

# CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

## Study Session Worksheet

**Presentation Date:** Tuesday, April 24, 2012    **Start Time:** 2:30PM    **Length:** 45 min

**Presentation Title:** Amendments County Code Chapter 2.07 – Code Enforcement

**Department:** Transportation and Development

**Presenters:**  
Cam Gilmour – Director, DTD  
Scott Caufield – Building Codes Administrator, DTD  
Andrea Hall – Code Enforcement Coordinator, DTD  
Rhett Tatum – Assistant County Counsel

**Other Invitees:**

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

Input on the follow-up amendments to Clackamas County Code Chapter 2.07 governing code enforcement and tentative approval to bring the amendments, reflecting any input, before the Board for formal adoption.

### EXECUTIVE SUMMARY:

Following a study session on October 25, 2011 the Board directed DTD to proceed with a number of changes to the County's code enforcement program. The proposed changes were developed after a community outreach effort and are summarized on the attached documents from that presentation.

Implementation of the remaining changes requires amendments to chapter 2.07 of the County Code. Additionally, staff is proposing revisions to make the chapter more consistent with current code enforcement practices. The proposed amendments would:

- (1) Rename the chapter as the "Code Enforcement" chapter of the code.
- (2) Authorize the Code Enforcement, in conjunction with County Counsel, to obtain an administrative warrant when the county has probable cause to believe that there is a violation on the property but has been denied access by the property owner to confirm the violation's existence. Administrative warrants are issued by the circuit court.
- (3) Establish a \$75 dollar a month administrative fee from the date the violation is established until the date it is abated to encourage compliance.
- (4) Clarify that the county may collect fines and fees assessed by the Compliance Hearings Officer through garnishment, which requires a circuit court action.
- (5) Remove the provisions outlining the voluntary compliance agreement. Although staff will continue to work towards voluntary compliance, the procedure outlined in the code is rarely utilized and creates an additional step to achieve compliance.
- (6) Revise the hearings officer procedure to reflect actual practice; specifically, the sequence of issuing continuing and then final orders.

- (7) Standardize the language used throughout the chapter (e.g. fine instead of forfeiture) and the time intervals (15 calendar days throughout).

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

The package of changes previously approved by the Board were not anticipated to require additional FTE. These ordinance amendments are part of that package. Garnishment would likely result in increased revenue.

**LEGAL/POLICY REQUIREMENTS:**

Counsel has researched and outlined the procedures necessary for obtaining administrative warrants and initiating garnishment actions.

**PUBLIC/GOVERNMENTAL PARTICIPATION:**

Prior to the October 25, 2011 study session, staff conducted many months of public outreach including discussions with CPOs, individual citizens and other interested parties. Additionally, the proposed amendments were reviewed by the Code Update Committee on April 4, 2012.

**OPTIONS:**

- (1) Tentatively approve the amendments as presented. Staff will schedule a hearing for formal adoption as soon as possible.
- (2) Tentatively approve the amendments with recommended changes. Staff will make the recommended changes and schedule a hearing for formal adoption.
- (3) Direct staff not to make any changes to the ordinance.

**RECOMMENDATION:**

Staff recommends adopting option 1.

**ATTACHMENTS:**

- Proposed amendments to Clackamas County Code Chapter 2.07
- Memo on proposed changes from October 25, 2011 study session

**SUBMITTED BY:**

Division Director/Head Approval Scott Caufield  
Department Director/Head Approval \_\_\_\_\_  
County Administrator Approval \_\_\_\_\_

For information on this issue or copies of attachments, please contact Scott Caufield\_@ 503-742-4747

## Chapter 2.07

### **2.07 COMPLIANCE CODE ENFORCEMENT** **HEARINGS OFFICER**

#### **2.07.010 Philosophy and Purpose**

Clackamas County's philosophy on code enforcement is to consistently promote a safe and healthy community that will protect property values, enhance livability, and preserve the natural resources of our County through prompt, fair, and equitable enforcement of County codes and ordinances. ~~first take the approach of voluntary compliance and use an enforcement approach only as a last resort. To implement this philosophy, a protocol has been developed as the basis for the enforcement of the code. The approach is to develop solutions based on individual situations and provide broad-based public education. The assumption of the Board of Commissioners is that education of citizens regarding the requirements of our codes will solve most issues and our contacts with affected citizens will be to take an understanding and helpful approach to resolving potential enforcement issues. The above paragraph should reflect the new philosophy.~~

