



CITY COUNCIL AGENDA REPORT

MEETING DATE: AUGUST 3, 2010

ITEM NO:

SUBJECT: PLANNING COMMISSION RECOMMENDATIONS FOR CODE AMENDMENTS AND CODE ENFORCEMENT ACTIVITIES

DATE: JULY 22, 2010

FROM: DEVELOPMENT SERVICES DEPARTMENT

**PRESENTATION BY: MEL LEE, SENIOR PLANNER
KIMBERLY BRANDT, DIRECTOR**

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RECOMMENDATION:

Direct staff to proceed with one or more of the following Planning Commission recommendations:

1. Amend Title 13, Chapter VIII (Zoning Code, Signs) to provide specific time limits for temporary signs (banners) on commercial properties.
2. Amend Title 20 (Property Maintenance Standards) to further restrict the storage of inoperative vehicles on residential properties.
3. Prepare a Pilot Enforcement Program for a designated neighborhood.
4. Reassign the supervision of the Code Enforcement Section to the Assistant City Manager.
5. Modify Code Enforcement procedures for issuance of citations for Municipal Code violations by allowing the immediate issuance of "fix-it ticket type" citations for first-time Property Maintenance violations and to immediately issue regular citations for repeat Property Maintenance violations.

BACKGROUND/ANALYSIS:

At the July 13, 2010 City Council Study Session, Council reviewed the following proposed Municipal Code revisions and Code Enforcement Priorities presented by Planning Commissioners Fitzpatrick and Mensinger, on behalf of the community, and staff. Attachment 1 contains their PowerPoint presentation.

Item 1. Amend Title 13, Chapter VIII (Zoning Code, Signs) to provide specific time limits for temporary signs (banners) on commercial properties.

Although banner signs, such as those for special sales, grand openings, etc., are considered temporary signs under the Zoning Code, the Code does not specify a time limit for such signs. Commission believes that a specific time limit, as well as requirement for a separate banner permit, will ensure that these types of signs are not used as a substitute for permanent signs for commercial businesses.

Item 2. Amend Title 20 (Property Maintenance Standards) to prohibit the storage of inoperative vehicles on residential properties.

Currently, Title 20 allows the storage of inoperative vehicles on the driveways of residential properties as long as the vehicle has a fitted cover. However, Commission believes this type of vehicle storage should be prohibited in residential zones whether the vehicle is covered or not. Photos showing various properties not in compliance with current Title 20 provisions for vehicle storage, provided both by Commissioners and residents, were presented during the meeting. A copy of the Council Study Session memo with the photos can be found on the City's website at the below link:

[http://www.ci.costa-mesa.ca.us/council/study-session/2010-07-13/71310Code Enforcement.pdf](http://www.ci.costa-mesa.ca.us/council/study-session/2010-07-13/71310Code%20Enforcement.pdf)

Item 3. Authorize staff to prepare a Pilot Enforcement Program for a designated neighborhood.

Commission recommended a pilot program for a designated neighborhood to better monitor enforcement activities and to reflect the needs of the area. If Council approves this program in concept, staff will work with the Commission to identify the neighborhoods to be targeted and specific concerns to be addressed. Once the area(s) are identified, staff will return to Council for approval prior to commencing the targeted work effort.

Item 4. Reassign Code Enforcement supervision to the Assistant City Manager.

Currently Code Enforcement is under the direct supervision of the Building Official. Commission notes that several jurisdictions have Code Enforcement report directly to the City Manager's Office and believes this would help elevate and emphasize the importance of Code Enforcement to the community, as well as improve the way Code Enforcement is currently implemented.

As noted at the Council Study Session, staff does not recommend approval of this item for the following reasons.

Staff's recent survey of all 34 Orange County cities indicated that only Newport Beach presently has Code Enforcement as a direct report to the City Manager's office. Newport Beach chose to do so because water quality falls under Code Enforcement in their City. The City Manager is currently considering options to

reassign the function to Public Works or Planning. But aside of other jurisdictional practices, there are more concrete, specific concerns.

At present, supervision of Code Enforcement requires approximately 75% of the time of the Principal Planner/Zoning Administrator. Assuming the intent is to elevate and emphasize the importance of Code Enforcement, it's reasonable to expect an equivalent amount of time required of the Assistant City Manager (ACM) if the function is transferred. This would mean that 75% of the ACM's current responsibilities will have to be reassigned or eliminated.

Furthermore, Code Enforcement relies extensively on data from the Planning and Building Safety Divisions of the Development Services Department. While technology can largely overcome access to this information retained by the Development Services Department, it cannot replace the day-to-day- interaction between Code Enforcement Officers, Planners, and Building Inspectors.

