining our special quality of life. As such, priority is placed on resolving code violations in an expeditious manner. Staff will provide clear direction on how to resolve identified violations and develop a compliance schedule for the responsible party. Staff will customarily respond to phone calls and emails within one business day. It is the responsibility of the property owner/responsible party to implement the direction given and ask questions if the direction is unclear, or there is uncertainty in how to proceed.

Enforcement through Education

Many code violation cases result from property and business owners who unknowingly violate established ordinances and regulations. Educating the

community about the rules and standards is one of the best ways that the City and community can prevent violations from occurring (or reoccurring). The Code Enforcement Division seeks opportunities to implement ideas and concepts that educate the public on common code violations. Education is often considered the first step in prevention, and it will often garner more favorable results.

Solving Problems Together

Staff is to elevate issues, seeking supervisor or management involvement as soon as it becomes apparent that a problem cannot be resolved or may escalate. Property owners involved in resolving a code violation should follow the Department's organizational hierarchy when working to resolve issues. First, seek to resolve the issue with the staff member. If necessary, request the staff's supervisor to attend a meeting. If further resolution is needed, the Department offers [Project Issue Resolution](#) to get a determination on the issue with the Director. Sometimes a face-to-face meeting can be much more productive than a series of emails.

Private Disputes

Residents are urged to establish good relationships with neighbors and work together to solve problems before conflicts arise. In these instances, if discussions with neighbors are not fruitful, residents may seek mediation for neighbor-to-neighbor issues. Staff will encourage the disputing residents to utilize the [mediation program](#) in the hopes of resolving their differences. If the dispute involves a violation of a City code and not a private civil matter, then the City may be brought in to resolve the violation.

ITEMS NOT ENFORCED

Typical examples of private disputes are:

- CC&R's
- Location of property lines
- Blocked views
- Tree roots/branches overhanging onto private property
- Tree roots causing damage to a private property fence or structure

Code Enforcement Program Overview

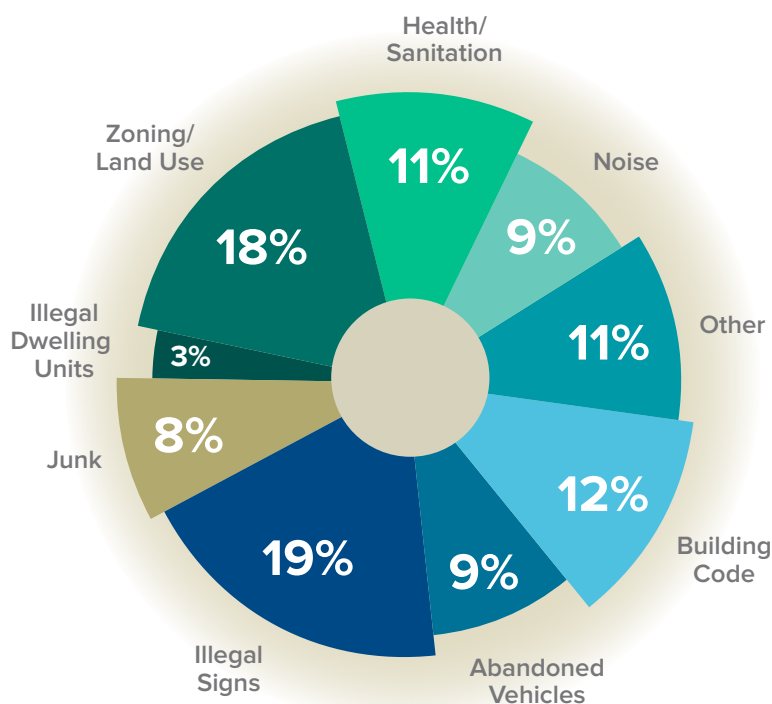
The City of Encinitas has established a Code Enforcement Program to help ensure compliance with the City's various land use codes and regulations. The pie chart below provides a general breakdown of the more common code cases that are processed under the program, and their approximate total of all reported cases within the City.

Virtually all code cases processed by the Department originate as a [complaint form](#) that was filed by a neighbor or passerby.

Alleged code violations are treated equally and investigated by staff as they are reported. Once confirmed, appropriate steps are taken to resolve the violations in an expeditious manner.

Given the complexities and sensitivities of certain enforcement actions that impact residents and business owners, the City has implemented several targeted enforcement programs.