The purpose of this chapter is to implement this philosophy and provide the prompt, effective, and efficient enforcement of the Clackamas County Zoning and Development Ordinance and the following chapters of this code: the Clackamas County Solid Waste and Waste Management chapter, the Application and Enforcement of the Clackamas County Building Code chapter, specifically including all administrative rules and referenced provisions of Section 9.02.040 of that chapter, the Excavation and Grading chapter, the Road Use chapter, and the Abatement of Dangerous Buildings chapter, and the Graffiti chapter. The Office of Compliance Hearings Officer is hereby created. The Compliance Hearings Officer shall act on behalf of the Board of County Commissioners in considering and applying regulatory enactments and policies set forth in this chapter. The Compliance Hearings Officer shall be appointed by the Board of County Commissioners to serve at the pleasure of, and shall be paid a fee for service fixed by, the Board of County Commissioners.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2000, 10/12/00; Amended by Ord. 4-2003, 3/13/03; Amended by Ord. 07-2008, 12/18/08]

#### **2.07.020 Jurisdiction Of Compliance Hearings Officer**

The Compliance Hearings Officer shall have jurisdiction and authority to enforce the chapters cited in Section 2.07.010. In cases filed by the County with the Compliance Hearings Officer, the Compliance Hearings Officer's decision shall be the County's final determination. ~~Judicial review of the Hearing Officer's decision may be sought before the Clackamas County Circuit Court as provided by Section 2.07.130.~~

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 42003, 3/13/03]

#### **2.07.030 Process for Enforcement of Code**

A. Review of Reports - Sufficiency

1. ~~Statement of Facts.~~—When an alleged violation is reported to the County, staff shall evaluate the complaint and conduct a preliminary investigation to identify the priority level, established by policy of the Board of County Commissioners, into which the violation falls. ~~The County shall prepare a statement of the facts and shall review the facts and circumstances surrounding the alleged violation.~~
2. ~~Sufficiency of Evidence.~~—The County shall not proceed further with the matter if it is determined that there is not probable causesufficient evidence to support the allegation, or if the County determines that it is not in the best interest of the County to proceed. [Added by Ord. 4-2003, 3/13/03]

~~B. Voluntary Compliance Agreement.~~

1. ~~The County may enter into a written voluntary compliance agreement with respondent before or after a citation is issued. The agreement shall include the required corrective action, time limits for compliance and shall be binding.~~
2. ~~The fact that a person alleged to have committed a violation enters into a voluntary compliance agreement shall not be considered an admission of having committed the violation for any purpose.~~
3. ~~The County will delay further processing of the alleged violation during the time allowed in the voluntary compliance agreement for the completion of the required corrective action. The County shall take no further action concerning the alleged violation if all terms of the voluntary compliance agreement are satisfied, other than steps necessary to terminate the proceedings against respondent. [Added by Ord. 4-2003, 3/13/03]~~

~~C. Failure to Comply with Voluntary Compliance Agreement. Failure to comply with any term of the voluntary compliance agreement constitutes a separate violation, and shall be handled in accordance with the procedures established by this chapter, except no further notice after the voluntary compliance agreement has been signed need be given before further enforcement proceedings are initiated. The County may also proceed on the alleged violation that gave rise to the voluntary compliance agreement. [Added by Ord. 4-2003, 3/13/03]~~

D. Citation and, Fine and Administrative Fees~~Forfeiture~~; Abatement Requirements.

1. The County may issue respondent a citation for committing failing to correct the violation and may will require the respondent to abate the violation and/or enter into a voluntary compliance agreement within a specified time period. The citation shall contain the same information required to be included in the complaint by section 2.07.040, and the ~~forfeiture~~ fine amount to be paid as a result of committing the violation.
2. Respondent may admit the existence of a violation by paying the ~~forfeiture amount~~ fine and correcting the violation. Payment of the ~~forfeiture~~ fine does not relieve respondent of the requirement to correct the violation. If the violation is disputed, respondent may request a hearing before the Compliance Hearings Officer, as described in this chapter.
3. Citations may be served either by personal service on respondent, ~~Citations may also be served~~ or by certified mail, return receipt requested through the United States Postal Service.