While the vast majority of Code Enforcement issues are routinely handled, there is always a small percentage that takes on "added dimensions" for any numbers of reasons. It is not uncommon for these Code Enforcement matters to rise to the City Council level and require follow up through the City Manager's office. This provides for a degree of "check and balance" between the Department responsible for enforcement (Development Services) and the Department responsible for oversight and direction (City Manager's Department). Consolidation of Code Enforcement under the City Manager's Department eliminates that check and balance.

Item 5. Modify Code Enforcement procedures for issuance of citations.

During the study session, there was discussion between the Council and Commissioners Mensinger and Fitzpatrick regarding a "fix-it" type citation as a tool to shorten the overall timeframe to correct Property Maintenance code violations. Council requested staff to provide additional information on the proposal.

Since 2000 when Council first adopted Title 20, the City's private property maintenance regulations, Council has directed Code Enforcement staff to work with both property and business owners to seek voluntary compliance without the immediate issuance of citations.

Given that direction, staff generally seeks to establish personal contact with the responsible party prior to sending any written notice of a Code violation. Once contact is made, but the responsible party cannot or will not immediately correct the violation, then staff will open a case and send written notification of the violation with generally a 30-day correction period. Attachment 2 outlines this process.

This process is time consuming for Code Enforcement staff, and given the recent loss of four and one-half staff positions due to budget constraints, this practice can no longer be sustained. Additionally, there are numerous properties where there are "repeat offenders". A "repeat offender" is a property or business owner that has a

history of being contacted by Code Enforcement to correct a violation, which they do in a timely fashion; therefore a citation is not issued. But after awhile, the responsible party repeats the same violation, and the cycle starts all over again without the issuance of any citation. In many instances, this is an ongoing and frustrating cycle for staff.

The "fix-it" citation proposal simply involves Code Enforcement staff immediately issuing a citation at the time they observe a first-time violation. The citation would include the proviso that the fine (\$150.00) will be waived if the responsible party corrects the violation and requests an inspection by Code Enforcement within the specified time frame.

This process is compared to the current procedure in Attachment 2, and staff anticipates it will result in a typical overall time savings of 35 days. Additionally staff believes that the immediate issuance of a "fix-it" citation will be a strong incentive for the responsible party to correct the violation.

In respect to "Repeat Offenders", staff recommends that a citation be immediately be issued to the responsible party, without the "fix-it" proviso. Staff believes that once the responsible party is required to pay a fine, the repetitive cycle will end.

Finally, staff notes that not all Code violations will be given an initial 30 days to correct, particularly when there are significant life safety issues involved or it is just a matter of removing an illegal vehicle, sign, material, etc. Attachment 3 provides a sample list of violations that will have a shorter correction timeframe.

The immediate "fix-it" citation approach will provide a significant incentive for responsible parties to correct their first-time violations within the specified time frame. The immediate issuance of a citation to "repeat offenders" will also be a deterrent for future violations. Given the reduction of Code Enforcement Officers, staff believes that both procedural changes will result in a more effective and efficient use of staff resources. This procedural change will have no effect on the City's existing procedure for a resident or business owner to contest a citation.

Staff also notes that even with the implementation of a more streamlined enforcement approach, the reduced number of Code Enforcement officers will result in future enforcement priority being given to complaints received and proactive enforcement as time permits.

CONCLUSION:

The Planning Commission recommends that Council authorize and direct staff to proceed with the above recommended actions. Should Council direct staff to move forward with Items 1, 2, and/or 3, staff will prepare the appropriate implementation documents and return to Commission and Council for final approval. In respect to Items 4 and 5, staff can implement either of these recommendations based on Council's direction with no further Council action required.



MEL LEE, AICP
Senior Planner



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Development Services Director

- Attachments:
1. July 13, 2010 PowerPoint presentation
 2. New Property Maintenance Violation
 3. Sample Code Violations

Distribution:

- Planning Commission
- City Manager
- Asst. City Manager
- City Attorney
- Public Services Director
- Transportation Svs. Mgr.
- City Clerk (2)
- Staff (4)
- File (2)

File: 080310Title20CodeEnf	Date: 072210	Time: 2:30 p.m.
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Title 20 – Code Enforcement Planning Commission Recommendations

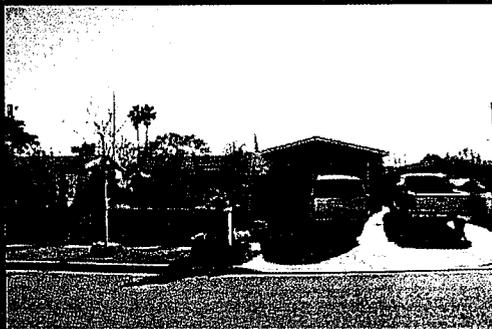
- The following represents months of discussion, formal & informal meetings, picture taking, investigation, follow up and vetting of recommendations.
- Input by Residents, Commissioners, Staff, Business, individually and collectively and represents the communities desire for change.

