

# CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

## Study Session Worksheet

**Presentation Date:** 11-04-14 **Approx Start Time:** 2:30pm **Approx Length:** 60 min

**Presentation Title:** Final Recommendations – Code Enforcement Performance Review

**Department:** Transportation & Development

**Presenters:** Scott Caufield, Building Codes Administrator

**Other Invitees:** Barb Cartmill, Director, DTD

### WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Input and direction on the final recommendations resulting from the 2014 Code Enforcement Performance Review

### EXECUTIVE SUMMARY:

On May 20, 2014, the Code Enforcement Section presented the findings and recommendations of the 2014 *Code Enforcement Performance Review* conducted by FCS Group. The report provided a detailed overview of the County's current CE program including practices, procedures and administrative structure. It additionally provided a work load review, presented stakeholder comments gathered as a result of extensive interviews and, most importantly, made a number of recommendations aimed at improving the performance of the CE program.

Overall, FCS Group found many things that CE does well, but also found a number of ways in which the program can improve. Those suggested improvements were reflected in their recommendations. Four main themes were identified in the performance audit:

- Greater accountability,
- Improved management oversight,
- Establish performance measures, and
- Increased efficiencies.

A specific response to each of the report's recommendations and the status of each is provided in Exhibit A, attached. Additionally, Exhibit B (attached) provides specific policy recommendations for the Board's consideration. Exhibits C and D (attached) outline, respectively, a proposed process for Code Enforcement Dispute Resolution and a draft of a proposed Code Enforcement Statement of Rights, both of which will help build public trust and confidence through greater accountability.

DTD recently completed the first step in the **Performance Clackamas** (Managing for Results) process, which focuses heavily on the development of measureable outcomes to ensure that the BCC's strategic priorities can be met. The CE Performance Audit's recommendations are very much aligned with the **Performance Clackamas** model. Thus, when implemented, the CE policy recommendations will make the CE program a

more effective and accountable program that will ensure the building of public trust through good government and safe, healthy and secure communities.

**FINANCIAL IMPLICATIONS (current year and ongoing):**

The Code Enforcement program will not be impacted financially in the current fiscal year.

**LEGAL/POLICY REQUIREMENTS:**

Certain recommendations of the BCC and the CE Performance Review – if implemented – will require changes to County Code. These have been identified in the final set of recommendations.

**PUBLIC/GOVERNMENTAL PARTICIPATION:**

Stakeholders were interviewed extensively and their comments were included in the FCS Group report. Various Citizen Planning Organizations, agency partners and other interested persons have provided input on the final Performance Review report.

**OPTIONS:**

Evaluate the proposed policy recommendations and provide direction to staff to implement as proposed, not implement, or to amend as needed.

**RECOMMENDATIONS:**

See attachments for policy recommendations.

**ATTACHMENTS:**

- Exhibit A: Status of Performance Review Recommendations
- Exhibit B: Policy Recommendations
- Exhibit C: Proposed Code Enforcement Dispute Resolution Process
- Exhibit D: Proposed Code Enforcement Statement of Rights
- Exhibit E: Code Enforcement Outreach Plan

**SUBMITTED BY:**

Division Director/Head Approval \_\_\_\_\_

Department Director/Head Approval M. B. Cartmel 10-8-14

County Administrator Approval \_\_\_\_\_

For information on this issue or copies of attachments, please contact  
Scott Caufield @ 503-742-4747 or LeAnn Woodward at 503-742-4750.

## EXHIBIT A:

### Response to FCS Group Performance Evaluation Recommendations

**Recommendation 1.1:** Instead of the permit specialist and the coordinator performing desk research and other preliminary research, these steps should be eliminated. The assigned code enforcement specialist should conduct the initial research and notify the permit specialist whether to send an alleged letter. This eliminates two steps in the process, reduces the potential duplication of effort and provides the code enforcement specialist with the knowledge about the case before the person calls or shows up in person after the alleged letter. When a complaint comes in the permit specialist or the code enforcement specialist should complete the complaint form and then give the complaint to the coordinator to determine its priority and assignment.

**Response:** The shift to electronic files has forced a change in the way we create and process files, which has eliminated needless steps and duplicative research. Prior to sending the alleged letter, preliminary research is done by the coordinator to determine if a violation file should be created. For example, if a complaint is filed alleging a remodel without permits, the coordinator reviews the system for permits. If permits have been issued for the project, no violation file is created because no violation exists. If there are no permits, the coordinator requests that a CE file be created. The alleged letter continues to be an efficient and valuable tool to begin a conversation with the property owner. Staff recommends that we continue to use it as the first method of contact.

**This recommendation has been implemented.**

**Recommendation 1.2:** Instead of batching the tickled files on a weekly basis, the permit specialist should identify all the responses that are due each day to eliminate any delays in following-up on non-responsive violators.

**Response:** Each individual code enforcement specialist now maintains paper files at his/her desk and works files daily instead of getting files weekly. Accela Automation provides a method to track files assigned to each specialist.

**This recommendation has been implemented.**

**Recommendation 1.3:** We encourage the CES to continue its planned system upgrade to allow its system to include electronic files so the need for manual central files will no longer be necessary. If the upgrade to the system will take a considerable amount of time, such as more than a year to implement, the CES might want to consider setting up an electronic filing system with case folders so the central files will no longer be needed. This will require the documents to be scanned as they are received and that the case notes to be prepared using a word processing software rather than on paper.

**Response:** The Accela Automation system is up and running since September 30, 2013 and all newly created files are digital.

**This recommendation has been implemented.**

**Recommendation 2.1:** To improve supervision and management of the program, a new code enforcement supervisor position should be created, and the code enforcement coordinator

position should be eliminated. The position would include all the responsibilities that the coordinator currently performs, but will also have supervisory and management responsibility for the program. The position would also have a caseload, but it is not expected that the caseload would be as high as the current coordinator's caseload if the enforcement areas are changed to balance the workload among the CE specialists.