4. The County, in its discretion, may proceed directly into the state court system in any matter to secure compliance with the requirements of this Code.
5. The County may also seek an administrative warrant to determine whether a violation has occurred.

[Added by Ord. 4-2003, 3/13/03]

E. Administrative Fee

Beginning on the date that the County verifies a violation, it may charge respondent(s) an administrative fee every 30 days until the violation is abated. The administrative fee is set by resolution of the Board of County Commissioners and found in Appendix A to this code.

~~E.F.~~ Immediate Remedial Action

If the County determines that the alleged violation presents an immediate danger to the public health, safety or welfare, the County may require immediate remedial action. If the County is unable to serve a citation on the respondent, or, if after such service the respondent refuses or is unable to remedy the violation, the County may proceed to remedy the violation by any means available under law. [Added by Ord. 4-2003, 3/13/03]

**2.07.040 Request For Hearing and Initiation of Proceedings**

- A. Respondent may initiate a proceeding before the Compliance Hearings Officer by providing a written request for a hearing within 105 calendar days of receiving a citation.
- B. If a request for a hearing is filed, the County shall file a complaint with the Compliance Hearings Officer. The County may, for any violation, file a complaint with the Compliance Hearings Officer before or after a citation is issued. The complaint shall contain the following: name and address of the respondent(-s); address or location of the alleged violation; nature of violation, including ordinance provision, County Code provisions, statute or administrative rules section violated; relief sought; and department initiating procedure. Employees of the County's Department of Transportation and Development are authorized to sign and file complaints on behalf of the County.
- ~~B. In a case in which a citation has been issued and the respondent does not wish to contest the existence of the violation and there is economic or financial hardship, respondent may appeal only the forfeiture amount imposed by the citation by initiating a proceeding before the Compliance Hearings Officer. The only issue before the Compliance Hearings Officer in such a proceeding is whether the respondent establishes sufficient economic or financial hardship to justify reduction of the forfeiture amount.~~

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

**2.07.050 Notice of Hearing**

- A. The notice shall contain a statement of the time, date, and place of the hearing. A copy of the Complaint and the Statement of Rights described in Section 2.07.060 shall be attached to the notice. Notice shall be mailed or delivered at least 15 calendar days prior to the hearing date.
- B. ~~The Compliance Hearings Officer~~ Code Enforcement staff shall give respondent(s) notice of the hearing, cause notice of the hearing to be given to the respondent(s) either personally or by registered-certified mail with return receipt requested. Notice may be

delivered to the property or to the mailing address of the owner of the property as listed on the County tax roll. Notice is considered complete on the date of personal delivery or upon deposit in the U.S. mail.

- C. The failure of any person to receive notice properly given shall not invalidate or otherwise affect the proceedings under this Chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

### **2.07.060 Statement of Rights**

- A. The Compliance Hearings Officer shall inform each party ~~in writing of the~~ following matters:
1. A general description of the hearing procedure including the order of presentation of evidence, what kinds of evidence are admissible, whether objections may be made to the introduction of evidence and what kind of objections may be made, and an explanation of the burdens of proof or burdens of production of evidence;
  2. That a record shall be made of the proceedings and the manner of making the record and its availability to the parties;
  3. The function of the record-making with respect to the perpetuation of the testimony and evidence and with respect to any appeal from the order of the Compliance Hearings Officer;
  4. ~~Whether an attorney will represent the County in the matters to be heard and the respondent's right to be represented by an attorney at their expense;~~
  54. The title and function of the Compliance Hearings Officer, including the effect and authority of the Compliance Hearings Officer's determination; and,
  65. That the decision of the Compliance Hearings Officer may be appealed as described in Section 2.07.130, and that the appellant shall pay all costs of the appeal including costs for preparation of a transcript.
- B. The failure to give notice of any item specified in Subsection A of this Section shall not invalidate any order of the Compliance Hearings Officer unless on review a court finds that the failure affects the substantive rights of one of the parties. In the event of such a finding, the court shall remand the matter to the Compliance Hearings Officer for a reopening of the hearing and shall direct the Compliance Hearings Officer as to what steps shall be taken to remedy any prejudice to the rights of any party.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

### **2.07.070 Procedure In Compliance Hearings**

- A. Hearings to determine whether a violation has occurred shall be held before the Compliance Hearings Officer. The County must prove the violation alleged by a preponderance of the admissible evidence.
- B. Unless precluded by law, informal disposition of any proceeding may be made, with or without a hearing, by stipulation, consent order, agreed settlement, or default.
- C. A ~~Party~~ party may elect to be represented by counsel at his ~~or~~ /her own expense and to respond to and present evidence and argument on all issues involved.