Tuesday, July 13, 2010

General Observations

- Costa Mesa is a mature, built out City
 - A great deal of consideration is given to infill, planning and renovation.
- Costa Mesa does not have the advantage of Home Owner's Associations and their oversight of standards.
- Title 20 was put in place to address the absence of HOA's to maintain and enhance property standards thus increasing property values of residential and commercial , encourage ownership and attract/retain families
- Voluntary compliance has failed in it's current form, and cost the City precious dollars and resources.
- The exceptions are defining neighborhoods both favorably and unfavorably. For purpose's of discussion our analysis is focused on the unfavorable exceptions and the impact on those neighborhoods.
- Title 20 is a good document ... issue is enforcement, culture and clear understanding
 - This applies to those that enforce, implement and reside or work
- Costa Mesa is a culturally rich and unique City with lots of character
 - It is clear that Residents, Businesses and Elected Officials want to effectively cure blight
 - Focus on the major violations, multiple violations and concentrations of violations
 - We need to retain the character of our community while addressing blight
 - This is about the obvious, about families, businesses, perceptions and perceptions of who we are.
- City currently spends between \$800k and \$1.3M on Code Enforcement (Not including indirect costs)
 - Average visit cost is \$300 for Code Enforcement if this department were a Airline it would be grounded
 - Staff Update 7/12/2010 illustrates the problem. Multiple visits , no citations issues, wasted time and resources
 - CE spends much of its time on work arounds because of the lack of clarity.
- Code Enforcement Team starving for clear direction and clarification to enforce existing codes
- Current culture of Code Enforcement is one of workarounds and curbside counseling to achieve compliance
 - Example: Covers on inoperative vehicles. Now we have an inoperative pick up truck, on blocks, on a sloped driveway ... with a cover. This is an enormous point of frustration with the community.

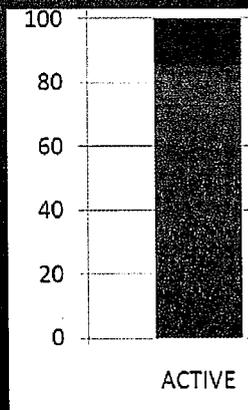
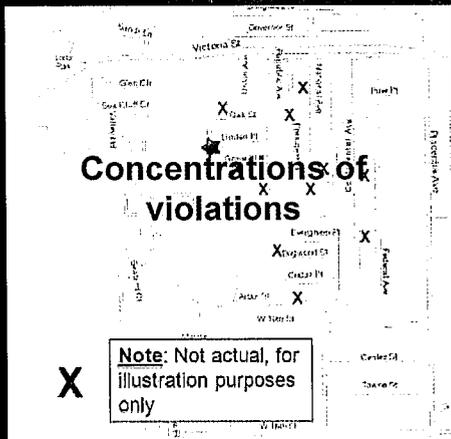
Pictures are Necessary



Many Homes with Investments and Improvements



Many Homes with opportunities for improvement. Many have a history of blight and other violations



35% voluntary Compliance

Does not address blight that has yet to be formally identified

Go Forward Recommendations

- **Affirm Title 20 Ordinance ... Enforcement of existing codes is the Issue**

- **What & How**

- 1. **Specific Time limits for temporary signs on commercial properties**

- 1. "Nothing more permanent than a temporary banner"
 - 2. Staff to recommend time and permit process with Chamber involvement

- 2. **Prohibit storage on inoperative vehicles on residential properties**

- 1. Easy to identify, will cure blight in several neighborhoods

- 3. **Pilot Program for designated neighborhoods**

- 1. Budget realities are that immediate enforcement City wide is not possible
 - 2. Resources and community support exists, can concentrate on education & outreach, etc
 - 3. True up process, improve and refine process as efforts move to other neighborhoods or to commercial

- 4. **Code enforcement to report into the City Manager's Office, directly to Asst City Manager**