**Response:** Due to budgetary and other implications, the creation of a Code Enforcement Supervisor position is impractical at this time. At the heart of this recommendation, however, is the recognition that there needs to be more direct oversight in the administration of the CE program. Toward that end, we offer the following:

- The Building Codes Division has created a deputy position to absorb the day-to-day operation of the building codes program, enabling the Building Codes Administrator to provide more direct, daily supervision of the CE program. This new position is approved and budgeted. It is anticipated to be filled by late fall 2014.
- The responsibilities of the Code Enforcement Coordinator have been revised to assist the Building Codes Administrator in the operation of the program and provide a manageable case load given the other assigned duties.
- Performance measures have been developed to ensure that established goals for compliance are being met. See Recommendation 3.1.

**This recommendation is in process.**

**Recommendation 2.2:** Because there is a large discrepancy in the cases each staff member has, the enforcement areas should be revised to balance the workload among the code enforcement specialists. This redistribution can also be used to reduce the caseload for the proposed supervisor position.

**Response:** The discrepancy in assigned cases across given districts is largely based on the density of one area over another and the nature of the violations within each district. For example, District One (the urban core) has a smaller geographic area but substantially more people. The cases in this district tend to be single-source violations and small in scope due to lot size. If a CE specialist believes that his/her district caseload is excessive in comparison with the other districts, staff meets and readjusts the boundaries accordingly. For example, in one case a staff member needed more work so the boundary was adjusted to facilitate an increase in caseload. Staff recommends maintaining the current district boundaries with the understanding that future adjustments might be necessary as we evaluate performance measures and other outcomes.

**Not implemented.**

**Recommendation 2.3:** To assure that the technical analysis and any proposed solutions have been thoroughly researched and are objective, especially for the more lengthy and contentious cases, the code enforcement supervisor should review and discuss all cases before violation letters are sent, the first citation is issued, and a case is presented before the Hearing Officer.

**Response:** See recommendation 2.1. The Building Codes Administrator will provide more direct oversight of cases, including discussion of issues in contentious or protracted cases and regular case review. Staff is diligent in reviewing cases and currently calls to management's attention any issues that are likely to emerge as the County moves forward

with enforcement action. Staff often rehearses enforcement hearing testimony and consistently reviews their files with co-workers, the coordinator and/or the appropriate department managers when dealing with contentious cases. This recommendation will be fully implemented when the deputy is hired in fall 2014.

**In process.**

**Recommendation 2.4:** To improve the monitoring of the Section's caseload and timeliness, the CES should establish interim average target times for resolving the different types of cases (e.g. the number of days allowed to resolve a case before a citation is issued or a hearing is scheduled). A monthly report should be created to identify the cases that are exceeding the target times. This will allow the supervisor and the code enforcement specialists to discuss what actions need to be taken to resolve cases in a timely manner.

**Response:** Targets for case processing, milestones and completion have been/are being developed. Updated workflows within Accela Automation and the implementation and monitoring of FCS's recommended performance measures will allow further development of target time frames, but are not yet fully developed. Targets for case completion and other milestones must be carefully developed to take into account the complexities of each code enforcement case (multiple violations vs. one; rural vs. urban, etc.) to ensure a fair comparison. Once paper files have been completely eliminated and the full benefit of a paperless tracking system can be realized, these reports can be more easily generated. Staff will review targets and related efficiencies at weekly staff meetings. Where targets are not being met, staff will evaluate the root cause and modify practices accordingly. This weekly review will encourage each CE Specialist to properly conclude a case in the most expeditious manner possible.

**In process.**

**Recommendation 2.5:** Because different staff members have significantly lower average processing times for different types of cases, the Building Codes Administrator should consider working with those staff members to identify potential best practices that they use to resolve cases. This effort can involve the Building Codes Administrator or an outside facilitator that interviews the staff members separately and discusses these practices as a group.

**Response:** The Building Codes Administrator will work closely with staff to focus on standardizing processing times, taking into account the nature and quantity of violations under consideration, and will work to reduce processing times where we are not meeting established time frames. The Performance Audit did not take into account the geography of each area and its impact on various caseloads. For instance, a solid waste case in the urban area might only involve a few bags of garbage, but in the rural area it might include acres of solid waste. Those types of cases in the urban area will often have a significantly lower average processing time than cases in the rural area. See also Recommendation 2.4 as far as accountability in meeting targets.

**In process.**

**Recommendation 3.1:** The CES should first establish target completion times for each type of violation to establish a level of service that can be expected by a complainant as well as the CE

specialists. Measuring performance is meaningful only if the CES program has standards or benchmarks that it is using to determine how well it is performing.

**Response:** Target completion times have been/will be established at the time a case file is created based on the standards currently under development. **In process.**

**Recommendation 3.2:** Performance management reports should be developed from data provided by the Accela system or through other data collection systems. The following represents suggested performance measures:

- ◆ Workload Indicators
  - The total number of complaints filed by type and priority including the number of low priority complaints and referrals to other agencies.
  - The number of cases that are in progress in total and by staff member.
  - The number of ongoing and closed cases involving voluntary compliance, citations, fines, the Hearing Officer, Court case, LUBA etc.)
- ◆ Efficiency Indicators
  - The number of closed cases compared to the total cases opened (e.g. Percentage closure rate) in total and by staff member.
- ◆ Effectiveness Indicators
  - The average number of days that current cases have been open by type of violation in total and by staff member compared to interim target times.
  - The average number of days that closed cases were open by type of violation in total and by staff member compared to interim target times.
  - The number of cases closed by closure reason (e.g. no violation, voluntarily complied, permit obtained, compliance after citations, Hearing Officer orders)

Once staff is given the necessary permissions to create a workflow in Accela, the proposed data will be available and this recommendation can be met.

**Response:** These and other performance measures have been or are being developed. Staff is working with TS and the Accela Automation Project Manager to ensure that this reporting data can be extracted directly from the automation system and to develop work flows that allow for reporting. In addition to the recommended performance measures, cost management tools are also being developed such as cost per violation file by type, quarter-over quarter and year-over-year financial reporting. Some draft reports are available at this time. **In process.**

**Recommendation 3.2A:** The recommendations regarding the average number of days should separate out the cases that involve obtaining other permits, such as zoning and building type permits. The average number of days should be calculated from the date the permit application is submitted. Once a permit is submitted, the CES has little ability to control the permit processing or construction times.

