

RESOLUTION NO. 7-2012

CITY OF LEAVENWORTH, WASHINGTON

**A RESOLUTION OF THE CITY OF LEAVENWORTH, WASHINGTON, APPROVING
THE STANDARD OPERATING PROCEDURES FOR ENFORCEMENT ACTION**

BE IT RESOLVED by the City Council of the City of Leavenworth, Washington as follows:

WHEREAS, the purpose of Chapter 21.13 of the Leavenworth Municipal Code is to ensure compliance, abate noncompliance and punish violations of applicable titles of this code, including without limitation LMC Titles 12, Streets, Sidewalks and Public Property; 14, Development Standards; 15, Buildings and Construction; 16, Environment; 17, Subdivisions; 18, Zoning; and this title, Development Code Administration;

WHEREAS, enforcement operations and practices in compliance with Chapter 21.13 of the Leavenworth Municipal Code are not within this chapter; and

WHEREAS, the City of Leavenworth recognizes the need to outline and document long standing actions or procedures that have been consistently applied by individual departments into formal policies which can provide assistance and guidance to staff and the general public.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF
LEAVENWORTH, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:**

The Standard Operating Procedures for Enforcement Action of the City of Leavenworth attached hereto and incorporated herein is hereby approved by the City of Leavenworth.

Passed by the City Council of the City of Leavenworth and approved by the Mayor this 14th day of February, 2012.

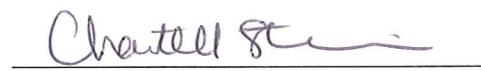
CITY OF LEAVENWORTH

By:



Cheryl K. Farivar, Mayor

Attest:



Chantell Steiner
Finance Director/City Clerk

**CITY OF LEAVENWORTH
STANDARD OPERATING PROCEDURES
FOR
ENFORCEMENT ACTION**

General:

The City of Leavenworth recognizes the need to outline and document long standing actions or procedures that have been consistently applied by individual departments into formal policies which can provide assistance and guidance to staff and the general public.

Intent:

To outline and memorialize the standing practice of the City's Development Service's Department for enforcement practices and procedures.

Due to limited resources and the desire to encourage individual accountability within the community, the City Development Services Department does not "police" activity which is within the department's authority. "Policing" means, for the purposes of this policy, daily monitoring of all portions of the City for full compliance with applicable LMC sections. The City does not have the resources to staff to a level to seek out and enforce all violations of all regulations. Rather than such resource driven activity, the department has a terraced system with levels of enforcement for efficient and effective prioritization and timely responsiveness.

Level I Enforcement:

The first and highest level of enforcement, which will include immediate correction, is for any violation which, as determined by the City, which is a life, health and safety violation. This level of violation enforcement may be "discovered" by citizen inquiry / complaint, agency inquiry / complaint, staff observation, or any other correspondence or communication, as determined by the City.

Level II Enforcement:

The second level of enforcement is derived from a formal submittal of a Citizen Complaint form, and may be separated into several categories:

- 1) Life, health and safety violation – immediate correction necessary, as determined by the City
- 2) Public welfare – includes investigation and appears (as determined by the City) a violation without research and/or analysis. This activity will include contact with the property owner within a short timeline (as determined by the City, and typically 24-hours of initial contact). After contact, enforcement is pursued with a follow-up / return contact.
- 3) Public impact – includes investigation, research, analysis and determination of violation by the City. This activity will include contact with the property owner to understand the activity to consider the determination of violation, and may include an extended timeline (typically on or before one week - or at the City's discretion). This enforcement action may include voluntary compliance within set time periods for correction.

Level III Enforcement:

A lesser level of enforcement, which may not result in a determination of violation and/or correction action, is derived from veiled statements, or other contact which does not, as determined by the City, appear to be a complaint or a life, health and safety violation.

The following practices shall be utilized in enforcement activity:

Investigation practice:

Investigation includes, but is not limited to, a site visit and review of applicable Codes and Ordinances. Trespass onto private property for any activity which is not a life, health and safety violation (as determined by the City) is discouraged, unless such private property is generally open to the public (such as a business). Staff is encouraged to obtain permission from the owner prior to entering private property which is not generally open to the public. If able to enter the property to make contact with the property owner, manager, or other representative at the time of site visit, a statement from City staff must always include identification, and a conversation which may be the following: "I am _____, (give name and title) with the City of Leavenworth, and I am here to talk with you regarding _____ (describe the potential violation)." ... "The City received a complaint regarding _____ and I would like to talk with you to get an understanding of all the relevant information. Is now a good time?" This contact may be made by a phone call, but is preferred to be in person. Staff is encouraged to make contact at a time which is not disruptive to business operations. Initial contact is for discovery, education, and communication (state the facts – this is not a time to debate the merits, but to learn and understand). The ultimate goal is to research the aspects of the complaint.

If the complaint is regarding a sign or design, the City's enforcement practice is only to enforce those items visible from the public right-of-way, the site visit should be limited to public right-of-way.

The focus is to resolve the complaint. If other potential violations are observed, such shall be noted and brought to the attention of the supervisor for review and consideration for enforcement action (see Enforcement Levels I, II, and Intent sections).

Log the information gained, write down your conversation, any observations, any agreements, clarifications, understanding and photo document the activity.

Research practice:

Any establishment of legal non-conformity is the burden of the citizen, and the City may (at its discretion) conduct research, as necessary, in the City's course of investigation. Research may include differing levels of activity to be effective, and is at the sole discretion of the City (as determined by the City). 1) Review of the address file for information related to the investigation for vesting rights, legal non-conforming status, City letters of commitment, or other information that may clarify the activity. 2) Review of City historic documents (this may include City resolutions, contracts, project files, ordinances or other active documents). 3) Review of agency or other department records and files (only if information is readily available to staff).

Education practice:

The first and foremost component of enforcement is to accomplish voluntary compliance. The intent is to relay the violation and steps to follow the rules and regulations of the City with an understanding that enforcement will occur, if there is no response. Initial contact and voluntary correction is the "norm" and typical for enforcement.... In most cases, the individual when made aware of the rules and regulations, will take the appropriate action to follow the rules.

Voluntary compliance practice:

If educating the violator does not result in the desired outcome (correction of a violation), the City may offer to enter into a Voluntary Correction Agreement with the individual or organization at the discretion of the City. Such Agreement shall be in writing – either through letter or "ticket" form, with clear understanding and agreement of specified violation(s) and correction time-frame delineated.

Enforcement practice:

In the event that corrective action is not taken or a voluntary compliance is not an option, the City will move forward with enforcement procedures as delineated in LMC 21.13. There should be conclusive

evidence of a violation for the City to determine a violation, and take enforcement action. Speculation or “hearsay” is not acceptable. Written determinations will be necessary with the steps taken and information gathered for the determination of violation.

Photo document each violation, note the date of the violation, and note any observations of the violation, surroundings and/or circumstances.

Follow-up practice:

The City has implemented a standardized form letter to provide a response or status to the complainant. The City may send a form letter to the complainant which addresses a particular action being taken by the City. Details may be confidential, and not available. Any enforcement process that requires action by the City is indexed and monitored. This is to allow for ease of reference, and review by future staff.

Summary

Step 1: Receive citizen request/complaint or information regarding a violation (as applicable to level of enforcement).

Step 2: Investigate to determine if violation exists.

Step 3: Take immediate action to correct violations through – 1. Education, 2. Voluntary Correction, 3. Enforcement.

Step 4: Provide a response to the complainant.