



City of Beverly Hills

Planning Division

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Planning Commission Report

Meeting Date: March 26, 2015

Subject: Enforcement Information

Recommendation: Additional discussion on existing Community Preservation (code enforcement) and Building Inspection procedures.

REPORT SUMMARY

At the March 12, 2015 Planning Commission meeting, staff presented a report on the City's codes, policies, and activities related to enforcement. On that date there was not enough time for the Commission to ask questions of Community Preservation and Building Inspection staff. In this meeting there will be additional time for questions and discussion.

BACKGROUND

The original report from March 12, 2015 is attached.

RECOMMENDATION

Staff recommends that the Planning Commission consider the information in the attached report.

Report Reviewed By:
Michele McGrath
Principal Planner

Attachments:
1 – Planning Commission Report from March 12, 2015

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ATTACHMENT 1

**Planning Commission Report from March 12, 2015
begins on next page.**



Planning Commission Report

Meeting Date: March 12, 2015

Subject: Enforcement Information

Recommendation: Discuss existing Community Preservation (code enforcement) and Building Inspection procedures.

REPORT SUMMARY

In 2014, members of the Planning Commission expressed interest in having a study session to understand how the City enforces the zoning and building codes and conditions related to development projects. This report summarizes the City's codes and policies, including the types of violations that are subject to enforcement by the Community Preservation Program, the enforcement process, and fines. The report also provides information on the processes and fines of neighboring Westside cities.

BACKGROUND

The Planning Commission is responsible for making decisions regarding proposed development projects and recommendations to the City Council on land use policy in the City. Projects are reviewed for compliance with the City's municipal code and applicable environmental regulations. Conditions of approval are applied to projects that receive discretionary approval from the Planning Commission and larger projects may also have a Mitigation Monitoring Plan that includes measures intended to mitigate potential impacts identified during the environmental review process. The conditions and mitigation measures are intended to reduce the impact of construction activity, and the completed project, on the community.

Once projects are approved by the Planning Commission/City Council, Community Development Department staff members have the responsibility to ensure projects comply with the project conditions and mitigation measures, as well as other City regulations.

City Programs and Staff

Community Preservation Program

The Community Preservation Program—a division of the Community Development Department—addresses inquiries and complaints related to a variety of subjects including zoning and building code compliance. The Program is meant to protect the public and property from nuisances and life-safety

Attachments:

- A – Community Preservation Program Complaints Data
- B – Enabling Code Sections
- C – Conditions of Approval

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issues. Community Preservation staff work to educate residents and business owners on code requirements and often work interdepartmentally to bring about compliance.

The Program is split into two key areas: Code Enforcement and Rent Stabilization. The Code Enforcement Operation comprises approximately 80% of the Program's total workload. It enforces many parts of the municipal code, including:

- Zoning and building code regulations
- Life-safety issues
- Property maintenance
- Noise
- Animal control
- Abandoned vehicles
- Elder abuse and hoarding cases

Rent Stabilization addresses issues related directly to housing, including:

- Disputes between landlords and tenants
- Evaluating and rectifying substandard conditions
- Handling tenant relocation fees

In 2014, Rent Stabilization handled 648 inquiries and 177 complaints, while Code Enforcement handled 2591 inquiries and 1047 complaints. In addition, Code Enforcement undertook 1583 proactive inspections and found 774 violations from those inspections. Investigations by both branches of the Community Preservation Program are largely complaint-driven; proactive inspections usually result from specific programs such as enforcement of commercial signs or leafblowers (of the 1583 proactive inspections, 384 were for commercial signs and 952 were for leaf blowers). Attachment 1 provides additional detail regarding the type and volume of inquiries and complaints received by Community Preservation.

Community Preservation has two paths through which to enforce the municipal code: the administrative penalty process and the criminal prosecution process. Both paths are discussed in detail later in this report. Voluntary compliance is always the primary goal.

Building Inspection Program

The City's building inspectors monitor construction activity on sites with active building permits. The primary concern of City building inspectors is life-safety, and inspectors conduct site visits at certain project milestones.

Building inspectors will withhold the certificate of occupancy—which a project needs to close out its permits—if there are problems with the construction. Inspectors can also issue a stop work order at any time if they observe non-compliant work. Inspectors do not issue citations, but an "inspection fee" is added on to any permits obtained after-the-fact by the project in order to recover the cost of staff time.

Current Regulations and Policies

The Beverly Hills Municipal Code outlines offenses and punishments, citation procedures, and administrative penalty procedures in Title 1, Chapter 3, Articles 1-3. A summary of the major points of

these articles can be found in Attachment 2 of this report, and the full text may be found in the City's municipal code online.