**Response:** With our newly proposed workflow in Accela, this recommendation can be met. Steps have been taken to ensure that these types of CE cases are tracked accordingly. **CE workflow modifications are being programmed currently and should be completed within 30 days.**

**Recommendation 4.1:** Standardize the organization of case file documents. Based on our review of a small sample of case files, there were instances where it was difficult to follow what documents pertained to the case and how they were associated with the case. Past violation data and additional violations not in the same category as the original complaint sometimes made it difficult to determine what documents were associated with which violation, CE specialist activities, and correspondence. This is true primarily for the more lengthy and complicated cases.

**Response:** The auditors were correct in their assessment of some of the paper files, especially the old cases that have been in existence for several years. The digital file-keeping system will force the standardization of files including how and where information is stored, how it is to be accessed and how it is formatted. Staff has discussed this and there is agreement on what types of documents and other information must be attached to the violation file.

**This recommendation has been met.**

**Recommendation 4.2:** If code enforcement specialists do not receive permission to be on a property and cannot verify the violation from either the complainant's property or the public right of way, they should be following the protocol for obtaining an administrative inspection warrant. There were a few comments about trespassing on private property.

**Response:** The Code Enforcement program has a strict policy against trespassing on private property. Additionally, Counsel has advised that it is inappropriate to trespass where posted. CE staff maintains that they do not trespass and, instead, often gather information from adjacent properties where they have been given permission to access, and also from realtor and business web sites. The Building Codes Administrator will reinforce this policy. Additionally, when the BCC provides for the administrative warrant process through an ordinance change, staff will follow all appropriate steps and legal channels to gain access to private properties in egregious cases. **This recommendation has been met.**

**Recommendation 4.3:** For temporary care permits, the County should authorize the zoning and septic permits for the same time period. During interviews it was found that the septic permit is for a longer time period than the zoning permit.

**Response:** Code Enforcement staff does have control over these policies and practices; however, the recommendation to coordinate the permits has been passed along to Planning and Water Environment Services.

**Recommendation 4.4:** One citizen suggestion was to have the Board of County Commissioners be a last appeal point after the Hearing Officer. Every County Commissioner believed that they should not get involved in hearing or deciding such cases. They stated that is why the County uses an impartial Hearing Officer. Such a step is not recommended to be added to the complaint enforcement process.

**Response:** CE staff agrees with the BCC. As discussed in previous work sessions, the role of the BCC will remain as it has in the past. The BCC will not be involved in code enforcement cases. **This recommendation has been met.**

## Exhibit B

# Proposed Code Enforcement Performance Review Policy Recommendations

October 15, 2014

### I. Previous Direction from the Board of County Commissioners

The current BCC authorized the following policy changes, but directed staff to not implement them pending the outcome and final recommendations of the Code Enforcement performance audit:

- Modify Clackamas County Code Title 2.07 to provide administrative warrant authority in egregious cases where access to properties is otherwise not possible
- Modify Clackamas County Code Title 2.07 to provide mechanisms for the collection of moneys owed to Clackamas County including garnishment, seizing state tax refunds, etc. as a means of last resort
- Using the measures outlined above, take steps to collect the approximately \$1 million owed to the County in the form of property liens and accrued interest
- Clean up Title 2.07 as needed for consistency, ease of administration, etc.

**Staff Recommendation:** Staff respectfully recommends that the BCC authorize the amendments to County Code Title 2.07. If authorized, staff will return with proposed ordinance language for review on November 4, 2014.

### II. New Recommendations

**Staff Recommendations:** Based on the Code Enforcement Performance Review considerations, and in an effort to provide greater accountability, better managerial oversight, performance measures and efficiencies, Code Enforcement respectfully asks the Board of County Commissioners to approve the following recommendations:

1. Proceed with reorganization of the Building Codes Division through the addition of a Deputy Building Codes Administrator in fall 2014 to manage the day-to-day operation of the building codes program, thereby providing time for the Building Codes Administrator to offer more direct oversight and management in the CE program.
2. Create a Code Enforcement Dispute Resolution (CEDR) process to, as needed for specific qualifying cases, provide a platform for those whose properties have been found to be in violation to be heard and where staff will jointly work toward resolution of CE cases wherever possible. This process may, where necessary, be facilitated by Clackamas County Resolution Services (Exhibit C).



3. Direct Code Enforcement to identify a facilitator/ombudsperson who can serve on the CEDR and work to ensure a fair process in contentious or protracted cases.
4. A *Code Enforcement Statement of Rights* be developed for all property owners as they relate to CE cases to ensure that affected persons are aware of the previously mentioned services and to establish criteria for how they should be treated in the handling of their cases (Exhibit D).
5. Continue development of recommended performance measures (see detail in Exhibit A).
6. Quarterly reports to the BCC on performance measures and accomplishments of the Code Enforcement program and staff.
7. Continue to refine the process used to create and manage case files in the digital domain, seeking improved efficiencies where possible.
8. CE staff working with Public & Government Affairs to step up and improve outreach efforts through the use of social media, the website, videos, direct interactions at CPO and other community meetings, etc. to educate the community and reduce violations. An outreach plan has been developed (Exhibit E) and we are working with Ellen Rogalin to implement it.
9. The BCC reconsider the directive that two separate people must file a confidential complaint before the complaint is investigated. Doing so creates a cumbersome administrative process and exposes the County to potential liabilities where health, life safety and other hazards exist. Staff further recommends that -- where there are health, life safety or hazard risks -- confidential complaints be investigated with one compliant and all other (lower priority/non-life safety) complaints require two confidential complaints before staff takes action.
10. Commissioners are invited to join staff for CE ride-alongs and to visit our operation at any time.

## EXHIBIT C

### Proposal for Code Enforcement Dispute Resolution (CEDR) Process

October 15, 2014

#### WHAT:

The Code Enforcement Dispute Resolution (CEDR) Process is proposed to provide information to County residents and to seek potential solutions in the resolution of code violation(s) associated with a property.