Violations by Type
Fiscal Years 2010–2014





Graffiti Removal

The City finds that graffiti on public or private property is a blighting factor that depreciates property values and is a public nuisance that should be quickly removed. Because of this concern, in 1997 the Encinitas City Council originally adopted a graffiti removal program. Under this program, the property owner/responsible party signs a form allowing City personnel to enter the property to remove the graffiti. The graffiti removal is free of charge and usually removed within 72 hours from the time the complaint is filed. A community effort is needed to help keep the City of Encinitas beautiful and clean, and the Department encourages citizens to report graffiti on its 24-hour hotline 760-633-2751.

GRAFFITI HOTLINE — 760-633-2751

When calling the Graffiti Hotline please include the following information:

- Your name and contact information (for use in help locating the graffiti or for a call back)
- Location description — address of the graffiti/cross street
- What the graffiti is located on (i.e., fence, utility box, bus bench, etc.)
- Description of graffiti, color, size, amount
- Specify if obscenities or vulgar images are depicted

Proactive Code Enforcement Program— Alcohol Serving Establishments

In Spring 2014, the City Council endorsed the establishment of a Proactive Code Enforcement Program for Alcohol Serving Establishments, commonly referred to as the [PACE Program](#). The program objectives are to:

- Improve relations between alcohol serving businesses, neighboring community members and City;
- Reduce the type and number of adverse impacts that are being experienced;
- Increase awareness and knowledge of relevant codes and regulations; and,
- Increase participation and communication between business establishments, community members and City.

Regulations that are enforced under this program include compliance with the Responsible Beverage Service and Sales Ordinance, maximum occupancy load requirements, noise standards, proper entertainment licenses and other nuisance regulations.

A unique component of the program involves proactive enforcement. Because Sheriff's Deputies enforce certain nuisance laws (public intoxication,

disturbance of the peace, etc.) that are different from the laws enforced by the City (trash, overcrowding, etc.), we partner with the Sheriff's Department on late night inspections (inspections occurring between 10pm and 2am).

Sidewalk Café Policy

Outdoor, sidewalk café dining provides a pedestrian-oriented activity that encourages a dynamic street life and is an important benefit to the City. As such, there is a need to balance use of the sidewalk in the public right-of-way between pedestrians and sidewalk dining. The protection of accessibility for all ability levels is crucial to ensure that all can enjoy the amenities provided, and to ensure compliance with the Americans with Disabilities Act. In



response, the City Council adopted the [Sidewalk Café Policy](#) in 2012.

Staff is responsible for enforcing the policy by responding to complaints and conducting impromptu inspections once or twice per month during the summer months.

Private Property Cleanup and Abatement

Throughout the City there are large, vacant, undeveloped pieces of land that lend themselves to illegal encampments. If not properly addressed, these encampments can become health hazards, safety hazards and/or are unsightly to neighborhoods or passerbys. The Sheriff's Office is responsible for removing the individuals from the encampments, while the Department is responsible for assistance with site restoration. With funding appropriated for ongoing open space management, the Department removes the health hazards and attempts to restore the open space to its original condition.

Vacation Rentals

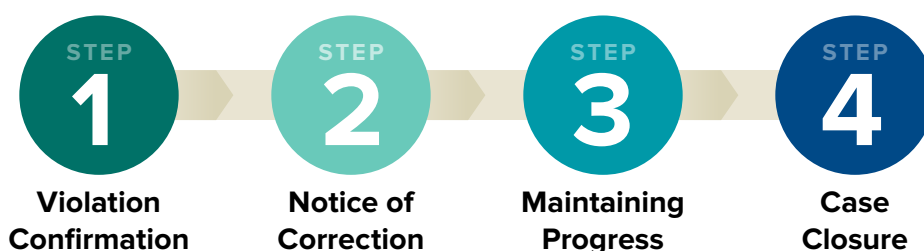
Given its proximity to the beach and our downtown main street, Encinitas has a number of property owners who rent their private homes for short-term rental use. In some cases, vacationers can be disruptive to neighboring residents with excessive noise, disorderly conduct, illegal parking, vandalism and overcrowding. To help alleviate some of these impacts, the City Council in 2006 approved regulations on [short-term rentals](#), including standards for duration (30 days or less) and good neighbor policies.



General Process Overview

Introduction

A process has been established to guide responsible parties on the steps that need to be taken to resolve code violations. The process includes four basic steps:



In most cases, the Code Enforcement Division staff member will be the primary point of contact. However, should the violation require the approval of a discretionary or building permit, a project planner will also be assigned and will be the contact person on the permit application until it is issued. Refer to the [Permit Service Delivery—Performance Standards + Process Guide](#) for discretionary and ministerial permit review processes and procedures.

In order to maintain individual rights and freedoms, responsible parties have the right to appeal decisions and determinations that are made by the department. Refer to [Section 8](#) for more information on appeal and mediation opportunities that are available.