Reporting a Violation

Most Community Preservation activities are a result of an external complaint. Anonymous complaints are accepted, but staff encourages individuals to provide contact information so they can be contacted for questions if necessary and receive updates on the status of the case. People can make an inquiry or lodge a complaint with Community Preservation by phone or online:

- Phone: For code violation complaints and rent stabilization, customers should call (310) 285-1119. Additional phone numbers and email addresses can be found on the City's website: <http://www.beverlyhills.org/citygovernment/departments/communitydevelopment/codecompliance/>
- Online: Complaints can be made online by visiting the following website and clicking on Code Enforcement in the left-hand column: <https://clients.comcate.com/newrequest.php?id=31>
- Parking enforcement may be requested twenty-four hours daily by calling (310) 550-4875.

Code Enforcement Processes and Procedures

Voluntary compliance is the main goal of the Community Preservation Program. Therefore, notices, letters, or warnings are the first step in almost every code enforcement case.

Code Enforcement uses different tools—an administrative penalty process and/or a criminal prosecution process—to enforce the municipal code depending on the violation. Some individual code sections specify whether non-compliance shall be handled as an administrative matter, an infraction, or a misdemeanor.

When the **administrative penalty process** is used, the offense is not punishable by jail and does not appear on a criminal record. Upon receiving a complaint, a code enforcement officer opens a case and conducts an initial investigation. In this process, if a violation is observed, the code enforcement officer issues a compliance order that details what must be done to rectify the situation. A compliance order gives a 20-day window for compliance. If the situation is remedied within that time period, the case is closed.

If the violation continues past the date specified in the compliance order, the code enforcement officer issues an administrative citation with a fine. Administrative citations for repeated violations of the same code provision over a 12-month period carry increasing fines. Fine amounts are detailed in Table 1 on the next page.

An administrative citation elicits one of a few responses. Often, compliance and payment of the fine results. Sometimes, the cited party contests the citation. An appealed citation results in an Administrative Hearing at the City, and the decision of the Hearing Officer may be appealed to the Los Angeles Superior Court. In addition, an individual may request a hardship waiver if they are not financially able to pay the fine.

The **criminal prosecution process** is used as often as possible—when warranted—to gain quick compliance or when the administrative penalty process does not result in compliance. In addition, all

life-safety issues—due to the urgency of securing compliance—begin immediately in the criminal prosecution process, regardless of the code section in question. Potential life-safety issues can stem from unpermitted construction, uninspected construction (expired building permit), unpermitted items in the public right-of-way, over-height hedges, and more.

In this process, first a notice of violation informs the offender that continued non-compliance will result in a misdemeanor charge. No fine is assessed with this notice. After a second and final notice of violation, the matter is forwarded to the City Prosecutor. The City Prosecutor may send an additional warning or cause a notice of arraignment to be sent, and the matter will go to court if non-compliance continues.

Table 1

Beverly Hills Enforcement Processes and Fines	
City Action	Fine
<u>Administrative Penalty Process</u>	
Compliance Order	None
First Administrative Citation	\$100 or \$106.90*
Second Administrative Citation within 12 months	\$200 or \$214.10*
Third and Subsequent Administrative Citations within 12 months	\$500 or \$535.10*
Additional Costs	Late fees are assessed if administrative fine has not been paid within 20 days after citation. If brought to an Administrative Hearing, the Hearing Officer may assess against the responsible person any administrative costs incurred by the City in connection with prosecuting the violation.
<i>*Administrative citations for code violations that are specifically identified as infractions are set at \$100, \$200, and \$500. Administrative citations for all other violations have been tied to the Consumer Price Index (CPI) and are adopted by the City Council annually in the Schedule of Taxes, Fees, and Charges.</i>	
<u>Criminal Prosecution Process</u>	
First Notice of Violation	None
Final Notice of Violation	None
City Prosecutor May or may not issue warning before notice of arraignment.	Court may order a fine not more than \$1,000 and/or imprisonment not more than 6 months or probation. City may request restitution for time spent on case.
<u>Stop Work Order for Unpermitted Construction</u>	
Investigation Fee (added to permit fees)	Doubles the permit fees

Categories of Offenses

The enforcement actions that the City's Community Preservation Program and building inspectors take depend on what code or condition has been violated. This section provides brief descriptions of the different situations and offenses that may require enforcement activities.

Zoning Code: Many violations of the zoning code do not involve current development projects. These include violations of the noise ordinance, unpermitted business signage on sidewalks or in windows, hedges over height, violations of the commercial-residential transitional use ordinance, and more. Removal of protected trees without a permit also falls within this category, but will be discussed separately below.

Unpermitted Work: When any type of construction occurs without a permit—from a new retaining wall to repainting a building—code enforcement officers can issue a stop work order. No additional work on the project may be done until the necessary permits are acquired, and any work that is not code-compliant must be undone or altered to meet code.