- It would involve an informal meeting that could occur at any time during the compliance process, but most likely after violations have been confirmed but prior to hearing.
- Candidates for referral to the CEDR are those cases that are complicated, protracted or particularly contentious, and that require extra attention and staff resources to bring to resolution.
- Referral of a case to the CEDR could occur through staff recommendation or at the request of the violator.

#### WHY:

Code Enforcement staff recognize that initiating an enforcement case is only part of the *solution in bringing a property into compliance*. Staff routinely provide assistance and identify resources for property owners in the resolution of their violations. This often includes consulting with staff from Planning & Zoning, Building Codes and solid waste to explore options and make recommendations or referrals as needed. In some cases, however, these steps are not enough to resolve the violation.

The CEDR will formalize the assistance process and enhance customer service by providing a face-to-face contact for interaction and information-sharing. When needed, the presence of the Clackamas County Resolution Services facilitator/ombudsperson will ensure a fair process for the affected parties.

Ultimately, it is the person whose property has been found to be in violation that determines what level of enforcement is required. The property owner is the only person who can decide whether there will be voluntary compliance or – through inaction, indecision, or both – whether the County will be forced to compel compliance. In our experience, that inaction and indecision is often fueled by a lack of knowledge of the permitting process, and lack of understanding of the issues and of the steps needed to resolve the case. Assistance in gathering information and the opportunity to talk with staff directly will assist the affected parties make decisions to determine the best path of compliance for the specific set of circumstances involved in the specific case.

## WHO:

The exact people involved with CEDR will vary depending on the case. Potential attendees may include:

- The assigned Code Enforcement specialist handling the case
- The person(s) whose property is found to be in violation
- The landowner, in cases where the violator is a tenant
- CPO and HOA representatives or neighborhood groups
- The complainant (in some cases where confidentiality/safety is not compromised)
- Representatives of the violator, such as counsel, contractor, design professional, family member and/or interpreter
- Clackamas County Resolution Services (Mediation) and/or ombudsperson
- Applicable Clackamas County staff from Planning, Building Codes, solid waste, Business and Economic Development, BCC assistants, etc. as needed

Compliance with codes and ordinances that ensure safe, healthy buildings and properties is the primary goal of the CE staff and an important element in accomplishing BCC's Strategic Priority #4, *Ensure safe, healthy, and secure communities*. The proposed CEDR process will provide a more formalized and personal method of providing assistance to property owners for qualifying cases and, where needed, will ensure a fair and open process through the involvement of Clackamas County Resolution Services.

**Exhibit D**  
**Code Enforcement (CE) Statement of Rights**

DRAFT: October 15, 2014

Clackamas County is committed to ensuring a fair and open code enforcement process to the maximum degree possible. This Code Enforcement *Statements of Rights* is provided to ensure that all parties involved in a code enforcement case know and understand that they:

- Are entitled to be treated courteously and respectfully in their interactions with County staff
- Are entitled to know and understand the code enforcement process and, where the process is not clear, to have their questions answered by County staff quickly and clearly
- Are entitled to a timely response from County staff via telephone, email or written correspondence
- Are entitled to receive accurate and timely information regarding their code enforcement case
- Will be provided with fair and reasonable time lines to effectively resolve their violations
- May have all or a portion of any accrued file administration fees waived where properties are brought into compliance voluntarily and in a timely fashion
- Have access to the Code Enforcement Dispute Resolution Services (CERD) where, in certain cases, the affected parties are aggrieved
- Have appeal rights when aggrieved through the Clackamas County Hearings Officer

**EXHIBIT E:**  
**CODE ENFORCEMENT OUTREACH PLAN, 2014-15**  
July 25, 2014

**GOALS**

- Increase general community knowledge about Code Enforcement and what it does and can do for the community.
- Increase community understanding of the benefits of knowing and complying with County Code
- Encourage community perception of Code Enforcement as a place to turn to for assistance and to help resolve problems
- Facilitate smooth code enforcement officer shift between regions – introduce officers to people in the areas they will be working with beginning July 1, 2014

**AUDIENCE**

- General public
- Community and business leaders
- Property owners
- Business owners

**KEY MESSAGES**

- Code Enforcement is needed to protect health, life and safety, and to ensure livability and protection of the environment.
- Code Enforcement officers are here to help people comply with the code in order to protect health, life and safety, ensure livability and protect the environment.
- Code Enforcement seeks voluntary compliance and will provide information and options to help people comply with violations.
- Code Enforcement officers provide fair and equitable enforcement of code violations in response to complaints received.

**COMMUNICATION TOOLS**

**Presentations to Community and Business Groups**

- PowerPoint and/or video(s)
- Speaker(s)
  - Generally the lead would be the officer in that area of the county
  - During office transition period, ideally would be current and future officer
- Audiences
  - CPOs, Hamlets, Village
  - Chambers of Commerce and other business groups
  - Schools / PTAs
  - Other County departments, including:
    - Sheriff's office
    - Protective services

### **Videos for County Cable Channel, Website and Presentations**

- Informational, easy to understand and fun, with staff and, as appropriate, members of the public and/or representatives of other agencies
- 1-2 minutes each with a standard intro and exit
- Script written by videographers, with input and review from CE and PGA staff
- Specific topics (in priority order)
  - Putrescible (household) waste
  - Inoperable vehicles
  - Occupied travel trailer
  - Home occupations
  - Building without permits
  - Signs
  - Vacant homes
  - Transient camps
  - Grading
  - Vegetation
  - Graffiti

### **Written Materials**

- Flyers/fact sheets to support videos and PowerPoint presentation
- Regular columns in *Insights* and *Citizen News*
- Materials to get people, including children, involved
  - comic books?
  - coloring books?
  - games, e.g., identify 10 things wrong in this picture; is XXX safe or unsafe?