- D. A ~~Party~~ party may request that a hearing be held telephonically. The Compliance Hearings Officer has the discretion to grant or deny a request for a telephonic hearing for any reason.
- E. A ~~Party~~ party may request that an appeal to the Compliance Hearings Officer be conducted solely based on written submissions by the parties, without a hearing. The Compliance Hearings Officer may grant a request for appeal based only on written submissions if, and only if, all parties agree in writing to waive a hearing and to proceed through written submission only.
- F. An order adverse to a party may be issued upon default only upon a prima facie case made on the record before the Compliance Hearings Officer.
- G. Testimony shall be taken upon oath or affirmation of the witness. The Compliance Hearings Officer may administer oaths or affirmations to witnesses.
- H. The Compliance Hearings Officer shall issue subpoenas to any party upon showing of general relevance and reasonable scope of the evidence sought. Witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the County, shall receive fees and mileage as prescribed by law for witnesses in civil actions from the party requesting their testimony. Any party requesting the issuance of a subpoena shall pay applicable fees and mileage at the time the issuance of a subpoena is requested.
- I. If any person fails to comply with any subpoena so issued, or any party or witness refuses to testify on any matters on which he~~/~~ or she may be lawfully interrogated, a judge of the Circuit Court for Clackamas County, on the application of the ~~Compliance Hearings Officer, or of the~~ party requesting the issuance of the subpoena, may compel obedience by proceedings for ~~Contempt~~ contempt as in the case of disobedience of the requirements of subpoena issued from such court or a refusal to testify therein.
- J. The Compliance Hearings Officer shall place on the record a statement of the substance of any written or oral ex parte communications made to the Compliance Hearings Officer on a fact in issue during the pendency of the proceedings. The Compliance Hearings Officer shall notify the parties of the communication and of their right to rebut such communications.
- K. The record of the case shall include:
1. All pleadings, motions, and intermediate rulings;
  2. Evidence received;
  3. Stipulations;
  4. A statement of matters officially noticed;
  5. Questions and offers of proof, objections, and ruling thereon;
  6. A statement of any ex parte communications on a fact in issue made to the Compliance Hearings Officer during the pendency of the proceedings;
  7. Proposed findings and exceptions; and
  8. ~~The All continuing order and final orders~~ prepared by the Compliance Hearings Officer.
- L. A verbatim, written or mechanical record shall be made on all motions, rulings, and testimony. The record need not be transcribed unless requested for purposes of court review. The ~~Compliance Hearings Officer~~ County shall charge the party requesting transcription the cost of transcription in advance. Failure to pay the transcription fees shall constitute a separate ground for denial of review of the decision of the Hearings Officer.

- M. Enforcement proceedings before the Compliance Hearings Officer shall be conducted in accordance with the procedure set forth in this Chapter. The Compliance Hearings Officer may promulgate reasonable rules and regulations, not inconsistent with this Chapter, concerning procedure and the conduct of hearings.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

#### **2.07.080 Presentation of Evidence**

- A. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Erroneous rulings on evidence shall not preclude action by the Compliance Hearings Officer unless shown on the record to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible. The Compliance Hearings Officer shall give effect to the rules of privilege recognized by law.
- B. All evidence shall be offered and made a part of the record in the case, and except for matters stipulated to and except as provided in Subsection D of this Section, no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.
- C. Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.
- D. The Compliance Hearings Officer may take notice of judicially recognizable facts, and the Compliance Hearings Officer may take official notice of general, technical, or scientific facts within the specialized knowledge of County employees. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of material officially noticed and they shall be afforded an opportunity to contest the facts so noticed.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/3/03]