Stop work orders do not include a citation fee. However, when the necessary permits are obtained an "investigation fee" is assessed in addition to the permit fees to cover staff's time.

Projects with expired building permits are also considered to be unpermitted work and are handled by Code Enforcement.

Building Permits: The City's building inspectors monitor projects with active building permits at certain project milestones. If an inspector finds that work is not in compliance with the municipal code or with the project's permits (including conditions of approval), the inspector may withhold the certificate of occupancy or issue a stop work order.

Conditions of Approval: Conditions are included with many planning and building & safety approvals. Such conditions are intended to ensure that development projects are not a nuisance to others during construction or when completed. Upon completion, a project must be in compliance with any conditions of approval in order to be granted a certificate of occupancy by the building inspector. Some operational conditions, such as those regarding noise levels or project traffic, may be ongoing and cannot be monitored by staff on a daily basis. Such conditions are in place in case a problem arises, giving staff the ability to address problems in the future. Violation of a condition of any City permit or approval constitutes a violation of the municipal code.

More information regarding conditions—in particular monitoring operational conditions—can be found Attachment 3 of this report.

Mitigation Measures: When an environmental review finds that a project may have impacts, the City may require the developer to create a Mitigation Monitoring and Reporting Program (MMRP). This is a plan to address potential negative impacts and includes mitigation measures to be implemented.

Housing: For certain rental properties, a mix of City and State laws regulate rent increases, evictions, relocation fee entitlements, property maintenance, security deposits, and information that must be provided to prospective tenants before executing a lease. The Rent Stabilization Operation of Community Preservation processes inquiries and complaints related to these laws as well as tenant/landlord disputes and harassment.

Specific Offenses

The following are specific types of offenses that may be of particular interest to the Planning Commission.

Tree Removal (Zoning Code): Trees of certain species, size, and in certain locations are protected per the Municipal Code. Removing a protected tree without a permit is a misdemeanor and Code Enforcement uses the criminal prosecution process in response. Each protected tree removed or damaged is a separate offense.

The code-required restitution involves compensating the City for the value of the tree or replacing the tree with a similar species and size, in addition to any misdemeanor or civil administrative penalties.

Parking: Residential preferential parking districts are managed by the Transportation Division of the Community Development Department. However, enforcement of parking laws and regulations is generally handled by the Parking Enforcement Division of Public Works and is not under the purview of Community Preservation or building inspectors.

Other Violations: The Beverly Hills Police Department enforces other City, State, and Federal laws and collaborates with Code Enforcement when after-hours or weekend actions are necessary.

Enforcement and Fines in Other Cities

Staff contacted the code enforcement divisions in West Hollywood, Santa Monica, and Culver City. All three use systems similar to Beverly Hills: the majority of code enforcement activities are complaint-driven, a warning precedes administrative citations with fines, and repeated or continuing non-compliance is referred to the city attorney for processing as a criminal offense.

Table 2 shows the administrative citation fine amounts in these neighboring cities as compared to the current fines in Beverly Hills. For most code violations, administrative citation fines appear similar across the Westside cities.

Table 2

Administrative Citation Fines: Comparison with Other Cities				
Progression of City Actions	Beverly Hills	West Hollywood	Santa Monica	Culver City
1st Offense	Compliance Order (warning)	Warning	Warning	Warning
1st Citation	\$100 or \$106.90	\$125	\$75.00	\$100
2nd Citation	\$200 or \$214.10	\$450	\$93.75	\$200
3rd & Subsequent Citations	\$500 or \$535.10	\$850	\$112.50	\$500
Continued Noncompliance	Referral to City Prosecutor for criminal charge	Referral to City Attorney for criminal charge	Referral to City Attorney for criminal charge	Referral to City Attorney for criminal charge
Notes		Certain offenses carry much larger fines (e.g. stormwater and special events offenses begin at \$1,000; billboard offenses begin at \$10,000).	Select offenses carry different fines (e.g. early morning deliveries are cited at \$250).	

RECOMMENDATION

Staff recommends that the Planning Commission consider the information in this report.



Report Reviewed By:
 Michele McGrath
 Principal Planner

ATTACHMENT A
Community Preservation Program Complaints Data

The following information represents public demand received from January 1, 2014 to December 18, 2014 by the Community Preservation Program.

