



M E M O R A N D U M
COMMUNITY DEVELOPMENT RESOURCE AGENCY
ADMINISTRATION
County of Placer

TO: Board of Supervisors

DATE: April 13, 2021

FROM: Steve Pedretti, Agency Director

BY: Steve Pedretti, Agency Director

SUBJECT: Code Compliance Program Status Update

ACTION REQUESTED

1. Receive a report updating the Board of Supervisors on the Code Compliance Program.

BACKGROUND

Over the past several years the Code Compliance program has grown considerably. County Departments are relying upon Code Compliance to assist with gaining compliance more than ever before, including requests for dangerous building, grading, noise, parking, and trash enforcement. Historically, enforcement of the Zoning Code was performed by planners (until the late 1980's). In approximately 1987 the Planning Department hired their first Code Enforcement Officer. The Code Enforcement unit grew over time to one supervisor and several officers. The Code Enforcement Division was part of the Planning Department until the Community Development Resource Agency (CDRA) was formed in late 2005, and as part of the CDRA organizational structure it was moved to the Building Department. This was not uncommon, as many local communities realigned Code Compliance under the direction of the Building Department during the establishment of Community Development Departments.

For this reason, the Building Department employed a new Assistant Chief Building Official in 2007 and was directed to develop and implement a Code Enforcement Procedure Manual, which was accomplished. In early 2009 the Code Enforcement Supervisor retired. Due to the "Great Recession" no new staff was being hired. Building Services began to experience an uptick in building permits in 2011. The Chief Building Official requested assistance with the day-to-day oversight of Code Enforcement at that time and it was decided that a Supervising Planner (George Rosasco, at the time) would supervise the day-to-day operation of the Code Enforcement unit.

The Chief Building Official continued to manage the Code Compliance unit assisting with the implementation of the County's first hazardous vegetation ordinance, as well as the establishment of an administrative hearing process. The return of significant Planning projects required the Supervising Planner to return to full-time planning functions in 2013. Building Services resumed day-to-day operational oversight at that time and continued to provide administrative oversight.

The program has been housed in CDRA's Building Services Division since 2005 except as noted above. Prior to 2015, Code Compliance was comprised of only "traditional" code compliance. Programs added since that time include:

- Dangerous building enforcement, previously provided by HHS Environmental Health (adopted 2015)
- Cannabis cultivation enforcement (adopted December 6, 2016)
- Short-Term Rental Ordinance (adopted November 19, 2019)
- Hazardous Vegetation Ordinance Update (adopted April 7, 2020)

In addition, it has recently been suggested that an Abandoned Vehicle program be added to Code Compliance's portfolio, as well as trash and parking enforcement in Tahoe.

Traditional Code Compliance

This program enforces compliance of municipal, building and zoning codes on private property in the unincorporated area. It is essentially a “community maintenance” program in that it is intended to assure that owners maintain their properties for safety, overall appearance, avoiding public nuisances, and in the preservation of property values. The program is complaint driven; staff do not proactively seek violations. It is also important to note that the program seeks voluntary compliance and staff work with property owners to remediate problems. Several years ago the name of the unit was changed from “Code Enforcement” to “Code Compliance” to emphasize voluntary compliance and mediation over the straight enforcement of codes.

Administrative Hearing

However, when voluntary compliance cannot be achieved, administrative citations are used to incentivize remedial action. Since 2010, an administrative hearing process has been utilized to impose administrative citations. Given our emphasis on voluntary compliance, the administrative hearing process is used as a last resort. Scofflaws have taken advantage, however, and in recent years staff have increasingly brought long-term problems to administrative hearing to achieve compliance:

- 2018: Six Hearings, 14 cases heard
- 2019: Four Hearings, 16 cases heard
- 2020: Five Hearings, 26 cases heard
- 2021: Three hearings scheduled thus far, 15 cases heard to date

For the years 2018 to 2020, there were a total of 15 hearings with 56 separate cases, some with multiple violations. The violations include 25 building code violations, 11 grading ordinance violations, and 52 zoning code violations.