STEP 1 **Violation Confirmation**

When a complaint is filed, staff must first confirm the validity of the violation. This often requires research, fact-checking and a site visit, in certain cases. Some of the actions/research that is conducted by staff during this initial confirmation stage is listed below.

- Opening/assigning the case
- Get clarification from complainant
- Reviewing prior permit approvals
- Reviewing County assessor records
- Reviewing historic aerial imagery
- Coordinating with other divisions, departments, outside agencies

Receiving a notice of violation from the City can be stressful. As such, it is important that time and effort is spent conducting the appropriate level of research to confirm that a violation has occurred before issuing a correction notice.



Notice of Correction

Once a violation has been confirmed, staff will issue a Stop Work Order, Warning Citation or Voluntary Compliance Letter depending upon the severity of the violation and its impact on public health, safety and general welfare. Each notice accomplishes two important objectives: it alerts the responsible party that a violation is on their property (often a surprise to them); and, it acts as a road map that helps the responsible party navigate the City's processes to resolve the code case. The correspondence details what code sections are in violation, what actions and steps are necessary to remedy the violation and the timeframe to complete the assigned task(s).



Maintaining Progress

As previously noted, the focus of the program is to obtain compliance. As such, the responsible party will be given reasonable compliance dates to accomplish required actions. Maintaining the compliance schedule is important. However, the Department understands that on occasion, issues arise that are beyond the control of the responsible party, which cause unexpected and unintended delays in meeting set deadlines. The program is designed to provide the responsible party with more than sufficient time to respond to requirements; especially during the initial stages of case compliance. Should more time be needed, it is important for the responsible party to notify staff as soon as possible. If the reason for the delay is found to be legitimate and reasonable, the Department may grant a time extension.

In some cases, unfortunately, stronger enforcement remedies are necessary in order to maintain progress. Responsible persons who fail to meet a specified response date may result in the issuance of a \$100 Administrative Citation and

a new, more aggressive compliance schedule. Continued failure to timely meet established deadlines may result in progressively higher fines (e.g., \$200 for second infraction and \$1,000 for the third and subsequent infractions) and an even more aggressive compliance schedule. These fines may be levied daily, and for each violation.

STEP 4 Case Closure

Once staff finds that the violation has been resolved, a letter is sent or a call is placed with the complaining party explaining the findings and results. For certain cases, a letter is also sent to the responsible party (in cases of a verified violation) confirming that the matter was adequately resolved and the case closed. These communications promote transparency and help “close the loop” with impacted citizens.





Case Processing Policies

Equitable Enforcement

The code enforcement program is not intended to be selective or discriminatory against any one individual, group, area, or business. Alleged code violations are treated equally and investigated as they are reported. Unless specifically directed by Council or senior management, code enforcement will respond to complaints as they are filed and not conduct proactive area inspections or “sweeps.” However, any additional infractions witnessed during staff’s site investigation could be considered and made part of the open enforcement case. Additionally, obvious violations of a similar nature next to the property with the original complaint may be pursued to obtain an overall effective outcome.

In order for a complaint to be processed by the Department, a [complaint form](#) should be completed with the complainant’s name and contact information. No anonymous complaints should be processed, with exceptions made for health and safety violations noted below.

HEALTH AND SAFETY VIOLATIONS

Health and Safety violations do not require a written complaint and will be handled before violations with a lower priority. Some examples, include, but are not limited to:

- Health and safety violations
- Unsecured pool fencing
- Discarded, unsecured refrigerator
- Unauthorized bluff work
- Current construction without a permit
- Storm water runoff
- Unsafe nuisances that may attract children

Communication

A lack of awareness of existing regulations is what often leads to code violations, and can contribute to frustration by complainants. As such, it is critical that staff clearly communicate their directions, expectations and justifications to the responsible person, and when enforcement resolution will require time to complete, provide the complainant with periodic updates and final resolution. It is also important that an acknowledgement of the initial complaint is provided with appropriate contact information should the complainant have follow-up questions. These communications promote transparency and minimize confusions and further frustrations.

A lack of awareness of existing regulations is what often leads to code violations, and can contribute to frustration by complainants.

Compliance Schedule

Some violations require approval of a permit. Depending upon the permit type, it could take anywhere from three to six months to complete the process. As such, it is important that violations requiring a permit are processed in an expeditious and timely manner.

As part of permit processing, staff will develop a code enforcement compliance schedule with specified key milestones and deadlines. The responsible person, project planner and code enforcement staff member will review and discuss the deliverables/timelines specified in the schedule to ensure clarity and set expectations for compliance. Refer to the Development Services Section's [Permit Service Delivery—Performance Standards + Process Guide](#) for more information on the permit process.