#### **2.07.090 Powers Of The Compliance Hearings Officer**

- A. The Compliance Hearings Officer shall order a party found in violation to comply within such time as the Compliance Hearings Officer may by order allow. The order may require such party to do any and all of the following:
1. Make any and all necessary repairs, modifications, and/or improvements- to the structure, real property, or equipment involved;
  2. Obtain any and all necessary permits, inspections and approvals;
  3. Order compliance as appropriate under the State Building Code, as defined in ORS 455.010(8);
  4. Install any equipment necessary to achieve compliance;
  5. Pay to Clackamas County a civil penalty, the amount of which shall be determined by the Compliance Hearings Officer within the range established by the Board of County Commissioners pursuant to Section 2.07.120;
  6. ~~Reimburse Clackamas County for actual costs incurred in conjunction with the enforcement action;~~



- ~~76.~~ Pay any accumulated administrative compliance fees established by the Board of County Commissioners pursuant to Section 1.01.090, which will be an estimated amount of the cost of enforcement, not to exceed actual cost;
- ~~78.~~ Order the eviction of any tenant from any property on which there exists a violation. Such an eviction will be performed in compliance with Oregon law;
- ~~79.~~ Abate or remove any nuisance;
- ~~810.~~ Change the use of the building, structure, or real property involved;
- ~~911.~~ Pay a reduced forfeiture fine amount;
- ~~1012.~~ Undertake any other action reasonably necessary to correct the violation.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03; Amended by Ord. 04-2010, 4/22/10]

### **2.07.100 Orders Of The Compliance Hearings Officer**

- A. Every order adverse to a party to the proceeding shall be in writing or stated in the record and may be accompanied by an opinion.
- B. Findings of fact and conclusions of law shall accompany a continuing final order. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the Compliance Hearings Officer's order.
- C. The Compliance Hearings Officer shall notify the respondent of a continuing final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to the respondent or, if applicable, the respondent's attorney of record.
- D. After issuing a continuing order and following a reasonable opportunity to abate any violations, the Compliance Hearings Officer shall issue a final order and notify the respondent(s) by the same means described in Subsection C of this Section. The Compliance Hearings Officer shall also issue a final order within 1415 days of being notified by the County determining that the violation has been abated or that the case is proceeding to circuit court. within 14 days from the conclusion of the hearing.
- ~~D~~E. Every final order shall include a citation of the ordinance or title, chapter and section under which the order may be judicially reviewed.
- ~~E~~F. A final order shall become effective ten 10 calendar days after the date it is signed by the Compliance Hearings Officer, unless a party makes objections to the form of the order before it becomes effective. Before the final order becomes effective, any party may object to its form by notifying the Compliance Hearings Officer and any other party of the objection in writing. If objections are made, the final order shall become effective on the date the Compliance Hearings Officer signs the amended final order, or the date the Compliance Hearings Officer states in writing that the final order will not be amended.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

### **2.07.110 Enforcement Of Compliance Hearings Officer Orders**

- A. Fines and costs are payable upon the effective date of the final order declaring the fine and costs. Fines and costs under this Chapter are a debt owing to the County, pursuant to ORS 30.460, and may be collected in the same manner as any other debt allowed by law.

If fines or costs are not paid within 60 days after payment is ordered, the County may file and record the order for payment in the County Clerk Lien Record.

- B. The County may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any order of the Compliance Hearings Officer, including, an action to obtain judgment for any civil penalty imposed by an order of the Compliance Hearings Office pursuant to Section 2.07.090.5 and/or any assessment for costs and administrative compliance fees imposed pursuant to Sections 2.07.090.A.6 and 2.07.090.A.7.
- C. The County may collect money awarded to it in a final order of the Compliance Hearings Officer or judicial judgment by any lawful means, including garnishment.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

**2.07.120** ~~2.07.120~~ **Civil Penalty Fines**

- A. The civil penalties fines for this chapter of the Code, that may be imposed by the Compliance Hearings Officer, shall be set by resolution of the Board of County Commissioners and are found in Appendix B of this code.

A.B. As used in this section, fines shall include civil penalties authorized by state law.