Cost Recovery

The County has established procedures to recover costs incurred by the County for enforcement action. These costs may include administrative costs, including county staff time expended and reasonably related to nuisance abatement cases where no permit is required to correct the nuisance, for items including, but not limited to, investigation, site inspection and monitoring, reports, telephone contacts, correspondence and meetings and hearings with affected parties.

Code Compliance will not request payment for administrative costs (staff time) unless there has been one Administrative Hearing and the property owner has been found in violation, or where an abatement order has been authorized by the Planning Commission. Once the case has been closed/compliance achieved, Code Compliance sends an invoice requesting payment for administrative costs. If those aren't paid, Code Compliance requests collection assistance from the County's Revenue Services Division after a 90-day attempt to receive payment period.

Costs of abatement can be placed as a lien on the parcel as a means to recover costs, although fines and penalties cannot be levied as a special assessment against real property.

Staffing

Since 2016, there have been one supervisor, three code compliance officers, and an Administrative Clerk in the Auburn office. In 2018, a code compliance officer was added to CDRA's Tahoe office.

Program Cost

Estimated year-end General Fund expenditures for traditional Code Compliance efforts in Fiscal Year (FY) 21-22 is \$1.17 million.

Cannabis Cultivation Enforcement

On December 6th, 2016, your Board adopted Placer County's first cannabis cultivation ordinance. The ordinance discourages commercial cannabis operations within the unincorporated County and allows limited personal cultivations while providing for safe and reasonable personal use of medical cannabis.

The ordinance is consistent with Proposition 215 (The Compassionate Use Act of 1996), and state enacted Medical Cannabis Regulation and Safety Act (MCRSA). This Ordinance is also consistent with the legal requirements of Proposition 64, the 2016 voter initiative regarding adult non-medical use of cannabis.

A civil cannabis enforcement program was developed commencing January 2017 to support the County's recently adopted cannabis cultivation ordinance. The team's original make-up consisted of one Senior Administrative Clerk and up to six extra-help code officers, dependent upon the demand for service. Retired peace officers were preferred given potential issues with cannabis enforcement. Extra-help/seasonal officers align with the seasonal nature of outdoor cannabis cultivations. The program requires minimally two officers and a Senior Administrative Clerk April through November each year to service complaints received.

While the program's complaint resolution trajectory was upward leading into the 2020 season, the COVID-19 pandemic limited the team's personal contact with the public condensing the season. This resulted in resolution of fewer cases during the 2020 season.

Complaint Statistics:

- 2017
 - 158 complaints (76 citizen, 82 law enforcement)
 - 0 indoor, 158 outdoor
 - 7,065 plants resolved
 - ~\$14,000,000 street value
- 2018
 - 177 complaints (30 citizen, 150 law enforcement)
 - 10 indoor, 167 outdoor
 - 8,825 plants resolved
 - ~\$35,000,000 street value
- 2019
 - 268 complaints (14 citizen, 254 law enforcement)
 - 2 indoor, 266 outdoor
 - 19,590 plants resolved
 - ~\$78,000,000 street value
- 2020
 - 216 complaints (16 citizen, 198 law enforcement)
 - 0 indoor, 216 outdoor
 - 4,672 plants resolved
 - ~\$18,000,000 street value.

A typical compliance process entails a series of events. Cannabis grows are typically guarded by fences and gates, as well as utilizing topography, natural vegetation, and man-made structures to disguise the crop. Steep terrain, tree covered parcels, and more remote parcels are prime cannabis cultivation settings. The discrete nature of this crop necessitates innovative investigatory techniques while not invading private property and personal rights.