Ongoing Use

The Department has the discretion to not take further enforcement action if diligent progress is made towards obtaining a permit. The use may continue should the following conditions be consistently met:

- The violation does not cause serious or immediate health/safety risks or create a significant public nuisance;
- All specified processing timelines are met;
- No new violations occur during the processing of the permit; and,

- Implementation and maintenance of all specified temporary mitigation measures necessary to minimize adverse impacts while processing the permit.

Agency and Department Coordination

Not all code violations are handled by the Department; sometimes an enforcement matter is handled by another agency or requires coordination from another department. If a complaint is filed on a violation that falls outside the City's authority, it is important that staff alert the outside agency and inform the complainant as soon as possible. Additionally, to ensure collaboration and consistency, code enforcement staff will be the point of contact in cases where a violation requires comment and coordination with multiple agencies or groups.





Prioritization and Timeline Standards

The Department receives upwards of 1,100 formal complaints per year, with an average of 150 cases being actively processed at any given time. As such, it is important to prioritize and respond to enforcement cases based upon level and magnitude of the potential impacts to public health and safety, with consideration given to the availability of staff resources.

It is important to prioritize and respond to enforcement cases based upon level and magnitude of the potential impacts to public health and safety,

The Community Services Section of the Planning and Building Department has standardized the processing of Code Enforcement cases into five main classifications according to the severity of the violation.



The Department strives to achieve these target response times 80% of the time.

VIOLATION CATEGORY	DESCRIPTION OF CONDITIONS	TYPES OF VIOLATIONS	CITY'S INITIAL RESPONSE	CITY'S TARGET RESOLUTION
Category 1	Unsafe, hazardous conditions ¹	Includes severely damaged/falling structures, unsecured/abandoned structures, active unpermitted construction, illegal encampments, unfenced pools and other related public health/safety issues	Within 1 business day of complaint	Within 5 business days of complaint
Category 2	Blight-causing conditions	Includes graffiti on public or private property	Within 1 business day of complaint	Within 3 business days of complaint
Category 3	Nuisance related conditions ²	Includes excessive outdoor storage, trash can violations, roosters crowing/dogs barking, and other related nuisances	Within 5 business days of complaint	Within 30 business days of complaint
Category 4	Standard violation conditions	Includes inoperable vehicles, hoarding, fence/wall, zoning violations that cannot be permitted, violation of use permit conditions, short term rentals, lighting, noise and other infractions typically not requiring a permit to remedy	Within 10 business days of complaint	Within 60 business days of complaint
Category 5	Permit-requiring conditions ^{1,2}	Includes unpermitted construction, garage conversion, uses requiring a discretionary permit	Within 15 business days of complaint	Within 90 to 180 business days of complaint

¹ Active, unpermitted construction is a Category 1 violation that requires the responsible party to stop all work until required permits are secured. Once work has been stopped/secured, the violation is processed as a Category 5 violation.

² In some cases, a nuisance-related condition (i.e., sign) may require a permit. In those cases, the violation will be processed as a Category 5 violation.

Standard Processing Procedures

Code Enforcement case review processes have been standardized with defined tasks and associated timelines necessary in order to obtain a targeted resolution date. These procedures help staff efficiently and effectively navigate the responsible party through the steps necessary to remedy a code violation. Additionally, established procedures provide citizens transparency and predictability of the process and status of a code case. Code cases can vary in type and complexity, and therefore may need to deviate from the procedures described below.

Procedures

These procedures are for guidance only to staff and should be used in addition to professional judgment to provide and maintain high level quality customer service. Also, staff lives up to its commitments. Should an issue arise that causes delay in our response, the responsible party will be notified as soon as possible.

Violation Category

1

Target Response

< 1 Business Day

Target Resolution

< 5 Business Days

Approximately

5%

of Complaints

Within 1 Business Day of Initial Receipt of the Complaint

- **Case Development.** Create a case number, enter complaint/property information, create task assignments in e-Project Source (refer to [Appendix](#)) and assign case responsibility to appropriate staff.

- **Conduct Field Visit.** Staff visits and takes pictures of the site/violation.
- **Violation Notice.** Once the violation is confirmed, an Administrative Citation Warning may be issued to the responsible party, giving 24 hours to comply. A Stop Work Order may also be issued when the violation involves active construction without a valid building permit. This order mandates that the site be secured and all construction requiring a permit be halted immediately.