[Added by Ord. 04-2003, 3/13/03; Amended by Ord. 04-2010, 4/22/10]

**2.07.130 Judicial Review**

Review of the final order of a Compliance Hearings Officer under this Chapter by any aggrieved party, including Clackamas County, shall be by writ of review as provided in ORS 34.010 - 34.100, unless the Hearings Officer makes a land use decision, in which case the land use decision may be reviewed by the Land Use Board of Appeals pursuant to ORS Chapter 197.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

# **Proposed Code Compliance Program Changes**

Date: October 25, 2011

## **Introduction**

The following recommendations were developed after many months of research and with significant public input. These proposed changes address many of the concerns raised by CPOs, citizens and other interested persons and resolve many of the issues faced by staff related to the current Code Compliance policies and prioritization system.

## **Philosophy Statement**

The current code compliance program is based on the philosophy that staff first "take the approach of voluntary compliance and use an enforcement approach only as a last resort." While staff still believes that it should encourage and promote voluntary compliance wherever possible, the following proposed philosophy statement more clearly identifies the County's current thinking on matters related to the enforcement of its codes and ordinances:

“Consistently promote a safe and healthy community that will protect property values, enhance livability, and preserve the natural resources of our County through prompt, fair, and equitable enforcement of County codes and ordinances”

## **Encourage Voluntary Compliance**

The County should continue its efforts to encourage voluntary compliance. Toward that end, the County should establish an incentives-based program similar to the City of Portland's "Get Legal" program which will encourage citizens to voluntarily bring their properties into compliance. Staff recommends the following minimum program recommendations:

- The program should contain a comprehensive community education and outreach component to inform citizens of the importance of permitting and to provide a basic understanding of the County's adopted rules and ordinances
- Waive monthly file maintenance fee if brought forward voluntarily
- Waive penalties if brought forward voluntarily
- Brand the program and market heavily to ensure citizens know of and understand the program (Citizen News, realtor groups etc.)

## Administrative Changes

The following proposed administrative changes are reflective of both a comprehensive internal review of the current program and comments heard frequently in our public meetings and through the online survey conducted in February 2011.

- Assess a \$75.00 per month file maintenance fee from the date a violation is confirmed and continue to assess until the violation file is closed. Current practice is to assess this fee only if a violation goes to hearing. This change assures better cost recovery and also provides an incentive for the property owner to resolve the matter more quickly.
- Keep the violation file open until the required permits are finalized. Current practice is to close a violation file once a permit application is issued, which encourages violators to not follow through and complete the construction or corrective work.
- Use garnishments, the collection of state tax refunds, or other creative means to collect money to help offset the cost of code enforcement. Attach citations and/or civil penalties to building permits and collect at the time of permit issuance. Current practice is to use liens as the only means of collection, which is only marginally useful. The county currently recovers only a very small percentage of its enforcement costs.
- Formally publish the current practice for the handling of all violations to ensure an equitable, swift and predictable process:

Receive complaint and determine if enforceable  
Send alleged letter (10 day response)  
If no response, verify violation and send notice of violation (10-30 days response)  
If no response, issue citation and refer to Hearings Officer (10 days to pay)  
Conduct hearing; issue order and assess administrative fees and civil penalties

- Maintain the complaint-driven program but enable staff to report violations discovered in the performance of their normal daily duties. Current policy prohibits staff from reporting violations unless serious health or life-safety related.
- Address all violations discovered on a property, not just those for which we receive a complaint. Current practice is to address only those violations for which the County actually receives a complaint.
- Change the name of the program to Code Enforcement, to more accurately reflect the work currently performed in the program.
- No longer publish the Violation Priority Matrix. Instead, use it as an internal tool for staff to evaluate the priority and nature of a violation more consistently. Current practice is to publish the matrix which essentially tells citizens just how far they can go without fear of retribution.

- Publish the overarching principles of enforcement that the County will pursue (all life-safety and health-related violations, any violation which has the potential to cause significant environmental damage etc.)
- Establish different priority levels for different categories of violations. For example, all building code violations are life, health and safety related and therefore all should be pursued. Current practice is to pursue only violations 1-4 which leaves some building safety issues unresolved.
- Establish authority for administrative warrants to gain access to properties where access is otherwise not possible and where all reasonable attempts have failed. The County currently has no way to access properties where they are denied access. This can be a significant issue in environmental matters. Such authority would be used judiciously and only as a last resort.
- Devise a means of communication with CPO groups and other interested persons to ensure that they are informed of violation activity within their areas. This will be accomplished in part with the County's new permitting system, Accela Automation, which will be implemented January 2013.