### **Web Information and Links**

- Update web site
  - current information
  - useful links (both within and outside the County)
  - easy to use
- Make sure outreach materials promote website as place to get information
- Post code enforcement hearings
  - Upcoming hearings
  - Hearing results
- Social media (Facebook, Twitter, GovDelivery)

### **EVALUATION STRATEGIES**

- Track response through emails, phone calls, website viewing and drop-ins

### **STAFFING**

- Oversight: Ellen Rogalin, Scott Caufield
- Content: Code Enforcement staff, Scott and Ellen
- Video production, writing, editing, design: videographer from County Cable
- Video and script support: Code Enforcement staff
- Presentations: Code Enforcement Officers

## TIMELINE

- July 2014: Complete outreach plan and obtain approval to move forward -- DONE
- August 1, 2014: Begin making contacts with CPOs and other community groups to schedule 1-2 presentations/month related to the change in officer regions on July 1; ideally first presentations would be in April -- ELLEN
- By August 1:
  - Update PowerPoint presentation, as needed -- ELLEN
  - Draft/update Community Enforcement flyer to support presentation -- ELLEN/ANDREA
  - Initiate video production with County Cable Channel staff -- ELLEN/ANDREA
- Quarterly: prepare tips column for *Citizen News*
- By August 1, 2014: Update website(s) -- ELLEN/ANDREA
- EVENTUALLY: develop proposal for additional materials to get out the code enforcement message in a friendly, fun way, perhaps that could be used with children, at the County Fair, etc., e.g.:
  - Drawings/coloring pages
  - "What's wrong in this picture" sheets

## EXHIBIT A:

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**Response:** See recommendation 2.1. The Building Codes Administrator will provide more direct oversight of cases, including discussion of issues in contentious or protracted cases and regular case review. Staff is diligent in reviewing cases and currently calls to *management's attention any issues that are likely to emerge as the County moves forward*

with enforcement action. Staff often rehearses enforcement hearing testimony and consistently reviews their files with co-workers, the coordinator and/or the appropriate department managers when dealing with contentious cases. This recommendation will be fully implemented when the deputy is hired in fall 2014.

**In process.**

**Recommendation 2.4:** To improve the monitoring of the Section's caseload and timeliness, the CES should establish interim average target times for resolving the different types of cases (e.g. the number of days allowed to resolve a case before a citation is issued or a hearing is scheduled). A monthly report should be created to identify the cases that are exceeding the target times. This will allow the supervisor and the code enforcement specialists to discuss what actions need to be taken to resolve cases in a timely manner.

**Response:** Targets for case processing, milestones and completion have been/are being developed. Updated workflows within Accela Automation and the implementation and monitoring of FCS's recommended performance measures will allow further development of target time frames, but are not yet fully developed. Targets for case completion and other milestones must be carefully developed to take into account the complexities of each code enforcement case (multiple violations vs. one; rural vs. urban, etc.) to ensure a fair comparison. Once paper files have been completely eliminated and the full benefit of a paperless tracking system can be realized, these reports can be more easily generated. Staff will review targets and related efficiencies at weekly staff meetings. Where targets are not being met, staff will evaluate the root cause and modify practices accordingly. This weekly review will encourage each CE Specialist to properly conclude a case in the most expeditious manner possible.

**In process.**

**Recommendation 2.5:** Because different staff members have significantly lower average processing times for different types of cases, the Building Codes Administrator should consider working with those staff members to identify potential best practices that they use to resolve cases. This effort can involve the Building Codes Administrator or an outside facilitator that interviews the staff members separately and discusses these practices as a group.

**Response:** The Building Codes Administrator will work closely with staff to focus on standardizing processing times, taking into account the nature and quantity of violations under consideration, and will work to reduce processing times where we are not meeting established time frames. The Performance Audit did not take into account the geography of each area and its impact on various caseloads. For instance, a solid waste case in the urban area might only involve a few bags of garbage, but in the rural area it might include acres of solid waste. Those types of cases in the urban area will often have a significantly lower average processing time than cases in the rural area. See also Recommendation 2.4 as far as accountability in meeting targets.

**In process.**

**Recommendation 3.1:** The CES should first establish target completion times for each type of violation to establish a level of service that can be expected by a complainant as well as the CE

specialists. Measuring performance is meaningful only if the CES program has standards or benchmarks that it is using to determine how well it is performing.

**Response:** Target completion times have been/will be established at the time a case file is created based on the standards currently under development. **In process.**

**Recommendation 3.2:** Performance management reports should be developed from data provided by the Accela system or through other data collection systems. The following represents suggested performance measures:

- ◆ Workload Indicators
  - The total number of complaints filed by type and priority including the number of low priority complaints and referrals to other agencies.
  - The number of cases that are in progress in total and by staff member.
  - The number of ongoing and closed cases involving voluntary compliance, citations, fines, the Hearing Officer, Court case, LUBA etc.)
- ◆ Efficiency Indicators
  - The number of closed cases compared to the total cases opened (e.g. Percentage closure rate) in total and by staff member.
- ◆ Effectiveness Indicators
  - The average number of days that current cases have been open by type of violation in total and by staff member compared to interim target times.
  - The average number of days that closed cases were open by type of violation in total and by staff member compared to interim target times.
  - The number of cases closed by closure reason (e.g. no violation, voluntarily complied, permit obtained, compliance after citations, Hearing Officer orders)

Once staff is given the necessary permissions to create a workflow in Accela, the proposed data will be available and this recommendation can be met.

**Response:** These and other performance measures have been or are being developed. Staff is working with TS and the Accela Automation Project Manager to ensure that this reporting data can be extracted directly from the automation system and to develop workflows that allow for reporting. In addition to the recommended performance measures, cost management tools are also being developed such as cost per violation file by type, quarter-over quarter and year-over-year financial reporting. Some draft reports are available at this time. **In process.**

**Recommendation 3.2A:** The recommendations regarding the average number of days should separate out the cases that involve obtaining other permits, such as zoning and building type permits. The average number of days should be calculated from the date the permit application is submitted. Once a permit is submitted, the CES has little ability to control the permit processing or construction times.

**Response:** With our newly proposed workflow in Accela, this recommendation can be met. Steps have been taken to ensure that these types of CE cases are tracked accordingly. **CE workflow modifications are being programmed currently and should be completed within 30 days.**

**Recommendation 4.1:** Standardize the organization of case file documents. Based on our review of a small sample of case files, there were instances where it was difficult to follow what documents pertained to the case and how they were associated with the case. Past violation data and additional violations not in the same category as the original complaint sometimes made it difficult to determine what documents were associated with which violation, CE specialist activities, and correspondence. This is true primarily for the more lengthy and complicated cases.