Within 5 Business Days of Initial Receipt of the Complaint

- **Compliance Confirmation.** Staff confirms that the responsible party complied with the directions specified in the Administrative Citation Warning or Stop Work Order. Photos are taken.

After 5 Business Days and Until Violation is Resolved

- **Update.** Staff will call or email the complainant to advise them of the current status of the case.
- **Continued Enforcement.** Staff will inspect and issue citations every 24 hours until the immediate hazard is addressed. The daily issuance of Administrative Citations starts at \$100 and can accumulate to \$1,000 per day.

After the hazardous/health and safety condition has been removed or halted, a majority of cases in Category 1 will require the approval of a discretionary or building permit to fully address the violation. Once the Category 1 health/safety risk is addressed, the code case will be processed under the procedures for Category 5. If a permit is not needed, and the violation remedied, the case is closed.

Violation Category

2

Target Response < 1 Business Day

Target Resolution < 3 Business Days

Approximately

25%
of Complaints**Within 1 Business Day of Initial Receipt of the Complaint**

- **Case Development.** Create a case number, enter complaint/property information and create task assignments in e-Project Source (refer to [Appendix](#)). On occasion, the City is not the jurisdiction authorized to remove graffiti (i.e., North County Transit ROW). In these instances, staff refers the graffiti complaint to the proper authority for action.

Within 3 Business Days of Initial Receipt of the Complaint

- **Release of Liability on file.** Staff confirms that the responsible party has a current Release of Liability form on file with the City. With a valid release form, staff notifies the graffiti removal contractor of the location of the complaint and authorizes removal.
- **Graffiti Removal.** The graffiti removal contractor removes the graffiti and documents with pictures, which are provided to staff for uploading into Graffiti Tracker®. The violation case is closed.

After 3 Business Days and Until Violation is Resolved

- **Release of Liability NOT on file.** If a release is not on file, the removal may take longer. In these rare instances, the responsible party is issued an Administrative Citation Warning and has seven days to submit a valid Release of Liability form or remove the graffiti themselves. Once the form is received, the graffiti removal contractor is given authorization to remove the graffiti.
- **Continued Enforcement.** Staff will inspect and issue citations every 72 hours until the graffiti is removed or the release received. The daily issuance of Administrative Citations starts at \$100 and may accumulate to \$1,000 per day.

Violation Category

3

Target Response

< 5 Business Days

Target Resolution

< 30 Business Days

Approximately

20%
of Complaints**Within 5 Business Days of Initial Receipt of the Complaint**

- **Case Development.** Create a case number, enter complaint/property information, create task assignments in e-Project Source (refer to [Appendix](#)) and assign case responsibility to appropriate staff.
- **Make Contact.** Staff will send a letter to the responsible party asking that the alleged violation be voluntarily removed. Staff will also send a letter to the complainant asking for follow up contact should the violation continue.

Within 30 Business Days of Initial Receipt of the Complaint

- **Compliance Confirmation.** If no response is received from the complainant within 10 working days of the letter, the case is closed and the violation assumed removed.
- **Follow Up Contact/Site Visit.** When the complainant reports that the violation remains, staff will visit and take pictures of the site and the violation. Staff will call or email the complainant to advise them of the current status of the case and next steps.
- **Violation Notice.** Once the violation is confirmed, an Administrative Citation Warning is issued. Compliance dates may vary depending on violation type, but generally, the responsible party is given seven days to comply.
- **Continued Violation.** Failure to comply with the Administrative Citation Warning will result in a \$100 Administrative Citation and required compliance within the next three days. Continued noncompliance may result in shorter compliance time frames and fines up to \$1,000 per day until compliance is achieved.

Violation Category

4

Target Response

< 10 Business Days

Target Resolution

< 60 Business Days

Approximately

30%
of Complaints**Within 10 Business Days of Initial Receipt of the Complaint**

- **Case Development.** Create a case number, enter complaint/property information, create task assignments in e-Project Source (refer to [Appendix](#)) and assign case responsibility to appropriate staff.
- **Conduct a Field Visit.** If the infraction cannot be viewed from the public right of way, an Inspection Request Form asking for an appointment to meet with the property/responsible person may be sent. Within seven days following the request, the responsible party must schedule an inspection in order for staff to view the alleged violation. Photos are taken.
- **Violation Notice.** Once the violation is confirmed, an Administrative Citation Warning is issued. For infractions requiring the removal of improvements or materials (i.e. abandoned vehicles, wall/structure in the required setback) are generally given 35 days to comply. For infractions that can be addressed more quickly (i.e. violation of conditions, temporary signs), a much shorter compliance date may be given.