#### **Livability Issues:**

Complaints related to livability represent a significant number of calls to the Division.. These complaints typically include but are not limited to noise, solid waste or "junk", barking dogs, tall grass and signs. Livability related complaints frequently involve low priority violations or issues for which there is not presently an ordinance that provides authority. A significant amount of staff time goes into the handling of these complaints despite that fact the we do not formally pursue them in the current code compliance program. Staff proposes the following in an effort to address some livability related complaints while still being mindful of resources. All actions proposed will be without site verification.

- **Signs** - within the UGB, when a complaint is received and it can be determined that the signs in question are in violation of the county's sign ordinance or that they are located in a right of way, it is proposed that a letter outlining the complaint and necessary corrective action be sent to the business whose name appears on the sign. If unresolved in a prescribed period of time, a citation would be issued to same.
- **Noise** - the County's noise ordinance is currently administered through the Sheriff's Office. The Code Compliance section receives a large number of calls related to noise and refers these matters to the sheriff as they occur. Staff recommends that the BCC enter into a dialogue with the Sheriff's Office to increase/improve enforcement of noise related complaints.

- **Barking dogs** - the County currently has no ordinance which addresses barking dogs. Should one be considered, it is recommended that it be administered with other noise-related complaints.
- **Solid waste** - low-priority solid waste or "junk" complaints represent a significant number of the calls received by the Division and a particularly frustrating issue for citizens, especially within the Urban Growth Boundary (UGB). It is proposed that the County begin enforcement on all solid-waste complaints within the UGB.
- **Tall grass / weeds** - the County currently has no ordinance which addresses tall grass and weeds. Should one be considered, it is recommended that it be administered as is proposed for signs and only within the UGB..
- **Multiple low-priority violations** - it is proposed where 3 or more otherwise low priority violations are discovered on a property, the collection of violations would be elevated to Priority 1 and pursued accordingly.

#### **Prioritization Methodology and Program Changes:**

The following two options are offered for consideration:

##### **Plan A: Enforce all codes**

In this plan, all of the proposed changes above would be implemented and the current prioritization system would be abandoned. Since all codes and ordinances would be enforced regardless of the nature of the complaint, it would no longer be necessary to prioritize violations in the same way we have done the last 11 years.

Because the Division has not tracked low-priority or other unenforceable violations, there is no way to know definitively how many additional violation files would be created each year. We do know through recent tracking, however, that we receive approximately 10 low-priority complaints per week. Considering this volume over the course of a year, this would mean potentially an additional 520 case files per year in addition to the 800-850 files currently opened per year or a potential 60% increase in violation activity.

This option would almost certainly necessitate an increase in staff which is estimated to be 1-2 FTE (\$85,000 - \$170,000). The current program (staffed with 5 FTE) operates with an annual deficit of between \$200,000 and \$250,000 as was discussed with the BCC in May 2010. The General Fund currently contributes \$189,354 for Land Use and Zoning related violations. The deficit figure is over and above the General Fund contribution.

**Plan B: Retain but Modify the Violation Priority Matrix**

In this plan, all of the proposed changes above would be implemented and various elements of the current violation priority system would be modified, as follows:

- Enforce all building code related violations throughout the County (life, health & safety)
- Enforce all solid waste violation within the UGB (livability issues)
- Enforce solid waste levels 1-4 outside the UGB as is currently done
- Enforce Planning and Zoning, WES and Engineering violations level 1-4 throughout the County as is currently done
- Once the impacts of the above changes are understood, selectively increase the enforcement of violations ranked level 5 and monitor the impacts on staff and resources

This proposal adds a more manageable case load (perhaps 100-200 additional cases per year) and affords the option to monitor and track how our resources are impacted. Staff levels would remain the same and we would closely monitor work loads, response times, increased costs of enforcement to the Divisions etc.

As outlined in Plan A above, the current program (staffed with 5 FTE) operates with an annual deficit of between \$200,000 and \$250,000 which, to date, is unresolved. The General Fund currently contributes \$189,354 for Land Use and Zoning related violations.

Respectfully submitted,

Scott Caufield, CBO  
Building Codes Administrator