

A.: Yes; as a Deputy County Counsel for several years, I was in charge of the enforcement of all building and zoning violations for the entire County of Fresno. As it pertains to the City of Grover Beach, “code enforcement” refers to the enforcement of the city’s municipal code, ordinances and regulations. The legal basis for the enactment and enforcement of municipal ordinances (that regulate conditions which may become a nuisance or health hazard or that promotes social, economic or aesthetic considerations) is a city’s “police power”. (California Constitution art. XI, section 7; Sullivan v. City of Los Angeles (1953) 116 Cal.App.2d 807, 810, 254 P.2d 590 (building regulations); Schroeder v. Municipal Court (1977) 73 Cal.App.3d 841, 848, 141 Cal.Rptr. 85 (zoning regulations)).

There is “civil” enforcement, and there is “criminal” enforcement. Regarding civil enforcement, a violation of a valid building or other local ordinance may be abated by an injunction. Injunctive relief may take the form of a court order prohibiting the maintenance of code violations (prohibitive injunction) or requiring the defendant/violator to remedy those conditions (mandatory injunction). After the court has ordered corrections of the conditions either through a preliminary injunction or a permanent injunction, the defendant may still fail to comply. Contempt proceedings are the usual legal process by which a defendant is compelled to comply with a court order or punished for his or her failure to comply. The punishment of civil contempt may be a fine not exceeding \$1,000 or imprisonment not exceeding five days, or both for each contemptuous act. (Code of Civil Procedure section 1218).

Note also that a local legislative body (such as the City of Grover Beach) can provide for the abatement of any nuisance at the expense of the persons maintaining it. (Government Code sections 38773-38773.5). The local legislative body may establish an ordinance for the recovery of abatement and related administrative costs by a nuisance abatement lien (section 38773.1), or by way of special assessment (section 38773.5). Unlike the nuisance abatement lien, the special assessment has the tax lien priority section 53935). For recovery of attorney’s fees, the ordinance must specify that the prevailing party is entitled to such recovery and the city must elect at the initiation of the nuisance abatement proceedings to seek recovery of its attorney’s fees if it is deemed the prevailing party (section 38773.5). With an ordinance in place allowing for recovery of abatement costs, a civil action for recovery of such costs might be maintainable.

On the other hand, a violation of a civil ordinance can be criminally prosecuted as a misdemeanor (unless it designates such violations as infractions). The city attorney may prosecute these violations in the name of the People of the State of California (Government code section 36900(a)). Note that, pursuant to section 1200 of the Grover Beach Municipal Code, “[a] violation of any of the provisions or a failure to comply with any of the requirements shall constitute an infraction except for those specifically declared by this Code to be a misdemeanor.” Section 1202 also provides that the city’s police officers and code enforcement officer have the duty to enforce the Municipal Code and are authorized to issue citations and arrest persons for violations. It is my guess that the city chose these persons to enforce its Municipal Code, due to the fact that the office of its city attorney, Martin D. Koczanowicz is located approximately 200 miles away in Oakhurst, California (which has never made any sense to me). Anyway, I suggest that you read sections 1100 – 1516 of the Grover Beach Municipal Code for a more thorough understanding of its code enforcement provisions (which is located on the city’s website).