Within 60 Business Days of Initial Receipt of the Complaint

- **Compliance Confirmation.** Staff will confirm that the responsible party complied with the Administrative Citation Warning. Photos will be taken.
- **Update.** Staff will call or email the complainant to advise them of the current status of the case.
- **Continued Violation.** Failure to timely comply with the Administrative Citation Warning will result in a \$100 Administrative Citation and compliance within the next 15 days. Continued noncompliance may result in shorter compliance time frames and fines up to \$1,000 per day until compliance is achieved.

In rare cases, a Category 4 infraction may be remedied with a permit. Under these circumstances, the code case will be processed under the procedures for Category 5 until permits are approved and issued and a certificate of occupancy received.



Within 15 Business Days of Initial Receipt of the Complaint

- **Case Development.** Create a case number, enter complaint/property information, create task assignments in e-Project Source (refer to [Appendix](#)) and assign case responsibility to appropriate staff.
- **Research.** Staff will conduct research to confirm that a violation exists, including the review of records of prior permit approvals, county tax records, historic aerial imagery and coordination with other divisions, departments, outside agencies.
- **Make Contact.** An Inspection Request Form asking for a site visit may be sent. Within seven days following the request, the responsible party must schedule an inspection in order for staff to view the alleged violation. Photos are taken.
- **Violation Notice.** Once the violation is confirmed, an Administrative Citation Warning is issued. For infractions requiring approval of a discretionary permit or significant structural improvements requiring a building permit (i.e., room addition), the responsible party is generally given 90 days to develop plans and submit a complete application to the City for processing. For infractions requiring simpler permit review (i.e., water heater, electrical work, plumbing improvements, etc.), a much shorter compliance date is given. If a permit is determined to not be needed, the case is closed. If the use/structure cannot be permitted, a reasonable period of time is given for the responsible party to remove the violation.

Following 90 days of Initial Receipt of the Complaint

- **Compliance Confirmation.** Once the application is submitted, staff in Code Enforcement and Development Services coordinate with the responsible party on a compliance schedule for permit processing.
- **Continued Violation.** Failure to timely comply with the Administrative Citation Warning or the established compliance schedule will result in a \$100 Administrative Citation and a required compliance date of two weeks. Continued noncompliance may result in shorter compliance time frames and fines up to \$1,000 per day until compliance is achieved.
- **Make Contact.** Staff will call or email the complainant periodically to advise them of the current status of the case.





Appeal and Mediation Opportunities

Code Enforcement Appeals

In addition to offering [Project Issue Resolution](#), a venue to get a determination on an issue with the Director, a property owner/responsible party can appeal an Administrative Citation before an Administrative Hearing Officer (EMC §1.08.080.H). Administrative Citation Warnings are NOT appealable, nor are appeals available when the City finds that a violation does not exist on the property.

■ Request for Hearing

Any person issued an Administrative Citation may contest the notice by filing a written appeal for an Administrative Hearing within 15 calendar days of the effective date of the notice. The request must include a deposit in the amount of the stated fine. Once submitted, a hearing will be scheduled within 15 days from receipt of the completed request. The responsible party will receive notification of the time, date and location of the hearing at least 10 calendar days before the hearing.

■ Hearing Procedures

All hearings are held before an independent impartial hearing officer. At the hearing, the parties present their evidence, findings, arguments and both parties may bring witnesses, which can be cross-examined. Any relevant evidence can be admitted into record and oral evidence is taken under oath or affirmation. The hearings are recorded and do not need to be conducted in accordance with technical rules of evidence.

■ Hearing Officer's Decision

If the Hearing Officer determines that the Administrative Citation should be upheld, the fine on deposit by the City will be retained. The Hearing Officer may assess the cost of the hearing to the appellant.

If the Hearing Officer determines that the evidence presented does not support the issuance of the Administrative Citation, the fine shall be

deemed null and void and the City will refund the deposit.

The written decision of the Hearing Officer is the City's final administrative decision. An appellant may file an appeal of the Hearing Officer's decision with the San Diego County Superior Court within 20 days of service of the decision.

Parking Citation Appeals

In 1993, legislation went into effect that provides procedures for contesting a parking citation. Minor parking citations are considered civil offenses and are not criminal infractions. Accordingly, the criminal courts do not hear parking matters. While the Sheriff's Office is generally responsible for parking enforcement, Code Enforcement is responsible for processing parking citation appeals. Appeals for parking citations follow the process as reflected below.

■ Initial Review

A complete [Initial Review Request](#) form and a copy of the parking citation must be returned to the City of Encinitas within 21 days of citation issuance. The results of staff's initial review will be sent to the appellant by mail approximately two weeks following submittal. If the citation is dismissed, the matter is resolved and no further action is required. If the citation is upheld, the parking penalties must be paid or a request for an Administrative Hearing must be received within 21 days following the date on the City's Initial Review determination.