Due to site constraints and uncooperative cultivators, the team has partnered with the Placer County Sheriff's Department to review complaints via the Sheriff's helicopter. A flight plan is developed and approximately once a month a code compliance officer reviews sites with complaints from the air. If cannabis in violation of the County's ordinance is determined, a site visit is conducted, evidence collected, and a notice of violation is issued. When warranted, Sheriff's deputies assist code compliance officers in field visits.

A 72-hour notice outlining the violation is issued requiring remedial action. If the cultivation remains non-compliant after the notice period, an administrative citation is issued. An administrative hearing is conducted and fines may be imposed for violation of County code. Since inception, only one

administrative hearing has been conducted and the owner was fined \$32,000. Most cultivators comply with the 72-hour notice timeframe, precluding administrative hearings and abatements.

While the program utilized extra-help and consultant officers over the past four years, changes in California law have impacted the team's ability to continue this employment practice. Staff will return to the Board this spring to conduct a more thorough cannabis workshop to address current activity and options moving forward.

Fiscal Impact

Ongoing costs are anticipated to be \$495,000. Total estimated year-end program costs for FY20-21 are \$277,852.

Short-Term Rental Program

The Short-Term Rental (STR) ordinance was adopted on November 19, 2019. The purpose of the program is to regulate STR's to minimize impacts within their communities, which primarily include noise, trash, and parking. The ordinance set STR standards and regulations, and permit fees for code compliance and fire inspections. The program was rolled out in early 2020, just as the COVID-19 pandemic and associated restrictions occurred, complicating, and hampering initial implementation. Experience during first year operations highlighted several issues, oversights, or cleanup items that warranted review.

In January 2021, management of the STR program was shifted to the Tahoe office under the CDRA Tahoe Deputy Director. Staff brought a program status update and introduced proposed ordinance amendments to the Board at the March 30, 2021 meeting in Kings Beach.

Fiscal Impact

The STR program has an ongoing budget of \$453,000. Current staffing consists of 1 FTE Supervising Code Enforcement Officer, 1.5 FTE Code Enforcement Officers, and 1 FTE Administrative Clerk-Journey.

Hazardous Vegetation

On November 6, 2007, the Board approved Ordinance 5491-B, establishing the County's Initial Hazardous Vegetation Abatement on Unimproved Parcels Ordinance as a pilot program in the Eastern County area. The unimproved parcel standards were developed to compliment state defensible space requirements set forth in Public Resources Code Section 4291 (PRC 4291) and State Fire Code requirements. The County's unimproved parcel regulations provided continuity across boundary lines by requiring clearance on an adjacent unimproved parcel when an improved parcel cannot achieve the required one-hundred-foot defensible space on its parcel alone.

On April 23, 2013, the Board approved Ordinance 5705-B, expanding the program to cover the entire unincorporated Placer County.

On April 7, 2020, the Board repealed the existing ordinance and approved Ordinance 6015-B with the stated intent:

- Identify hazardous vegetation standards for both improved and unimproved parcels, maintaining the same one hundred (100) foot defensible space standard with an exception for ornamental grasses, plants, and vines.
- Establish fire hazard violations outside of the traditional one hundred (100) foot defensible space Area.
- Shift appeals from an administrative hearing body to an administrative hearing officer and reduce the timeframe for filing an appeal.
- Authorize the issuance of administrative citations and fines for non-compliance, which is of particular value during months where abatement is precluded due to fire danger.
- Establish a cost recovery process including administrative costs (County and District) and abatement costs.

- Update the lien process to largely mirror the process set forth in Placer County Code Section 17.62.160(E).

Implementation of the program has been accomplished by CDRA staff in cooperation with Placer County Fire and other responsible fire districts. Current CDRA Code Compliance staffing includes two FTE Extra Help Code Enforcement Officers and 0.25 FTE Administrative Clerk.

In the first year of implementation, CDRA staff completed 126 site visits. Of those, 107 were proactive site visits. There were also 51 citizen complaints received. Of those complaints, 19 were the responsibility of Placer County Fire and 32 were referred to other fire districts for action.