**Response:** The auditors were correct in their assessment of some of the paper files, especially the old cases that have been in existence for several years. The digital file-keeping system will force the standardization of files including how and where information is stored, how it is to be accessed and how it is formatted. Staff has discussed this and there is agreement on what types of documents and other information must be attached to the violation file.

**This recommendation has been met.**

**Recommendation 4.2:** If code enforcement specialists do not receive permission to be on a property and cannot verify the violation from either the complainant's property or the public right of way, they should be following the protocol for obtaining an administrative inspection warrant. There were a few comments about trespassing on private property.

**Response:** The Code Enforcement program has a strict policy against trespassing on private property. Additionally, Counsel has advised that it is inappropriate to trespass where posted. CE staff maintains that they do not trespass and, instead, often gather information from adjacent properties where they have been given permission to access, and also from realtor and business web sites. The Building Codes Administrator will reinforce this policy. Additionally, when the BCC provides for the administrative warrant process through an ordinance change, staff will follow all appropriate steps and legal channels to gain access to private properties in egregious cases. **This recommendation has been met.**

**Recommendation 4.3:** For temporary care permits, the County should authorize the zoning and septic permits for the same time period. During interviews it was found that the septic permit is for a longer time period than the zoning permit.

**Response:** Code Enforcement staff does have control over these policies and practices; however, the recommendation to coordinate the permits has been passed along to Planning and Water Environment Services.

**Recommendation 4.4:** One citizen suggestion was to have the Board of County Commissioners be a last appeal point after the Hearing Officer. Every County Commissioner believed that they should not get involved in hearing or deciding such cases. They stated that is why the County uses an impartial Hearing Officer. Such a step is not recommended to be added to the complaint enforcement process.

**Response:** CE staff agrees with the BCC. As discussed in previous work sessions, the role of the BCC will remain as it has in the past. The BCC will not be involved in code enforcement cases. **This recommendation has been met.**

## Exhibit B

# Proposed Code Enforcement Performance Review Policy Recommendations

October 15, 2014

### I. Previous Direction from the Board of County Commissioners

The current BCC authorized the following policy changes, but directed staff to not implement them pending the outcome and final recommendations of the Code Enforcement performance audit:

- Modify Clackamas County Code Title 2.07 to provide administrative warrant authority in egregious cases where access to properties is otherwise not possible
- Modify Clackamas County Code Title 2.07 to provide mechanisms for the collection of moneys owed to Clackamas County including garnishment, seizing state tax refunds, etc. as a means of last resort
- Using the measures outlined above, take steps to collect the approximately \$1 million owed to the County in the form of property liens and accrued interest
- Clean up Title 2.07 as needed for consistency, ease of administration, etc.

**Staff Recommendation:** Staff respectfully recommends that the BCC authorize the amendments to County Code Title 2.07. If authorized, staff will return with proposed ordinance language for review on November 4, 2014.

### II. New Recommendations

**Staff Recommendations:** Based on the Code Enforcement Performance Review considerations, and in an effort to provide greater accountability, better managerial oversight, performance measures and efficiencies, Code Enforcement respectfully asks the Board of County Commissioners to approve the following recommendations:

1. Proceed with reorganization of the Building Codes Division through the addition of a Deputy Building Codes Administrator in fall 2014 to manage the day-to-day operation of the building codes program, thereby providing time for the Building Codes Administrator to offer more direct oversight and management in the CE program.
2. Create a Code Enforcement Dispute Resolution (CEDR) process to, as needed for specific qualifying cases, provide a platform for those whose properties have been found to be in violation to be heard and where staff will jointly work toward resolution of CE cases wherever possible. This process may, where necessary, be facilitated by Clackamas County Resolution Services (Exhibit C).

3. Direct Code Enforcement to identify a facilitator/ombudsperson who can serve on the CEDR and work to ensure a fair process in contentious or protracted cases.
4. A *Code Enforcement Statement of Rights* be developed for all property owners as they relate to CE cases to ensure that affected persons are aware of the previously mentioned services and to establish criteria for how they should be treated in the handling of their cases (Exhibit D).
5. Continue development of recommended performance measures (see detail in Exhibit A).
6. Quarterly reports to the BCC on performance measures and accomplishments of the Code Enforcement program and staff.
7. Continue to refine the process used to create and manage case files in the digital domain, seeking improved efficiencies where possible.
8. CE staff working with Public & Government Affairs to step up and improve outreach efforts through the use of social media, the website, videos, direct interactions at CPO and other community meetings, etc. to educate the community and reduce violations. An outreach plan has been developed (Exhibit E) and we are working with Ellen Rogalin to implement it.
9. The BCC reconsider the directive that two separate people must file a confidential complaint before the complaint is investigated. Doing so creates a cumbersome administrative process and exposes the County to potential liabilities where health, life safety and other hazards exist. Staff further recommends that -- where there are health, life safety or hazard risks -- confidential complaints be investigated with one compliant and all other (lower priority/non-life safety) complaints require two confidential complaints before staff takes action.
10. Commissioners are invited to join staff for CE ride-alongs and to visit our operation at any time.

## EXHIBIT C

### Proposal for Code Enforcement Dispute Resolution (CEDR) Process

October 15, 2014

#### WHAT:

The Code Enforcement Dispute Resolution (CEDR) Process is proposed to provide information to County residents and to seek potential solutions in the resolution of code violation(s) associated with a property.

- It would involve an informal meeting that could occur at any time during the compliance process, but most likely after violations have been confirmed but prior to hearing.
- Candidates for referral to the CEDR are those cases that are complicated, protracted or particularly contentious, and that require extra attention and staff resources to bring to resolution.
- Referral of a case to the CEDR could occur through staff recommendation or at the request of the violator.

#### WHY:

Code Enforcement staff recognize that initiating an enforcement case is only part of the *solution in bringing a property into compliance*. Staff routinely provide assistance and identify resources for property owners in the resolution of their violations. This often includes consulting with staff from Planning & Zoning, Building Codes and solid waste to explore options and make recommendations or referrals as needed. In some cases, however, these steps are not enough to resolve the violation.