■ Administrative Hearing

The second level of parking citation appeal is the Administrative Hearing. If the Initial Review is upheld, an application to request an Administrative Hearing is sent along with the Hearing Officer's decision. To request an Administrative Hearing, the citation penalty must be deposited and the appeal form filled out and returned. The hearing may be conducted in person, by telephone or by mail. If the citation is dismissed by the Hearing Officer, the penalty amount will be refunded. If the citation is upheld, the deposit is forfeited as citation payment or the appellant can file the next level of appeal in Superior Court. The required court documents must be filed within 30 days from the hearing examiner's determination.

■ Superior Court Hearing

The final step in the process is an appeal to the civil division of the San Diego Superior Court, North County Division. The appellant is responsible for paying the filing fee for the appeal hearing. If the court

dismisses the citation, the filing fee will be refunded along with the citation penalty payment. If the violation is upheld, the filing fee and all previously posted funds are forfeited.

Mediation

Sometimes, disputes between neighbors do not involve a violation of City codes or ordinances. Issues of blocked views, street parking, property line location, trees overhanging onto private property or roots causing damage to a fence or structure are not regulated by the City, but can cause frustrations between neighbors.

The City of Encinitas provides a [mediation program](#) free to residents. Mediation is the confidential meeting between people who have a disagreement and a trained, neutral mediator who guides a discussion of issues toward a mutually acceptable agreement. City staff is not in attendance at these meetings.

The mediators are not judges. It is their role to work with both parties to help determine a long term, mutually beneficial solution. The final agreement is not legally binding and cannot be used in court. Mediation is also governed by California Evidence Code section 1115-1128, which provides that statements made during mediation are confidential and inadmissible against another party in any subsequent non-criminal proceeding.

REDUCE YOUR RISK OF A CODE VIOLATION

Property

- Maintain your property in a clean, orderly fashion
- Always check with City staff for permit requirements prior to any construction
- Establish a good relationship with your neighbors and work together to solve problems before conflicts arise

Vehicles

- Maintain your vehicles in proper operating condition with inflated tires
- Do not store junk, trash or debris in or around the vehicle
- Do not let weeds grow up around the vehicle
- Non-operable vehicles must be fully enclosed on private property and out of public view

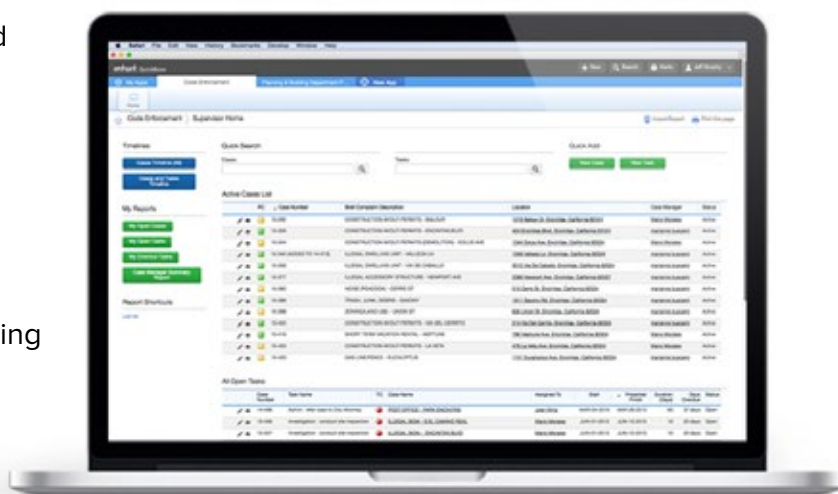


e-Project Source

The Planning and Building Department created [e-Project Source](#), a project management and open government application. This application allows staff to manage project workflows in accordance with performance standards, processes and procedures. e-Project Source can also generate myriad reports that allow staff, supervisors and managers to monitor workload in the Community Services Section.

Supervisors in the Community Services Section provide training and support to staff in their workgroup to ensure effective use of e-Project Source and to

provide feedback for periodic enhancements. Staff is responsible for keeping information current and accurate in e-Project Source for the code cases they are processing per the procedures described in [Section 4](#) and [5](#) and supplemented by [Appendix](#) of this guidebook. Tasks are to be kept current up to the next deliverable to ensure efficient and effective operations.



“This online resource tool will help staff and property owners obtain code compliance more quickly and introduce a higher level of accountability and transparency not previously available to the Department.”