- 1. Common best practices of Cities with successful Code Enforcement efforts
 - 2. Elevates importance of Department within City and sends appropriate message to community
 - 3. Can be simply implemented, no physical change required in terms of office move, etc
 - 4. Provides a barrier between those that oversee and those that implement

- 5. **Others, not included, perhaps for future consideration**

- 1. Planning Commission unanimous in support of improved facts and data. Invest in technology or tracking. Can't manage what you don't measure.
 - 2. Implement Fix it ticket to more efficiently achieve voluntary compliance. The ticket is a warning and compliance waives the fine.
 - 1. Time would exist to comply without fine
 - 2. Can also consider immediate fines for obvious (i.e. parking a Semi in the driveway)



ATTACHMENT 2

PROPERTY MAINTENANCE VIOLATION (FIRST TIME)

CURRENT CODE ENFORCEMENT PROCEDURE	PROPOSED CODE ENFORCEMENT PROCEDURE
VIOLATION IS RECEIVED BY COMPLAINT OR FIELD OBSERVATION:	
OFFICER OBSERVES VIOLATION; CASE OPENED	
LETTER OF VIOLATION MAILED TO PROPERTY OWNER WITH TYPICAL 30 DAYS TO CORRECT.	"FIX-IT" CITATION (\$150.00) MAILED TO PROPERTY OWNER WITH TYPICAL 30 DAYS TO CORRECT AND <u>AND</u> HAVE CITATION WAIVED.
CODE ENFORCEMENT OFFICER INSPECTS PROPERTY TO ENSURE CORRECTION- CASE CLOSED IF VIOLATION CORRECTED.	PROPERTY OWNER CONTACTS CODE ENFORCEMENT AND REQUESTS INSPECTION TO VERIFY CORRECTED VIOLATION. \$150.00 FINE WAIVED IF VIOLATION CORRECTED
TIME ELAPSED: APPROX. 35 DAYS	TIME ELAPSED: APPROX. 35 DAYS
IF VIOLATION IS NOT CORRECTED:	
1 ST CITATION ISSUED WITH TYPICAL 30 DAYS TO CORRECT	2 ND CITATION ISSUED WITH TYPICAL 15 DAYS TO CORRECT
CODE ENFORCEMENT OFFICER INSPECTS PROPERTY TO ENSURE CORRECTION- CASE CLOSED IF VIOLATION CORRECTED. NO WAIVER OF ANY FINE.	
TIME ELAPSED: APPROX. 70 DAYS	TIME ELAPSED: APPROX. 55 DAYS
IF VIOLATION IS NOT CORRECTED:	
2 ND CITATION ISSUED WITH TYPICAL 15 DAYS TO CORRECT	3 RD CITATION ISSUED WITH TYPICAL 7 DAYS TO CORRECT
CODE ENFORCEMENT OFFICER INSPECTS PROPERTY TO ENSURE CORRECTION- CASE CLOSED IF VIOLATION CORRECTED. NO WAIVER OF ANY FINE.	
TIME ELAPSED: APPROX. 90 DAYS	TIME ELAPSED: APPROX. 65 DAYS
IF VIOLATION IS NOT CORRECTED:	
3 RD CITATION ISSUED WITH TYPICAL 7 DAYS TO CORRECT	CASE IS SENT TO THE CITY PROSECUTOR
CODE ENFORCEMENT OFFICER INSPECTS PROPERTY TO ENSURE CORRECTION- CASE CLOSED IF VIOLATION CORRECTED. NO WAIVER OF FINE.	
TIME ELAPSED: APPROX. 100 DAYS	
IF VIOLATION IS NOT CORRECTED:	
CASE IS SENT TO THE CITY PROSECUTOR	



ATTACHMENT 3

SAMPLE CODE VIOLATIONS THAT WILL BE GIVEN LESS THAN 30 DAYS TO CORRECT:

- 1. VEHICLES (OPERATIVE OR INOPERATIVE) ILLEGALLY PARKED OR STORED**
- 2. COMMERCIAL VEHICLES PARKED ON RESIDENTIAL PROPERTIES**
- 3. HAZARDOUS BUILDING CONDITIONS**
- 4. HAZARDOUS SWIMMING, WADING, JACUZZI POOL CONDITIONS**
- 5. ILLEGAL BANNERS, BALLOONS, TEMPORARY SIGNS ON PRIVATE AND PUBLIC PROPERTY**
- 6. TRASH AND DEBRIS**
- 7. SHOPPING CARTS**
- 8. GRAFFITI**
- 9. ILLEGAL STORAGE IN PUBLIC VIEW**
- 10. LIVING IN A GARAGE, RECREATIONAL VEHICLE, ETC.**