Rent Stabilization		
Inquiries	Complaints	Subject
101	0	Rent increase (lawful) - <i>civil</i>
23		Rent increase (unlawful)
133	0	Tenant/landlord dispute (provisions of rent agreement) - <i>civil</i>
70	0	Tenant/landlord alleged harassment, aggression - <i>civil</i>
45	3	Tenancy termination – <i>potentially civil, state law</i>
72	0	Neighbor to neighbor dispute - <i>civil</i>
81	143	Sub-standard conditions (not qualified code violations) - <i>civil</i>
40	0	Security deposit disputes – <i>civil, state law</i>
23	2	Relocation fee entitlements – <i>potentially civil</i>
30	12	Other (non-rent increase) pass through
22	14	Unlawful reduction of housing services – <i>potentially civil</i>
8	3	Illegal conversions – tenant occupancy (rent control exempt)
648	177	TOTAL

Code Enforcement		
Inquiries	Complaints	Subject
565	130	Animal control
72	36	Business activity
294	219	Property maintenance
112	12	Health related violations
98	91	Noise regulations-mechanical
110	42	Sign regulations
386	123	Zoning regulations
460	213	Building code regulations
84	32	Public right-of-way regulations
13	6	Vehicle violations on private property
397	356	Civil
2,591	1,047	TOTAL

Code Enforcement Proactive Inspections		
Inspections	Violations	Subject
Approx. 0.5 hours daily	Approx. 2-4 violations per month, per officer	Proactive citywide property inspections, officer or staff initiated
14	7	Compliance with conditional use permits
21	12	Home occupation regulations
384	122	Commercial sign enforcement
952	421	Proactive unlawful gasoline leaf blowers
212	212	Signs in public right-of-way
1,583	774	TOTAL

ATTACHMENT B

Enabling Code Sections

Enabling Code Sections

The Beverly Hills Municipal Code outlines offenses and punishments, citation procedures, and administrative penalty procedures in Title 1, Chapter 3, Articles 1-3. The major content of these articles specifies:

- That any person who violates any provision or requirement of the code or a condition of any permit issued pursuant to the code shall be guilty of a misdemeanor, unless—at the discretion of the city attorney or city prosecutor—such violation is prosecuted as an infraction or a civil administrative action (§1-3-101).
- That each day during which a violation occurs constitutes a new and separate offense (§1-3-102).
- Which city officers and employees have the power to issue citations and make arrests and under what circumstances (§1-3-201).
- The procedures for issuing compliance orders and administrative citations, the content of those citations, the amounts of administrative fines, and the appeal and hardship waiver procedures (Title 1, Chapter 3, Article 3).

The full text of Title 1, Chapter 3, Articles 1-3 of the Beverly Hills Municipal Code may be found online at http://www.sterlingcodifiers.com/codebook/index.php?book_id=466.

ATTACHMENT C

Conditions of Approval

Of all the activities that code enforcement officers and building inspectors are involved in, the Planning Commission has the most frequent interaction with conditions of approval. Since conditions are approved by the Planning Commission, Commissioners may be interested in this additional information regarding effective, enforceable conditions.

Conditions may be fulfilled at different stages of a project. Some conditions must be completed for a building permit to be issued (e.g. "final plans submitted to the City with all Planning Commission revisions incorporated" or "construction parking plan submitted and approved by the City"). Other conditions must be completed before issuance of a Certificate of Occupancy by the City (e.g. "signage, satisfactory to the City advertising the availability of free, validated parking for patrons" or "energy conservation measures shall be included in the building design"). Other conditions are ongoing, such as "operational" conditions that regulate the continuing operations of a building or business (e.g. "free onsite parking for all employees" or restrictions on noise or hours of vehicle loading).

These operational conditions can often be the most challenging to monitor and have, in the past, resulted in additional conditions placed on projects that require annual renewals, affidavits, or other types of "verification" that operational project conditions have been fulfilled. Verification conditions can be difficult to track and can result in a great deal of additional staff time spent on process in the absence of any complaints or evidence that project conditions are not being fulfilled. In more recent years, Planning Commission resolutions have increasingly relied upon conditions wherein the City expressly reserves jurisdiction relative to certain issues such as traffic and parking issues or noise. For instance:

"The City expressly reserves jurisdiction relative to traffic and parking issues. In the event the Director determines that operation of the use at this site is having unanticipated traffic and parking impacts, the Director shall require the Applicant to pay for a traffic and parking demand analysis. After reviewing the traffic and parking demand analysis, if, in the opinion of the Director, the traffic and parking issues merit review by the Planning Commission, the Director shall schedule a hearing in front of the Planning Commission in accordance with the provisions of Title 10 of the Beverly Hills Municipal Code. The Planning Commission shall conduct a noticed public hearing regarding the parking and traffic issues, and may impose additional conditions as necessary to mitigate any unanticipated traffic and parking impacts caused by the proposed Project, and the Applicant shall forthwith comply with any additional conditions at its sole expense."

Such conditions allow staff and the Planning Commission to retain the ability to address potential negative impacts from projects without imposing costly and time-consuming paperwork and site visits.