Appendix

Code Case Processing Procedures for e-Project Source

Cycle Review Tasks

TASK NAME	DESCRIPTION	TASK CATEGORY	ASSIGNER	ASSIGNEE	CHESS BOARD
Admin					
Admin: Create case folder	Task is for the admin staff to create the case folder	Admin	Admin Staff	Admin Staff	Codes
Admin: Case assignment	Task is for the admin staff to assign the case to the appropriate code enforcement officer	Admin	Admin Staff	CEO	Codes
Admin: Close case	Task to close the case when violation resolved	Admin	CEO	CEO	Codes
Admin: Graffiti Tracker	Enter pictures into Graffiti Tracker	Admin	Admin Staff	Admin Staff	Codes
Admin: Referral response	Task to track status of responses/compliance date from City	Admin	Admin Staff	Admin Staff	Referral
Admin: Check Status	Task to track status of case	Admin	CEO	CEO	Referral
Meetings					
Meeting: Property owner	Task to meet with responsible party to discuss status/next steps	Meeting	CEO	CEO	Codes
Meeting: Supervisor	Task to meet with the supervisor to discuss case and review correction notice	Meeting	CEO	CEO	Codes
Meeting: Development services	Task to meet with the Development Services Section to discuss violation and possible solutions	Meeting	CEO	CEO	Codes
Meeting: Outside agency	Task to meet with outside agencies to discuss violation and possible solutions	Meeting	CEO	CEO	Codes
Meeting: Project Issue Resolution	Task to schedule a Project Issue Resolution Meeting	Meeting	CEO	CEO	Codes
Meeting: City Attorney	Task to consult the City Attorney on legal issues	Meeting	CEO	CEO	Codes
Investigations					
Investigation: Site inspection	Task for staff to visit the site and visually inspect the alleged violation	Investigation	CEO	CEO	Codes
Investigation: Follow up	Task to research and confirm City direction followed	Investigation	CEO	CEO	Codes
Investigation: Research	Task for staff to review past records and approvals	Investigation	CEO	CEO	Codes

TASK NAME	DESCRIPTION	TASK CATEGORY	ASSIGNER	ASSIGNEE	CHESS BOARD
Notices					
Notice: Site Inspection Request	Task to issue a site inspection request form	Enforcement Action	CEO	CEO	Codes
Notice: Release of Liability	Task to issue a Release of Liability form to the responsible party to remove graffiti. Admin Warning included	Enforcement Action	Admin Staff	Admin Staff	Graffiti
Notice: Graffiti removal contractor	Task to authorize the contractor to remove the graffiti from the property	Enforcement Action	Admin Staff	Admin Staff	Graffiti
Notice: Dog barking	Task to issue a dog barking form per template	Enforcement Action	Admin Staff	CEO	Codes
Notice: Voluntary Compliance Letter	Task to issue a VC letter to the responsible party asking the for voluntary compliance per the template	Enforcement Action	Admin Staff	Admin Staff	Codes
Notice: Acknowledgment Letter	Task to issue an acknowledgment letter to the complainant per the template	Enforcement Action	Admin Staff	Admin Staff	Codes
Notice: Stop Work Order	Task to issue a Stop Work Order/Admin Warning	Enforcement Action	CEO	CEO	Codes
Notice: Admin Warning	Task to issue an Administrative Citation	Enforcement Action	CEO	CEO	Codes
Notice: Issue \$100 Citation	Task to issue an Administrative Citation in the amount of \$100 when responsible party fails to comply with City direction	Enforcement Action	CEO	CEO	Codes
Notice: Issue \$200 Citation	Task to issue an Administrative Citation in the amount of \$200 when responsible party fails to comply with \$100 citation	Enforcement Action	CEO	CEO	Codes
Notice: Issue \$1,000 Citation	Task to issue an Administrative Citation in the amount of \$1,000 when responsible party fails to comply with the \$200 citation or a previously issued \$1,000 citation	Enforcement Action	CEO	CEO	Codes
Notice: Closure Letter	Task to prepare a letter to appropriate parties closing the case	Enforcement Action	CEO	Admin Staff	Codes
Hearings					
Hearing: Administrative	Task to schedule a hearing before Administrative Hearing Officer	Hearing	Admin Staff	CEO	Codes
Hearing: Zoning Administrator	Task to schedule a hearing before the City's ZA	Hearing	CEO	CEO	Codes
Hearing: Planning Commission	Task to schedule a hearing before the Planning Commission	Hearing	CEO	CEO	Codes
Hearing: City Council Appeal	Task to schedule a hearing before the City Council	Hearing	CEO	CEO	Codes

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