The CEDR will formalize the assistance process and enhance customer service by providing a face-to-face contact for interaction and *information-sharing*. When needed, the presence of the Clackamas County Resolution Services facilitator/ombudsperson will ensure a fair process for the affected parties.

Ultimately, it is the person whose property has been found to be in violation that determines what level of enforcement is required. The property owner is the only person who can decide whether there will be voluntary compliance or – through inaction, indecision, or both – whether the County will be forced to compel compliance. In our experience, that inaction and indecision is often fueled by a lack of knowledge of the permitting process, and lack of understanding of the issues and of the steps needed to resolve the case. Assistance in gathering information and the opportunity to talk with staff directly will assist the affected parties make decisions to determine the best path of compliance for the specific set of circumstances involved in the specific case.

## WHO:

The exact people involved with CEDR will vary depending on the case. Potential attendees may include:

- The assigned Code Enforcement specialist handling the case
- The person(s) whose property is found to be in violation
- The landowner, in cases where the violator is a tenant
- CPO and HOA representatives or neighborhood groups
- The complainant (in some cases where confidentiality/safety is not compromised)
- Representatives of the violator, such as counsel, contractor, design professional, family member and/or interpreter
- Clackamas County Resolution Services (Mediation) and/or ombudsperson
- Applicable Clackamas County staff from Planning, Building Codes, solid waste, Business and Economic Development, BCC assistants, etc. as needed

Compliance with codes and ordinances that ensure safe, healthy buildings and properties is the primary goal of the CE staff and an important element in accomplishing BCC's Strategic Priority #4, *Ensure safe, healthy, and secure communities*. The proposed CEDR process will provide a more formalized and personal method of providing assistance to property owners for qualifying cases and, where needed, will ensure a fair and open process through the involvement of Clackamas County Resolution Services.



**Exhibit D**  
**Code Enforcement (CE) Statement of Rights**

DRAFT: October 15, 2014

Clackamas County is committed to ensuring a fair and open code enforcement process to the maximum degree possible. This Code Enforcement *Statements of Rights* is provided to ensure that all parties involved in a code enforcement case know and understand that they:

- Are entitled to be treated courteously and respectfully in their interactions with County staff
- Are entitled to know and understand the code enforcement process and, where the process is not clear, to have their questions answered by County staff quickly and clearly
- Are entitled to a timely response from County staff via telephone, email or written correspondence
- Are entitled to receive accurate and timely information regarding their code enforcement case
- Will be provided with fair and reasonable time lines to effectively resolve their violations
- May have all or a portion of any accrued file administration fees waived where properties are brought into compliance voluntarily and in a timely fashion
- Have access to the Code Enforcement Dispute Resolution Services (CERD) where, in certain cases, the affected parties are aggrieved
- Have appeal rights when aggrieved through the Clackamas County Hearings Officer

**EXHIBIT E:**  
**CODE ENFORCEMENT OUTREACH PLAN, 2014-15**  
July 25, 2014

**GOALS**

- Increase general community knowledge about Code Enforcement and what it does and can do for the community.
- Increase community understanding of the benefits of knowing and complying with County Code
- Encourage community perception of Code Enforcement as a place to turn to for assistance and to help resolve problems
- Facilitate smooth code enforcement officer shift between regions -- introduce officers to people in the areas they will be working with beginning July 1, 2014

**AUDIENCE**

- General public
- Community and business leaders
- Property owners
- Business owners

**KEY MESSAGES**

- Code Enforcement is needed to protect health, life and safety, and to ensure livability and protection of the environment.
- Code Enforcement officers are here to help people comply with the code in order to protect health, life and safety, ensure livability and protect the environment.
- Code Enforcement seeks voluntary compliance and will provide information and options to help people comply with violations.
- Code Enforcement officers provide fair and equitable enforcement of code violations in response to complaints received.

**COMMUNICATION TOOLS**

**Presentations to Community and Business Groups**

- PowerPoint and/or video(s)
- Speaker(s)
  - Generally the lead would be the officer in that area of the county
  - During office transition period, ideally would be current and future officer
- Audiences
  - CPOs, Hamlets, Village
  - Chambers of Commerce and other business groups
  - Schools / PTAs
  - Other County departments, including:
    - Sheriff's office
    - Protective services

### **Videos for County Cable Channel, Website and Presentations**

- Informational, easy to understand and fun, with staff and, as appropriate, members of the public and/or representatives of other agencies
- 1-2 minutes each with a standard intro and exit
- Script written by videographers, with input and review from CE and PGA staff
- Specific topics (in priority order)
  - Putrescible (household) waste
  - Inoperable vehicles
  - Occupied travel trailer
  - Home occupations
  - Building without permits
  - Signs
  - Vacant homes
  - Transient camps
  - Grading
  - Vegetation
  - Graffiti

### **Written Materials**

- Flyers/fact sheets to support videos and PowerPoint presentation
- Regular columns in *Insights* and *Citizen News*
- Materials to get people, including children, involved
  - comic books?
  - coloring books?
  - games, e.g., identify 10 things wrong in this picture; is XXX safe or unsafe?

### **Web Information and Links**

- Update web site
  - current information
  - useful links (both within and outside the County)
  - easy to use
- Make sure outreach materials promote website as place to get information
- Post code enforcement hearings
  - Upcoming hearings
  - Hearing results
- Social media (Facebook, Twitter, GovDelivery)

### **EVALUATION STRATEGIES**

- Track response through emails, phone calls, website viewing and drop-ins

### **STAFFING**

- Oversight: Ellen Rogalin, Scott Caufield
- Content: Code Enforcement staff, Scott and Ellen
- Video production, writing, editing, design: videographer from County Cable
- Video and script support: Code Enforcement staff
- Presentations: Code Enforcement Officers