Fiscal Impact

Hazardous vegetation program FY20-21 expenditures through March 26, 2021 are \$48,151. Year-end estimates, including \$150,000 for abatement efforts, is \$325,351. Being the first year of the program, it is unknown how much of the abatement funds will end up being used.

Abandoned Vehicle Program

Recently, representatives of the California Highway Patrol requested the County create an Abandoned Vehicle Abatement (AVA) Program, to be included as part of CDRA's Code Compliance program. Section 22710(a) of the Vehicle Code requires a county's board of supervisors, by a two-thirds vote, and the majority of cities with the majority of the incorporated population within the County to adopt resolutions establishing the program. Pursuant to Proposition 26, the AVA program would also have to be approved by the voters in a ballot proposition (see below for details).

The purpose of the AVA program would be for the abatement, removal and disposal of a public nuisance of any abandoned, wrecked, dismantled, or inoperative vehicle or parts from private or public property. Funding for the program would come from the California Department of Motor Vehicles (DMV) vehicle registration fee. If enacted, the fee would cost \$1 to \$5 per registered vehicle in Placer County, dependent on vehicle weight.

A vehicle is considered to be "abandoned" if it is left on a highway, public property, or private property in such inoperable or neglected condition that the owner's intent to relinquish all further rights or interests in it may be reasonably concluded. In reaching a reasonable conclusion, one must consider the amount of time the vehicle has not been moved, its condition, statements from the owner and witnesses, etc.

AVA Program qualifying vehicle(s) are those registered vehicles and vehicles with California License Plate Number. A vehicle qualifies under the AVA Program under one of the following circumstances:

1. The abandoned vehicle is located on public or private property and issued a 10-day notice of intention to abate under Section 22661(d) VC and is removed after the 10-day period has elapsed.
2. The vehicle is parked, resting, or otherwise immobilized on any highway or public right-of-way and lacks an engine, transmission, wheels, tires, or any other part or equipment necessary to operate safely on the highway.
3. The vehicle is located in a parcel zoned for agricultural use or not in a residential structure and is inoperable due to the absence of a motor, transmission, or wheels and is incapable of being towed.
4. The vehicle is valued less than five hundred dollars and is determined to be a public nuisance and presenting an immediate threat to public health and safety, provided the property owner has signed a release authorizing the removal and waiving further interest in the vehicle.

Vehicles **not authorized to be removed** under this program include:

1. Boats/Watercraft (unless on a trailer) "Coaches" (over 8 ft. wide or 40 ft. long)
2. Mobile Homes/Park Models (larger than 8 ft. wide or longer than 40 ft.-HCD Decals)
3. Cab-Over Campers/Camper Shells (unless they are attached to a vehicle which qualifies for the program)

4. ATV/Quads/Mopeds & Scooters
5. Aircraft

A vehicle removed for the following reasons do not qualify as an abated vehicle under to the AVA Program:

1. A vehicle cited for a 72-hour parking violation of a local ordinance authorizing its removal.
2. A vehicle cited for expired registration in excess of six months.

Reimbursable Costs

Appropriate staff and supply costs associated with the AVA program are reimbursable.

Proposition 26

Prop. 26 is a constitutional amendment approved by California voters in 2010. Prop. 26 altered the definition of a “tax” and resulted in the classification of the DMV fee under the AVA program as a special tax subject to voter approval by a two-thirds vote of the voters voting in an election on the issue. Therefore, the AVA program would have to be approved by the voters in a ballot proposition.

Sacramento County has ended their AVA program due to Proposition 26. Nevada County is currently reviewing their program for the same reason.

ENVIRONMENTAL IMPACT

The proposed administrative activity is exempt from California Environmental Quality Act (CEQA) review pursuant to CEQA Guidelines Section 15061(b)(3).

FISCAL IMPACT

None.