## TIMELINE

- July 2014: Complete outreach plan and obtain approval to move forward -- DONE
- August 1, 2014: Begin making contacts with CPOs and other community groups to schedule 1-2 presentations/month related to the change in officer regions on July 1; ideally first presentations would be in April -- ELLEN
- By August 1:
  - Update PowerPoint presentation, as needed -- ELLEN
  - Draft/update Community Enforcement flyer to support presentation -- ELLEN/ANDREA
  - Initiate video production with County Cable Channel staff -- ELLEN/ANDREA
- Quarterly: prepare tips column for *Citizen News*
- By August 1, 2014: Update website(s) -- ELLEN/ANDREA
- EVENTUALLY: develop proposal for additional materials to get out the code enforcement message in a friendly, fun way, perhaps that could be used with children, at the County Fair, etc., e.g.:
  - Drawings/coloring pages
  - "What's wrong in this picture" sheets



# Final Recommendations: Code Enforcement Performance Review

**Board of County Commissioners Policy Session**

November 4, 2014

# County Code Title 2.07, Compliance Hearings Officer

- Authorize amendments approved in the past:
  - Provide administrative warrant authority in egregious cases where access to properties is otherwise not possible
  - Provide mechanisms (i.e. garnishment authority) for the collection of moneys owed to Clackamas County as a means of last resort
  - Take steps to collect moneys owed to the County
  - Revise Title 2.07 text as needed for consistency, ease of administration, clarity

# Code Enforcement Dispute Resolution (CEDR) Process

- Authorize the creation of a CEDR to provide information and seek solutions
  - Use for cases that are particularly complicated, protracted or contentious that require extra attention and resources to resolve
  - Would be available to qualified cases that are referred by staff or violator
  - May involve County Resolution Services, as needed

# Facilitator/Ombudsman

- Identify someone to serve as an Ombudsman
  - Serve when the Code Enforcement Dispute Resolution process is used
  - Serve in other instances when a neutral party is warranted
  - Help ensure a fair process:
    - For particularly contentious cases
    - Where conflicts exist between staff and violator



# Statement of Rights

- Establish a Code Enforcement *Statement of Rights*
  - Ensure people involved with code enforcement cases are aware of available services
    - Access to CE Dispute Resolution process
    - Appeal rights
    - Potential for waived fees with voluntary compliance
  - Clarify expectations for how people involved in code enforcement cases are to be treated by staff
    - Courteously and respectfully
    - Accurate and timely information and responses

# Recommended Performance Measures

- Continue to adopt performance measures recommended in the CE audit, including those related to:
  - Target timelines for response and case closures
  - Distribution of work
  - Increased supervision/management of CE program
  - Best practices
  - Performance management reports (monthly/quarterly)
  - Process improvements

# Confidential Complaints

- Current directive is to not respond unless two people have filed a confidential complaint
- Recommend changing to following:
  - Respond when there is just one confidential complaint if health, life safety or other hazards are present
  - Continue to require at least two confidential complaints in other, lower priority situations

# Next Steps

- Proceed to amend County Code Title 2.07
- Continue implementing audit recommendations
- Encourage/welcome Commissioners on ride-along's and in the office
- Provide quarterly reports to BCC to review tracked performance measures
- Continue and expand community outreach
- Discuss CE finances at future study session

## Chronological History & Summary of Code Enforcement Changes to Date

**November 2011** – Prior Board of County Commissioners directs staff to implement the following CE policy and procedural changes effective January 01, 2012:

- Hearing Officer rules updated and approved
- Name changed from Code Compliance to Code Enforcement
- New philosophy statement created
- All building code Violations priority 1-7 enforced inside the Urban Growth Boundary (UGB)
- All solid waste of violations priority 1-7 enforced inside UGB
- Solid waste violations priority 1-4 only enforced outside the UGB
- All sign code violations enforced inside the UGB
- No sign code violations pursued outside the UGB
- Three otherwise low priority violations on a single property elevated to Priority 1 and enforced to abatement
- Violations case files only closed after abatement, not when low priority status reached
- Building code violations are not closed until permit is final
- Priority list still used but no longer published online
- Public relations campaign included new video, FAQs, updated webpage, Facebook, and Twitter
- Online complaint form added to Code Enforcement webpage
- Authorized to report unlicensed contractors to the CCB
- Alleged letter updated and revised
- Mandatory notice revised
- Staff authorized to report violations discovered during the normal course of daily work
- Code Enforcement staff will address all violations discovered on property

**January through April 2013** – BCC work session and subsequent study sessions. Current BCC directs staff to implement the following changes effective immediately:

- No longer accept anonymous complaints
- No longer ask if the complainant would like to remain confidential; citizen must request
- Confidential complaints not processed unless two complaints are received from different citizen addresses
- If complaint is *not* confidential, only one complaint is needed to start the process
- If a complaint involves *imminent danger* as determined by the division manager, a single confidential complaint will be processed
- Role of the BCC in CE cases to remain the same as prior boards
- Proceed with CE performance review

**January through April 2013** – Current BCC authorizes these changes but directs staff to not implement pending outcome of CE performance audit:

- Modify Clackamas County Code Title 2.07 to provide administrative warrant authority in egregious cases where access to properties is otherwise not possible
- Modify Clackamas County Code Title 2.07 to provide mechanisms for the collection of moneys owed to Clackamas County including garnishment, seizing state tax refunds etc. as a means of last resort
- Using the measures outlined above, take steps to collect the approximately \$1,000,000 owed to the County in the form of property liens and accrued interest
- Clean up Title 2.07 as needed for consistency, ease of administration etc.

**Staff implemented changes (January through April 2013)**

- Updated complaint form
- Developed new citation form
- Developed template for communication regarding cases with BCC created and approved
- Developed a policy to require building code violations over 10 years old to be reviewed by code enforcement staff with director of appropriate division before enforcement action taken
- Non-enforcement to be determined by director approval after review with Code Enforcement staff, County Counsel, and manager of appropriate department

**June 2013** – File administration fee of \$75.00 per month authorized by current BCC effective September 4, 2013 to defray the cost of enforcement cases

**July 2013** – Contracted with FCS Group for performance /audit

**September 4, 2013** – Monthly file administration fee becomes effective; CE staff begins notifying affected property owners of fee.

**September 30, 2013** – New Accela Automation permitting software implemented; CE begins move toward paperless CE files; improved tracking; online access

**April 23, 2014** – CE Performance Audit completed