

DIRECTOR’S REPORT AND RECOMMENDATION

Enforcement Ordinances

Introduction

The Department of Planning and Development (DPD) is proposing amendments to three of its enforcement codes:

1. Housing and Building Maintenance Code (HBMC);
2. Land Use Code;
3. Weeds and Vegetation Code.

These three bills are part of a coordinated effort to strengthen and improve DPD’s Housing and Building Maintenance, Land Use, and Weeds and Vegetation enforcement and align them with other Seattle codes. Housing and Building Maintenance, Land Use, and Weeds and Vegetation enforcement is a vital service that helps protect the health and safety of Seattle’s residents. The demand for this service is increasing as reflected in DPD’s ever-growing caseloads. These reforms will bring efficiency to the process of gaining compliance with the City’s regulations. In addition, these bills give DPD the option to obtain higher penalties, which are intended to be a more effective deterrent in DPD’s more challenging cases.

Background

DPD’s Code Compliance Division enforces a number of different Seattle codes: housing and building maintenance, land use (including shoreline and landmarks), weeds and vegetation, environmentally critical areas, tree protection, building, stormwater, grading and drainage control, and side sewer. Of the approximately 10,000 calls DPD receives annually, about 2,700 are complaints (service requests) about rental housing conditions, vacant buildings, land use violations, and vegetation overgrowth. When DPD verifies that a violation exists, it creates a case to track its actions and the outcome, and to notify the responsible party of the issue and needed resolution. DPD often allows an opportunity for informal compliance through the use of warnings, however, if DPD does not obtain prompt voluntary compliance, a Notice of Violation (NOV) or a citation is issued, depending on the specific violation. If the violation remains uncorrected, DPD ultimately initiates legal action to compel compliance. For 2005 and 2006 DPD observed:

2005 Enforcement Statistics				
Type	Service Requests	Cases	NOVs/Citations	Law Referrals
HBMC	605	498	166/4	30
Land Use	1359	1004	169/127	22
Weeds	936	592	63	1

2006 Enforcement Statistics				
Type	Service Requests	Cases	NOVs/Citations	Law Referrals
HBMC	791	615	212/4	36
Land Use	1563	1132	246/109	63
Weeds	922	693	36	3

The increase in HBMC and Land Use service requests (up 30% and 10% respectively) and NOVs (up 30% and 50% respectively) was quite significant for 2006.

Currently, several specific procedural code requirements create barriers to effective enforcement action. For example, DPD is required to record every Notice of Violation (NOV) with the King County Recorder's Office (current cost is \$32 for the first page and \$1 for each subsequent page) and mail all NOVs by certified mail to each responsible party (current cost is \$4.25 an NOV, in addition to regular postage). The current process does not allow DPD to include additional violations in lawsuits against a single property owner when more violations are discovered at a later time.

These enforcement models were discontinued years ago in DPD's building code and similarly are no longer used by the Seattle Fire Department or Seattle Department of Transportation. Instead, those codes rely on the use of first-class mail, do not require that all notices be recorded, and provide for a strict liability alternative criminal provision. DPD seeks to strengthen and improve its Housing and Building Maintenance, Land Use, and Weeds and Vegetation codes by aligning them with other Seattle codes and increasing the penalties to provide more alternatives and greater deterrence in DPD's most challenging enforcement cases.

Analysis and Recommendations

Housing and Building Maintenance Code

The Housing and Building Maintenance Code sets minimum standards for Seattle's rental housing and vacant buildings. Historically, the Housing and Building Maintenance Code was enforced entirely by an NOV process, but in 1999, the City removed two violation categories (Minimum Fire and Safety Standards (SMC 22.206.130) and Minimum Security Standards (SMC 22.206.140)) out of the NOV process and created a citation procedure for those two distinct categories of violations.

During these past several years DPD has observed that the two different processes have resulted in much confusion and a somewhat less effective enforcement process. Invariably, whenever DPD observes a violation of the Minimum Fire and Safety Standards or Minimum Security Standards, DPD also observes violations of other provisions of the Housing and Building Maintenance Code. Thus, both an NOV and a citation are often required for a single housing unit or structure. This results in a duplication of effort and confuses the property owners who receive two different notices.

In 2006, DPD responded to 791 HBMC service requests, which resulted in 615 cases and 212 NOV's (up almost 30% from the prior year). The administrative work is doubled and private property owners become confused when they receive two different notices with two different response requirements and enforcement processes. And, these administrative and financial resources are better spent on other activities that support DPD's Code Compliance Program. As for penalties, the \$15 a day cumulative civil penalty was enacted in 1987, an increase from the previous \$3 enacted in 1978. With average monthly rents now exceeding \$1,000 a month, the \$15 a day penalty offers little incentive to comply. Therefore, it is appropriate to amend the penalty provision of the Housing and Building Maintenance Code, which has not been changed in 20 years.

The proposed Council Bill re-establishes the NOV process for all HBMC violations. It maintains individual notice of the NOV by using first-class mail instead of a certified mail requirement and makes optional whether DPD records the NOV's with the King County Recorder's Office. It also increases the options available to DPD and provides for more effective deterrence in its more challenging cases by increasing the cumulative civil penalty for violations of the Housing and Building Maintenance Code from \$15 per unit a day to "up to \$500" per unit a day (\$1000 per day for emergency order violations), and toughens the criminal penalties. This would bring the HBMC in alignment with other Seattle enforcement processes.

Land Use Code

The Land Use Code regulates the use of property and sets minimum development standards for Seattle property. In 2006, DPD responded to 1563 Land Use service requests, which resulted in 1132 cases and 246 Land Use NOV's (almost a 50 % increase from the prior year). This proposed bill streamlines and simplifies the processing of NOV's by allowing the use of first-class mail for service of the NOV, making the recording of NOV's with King County optional, and allowing DPD to consolidate multiple violations against a single property owner into a single action as additional violations are discovered. It also increases the options available to DPD and provides for more effective deterrence in its more challenging cases by increasing the cumulative civil penalty from \$75 per day to "up to \$500" per day, and creating a strict liability alternative criminal provision.

Weeds and Vegetation Code

The Weeds and Vegetation Code prevents private vegetation from encroaching on the public right-of-way. Historically, the Weeds and Vegetation Code was enforced by the King County Public Health Department, but several years ago responsibility for the enforcement of this code was transferred to DPD. The Seattle Department of Transportation regulates vegetation originating in the public right-of-way. Today, DPD responds to about 1,000 service requests a year, which results in about 700 cases, 40 NOVs, and 1-3 Law Department referrals. This proposed bill proposes a change in use of existing processes by implementing a citation process for these violations with a penalty of \$150 for the first violation, \$500 for a second violation, and a summary abatement procedure for continued noncompliance encroaching in the public-right-of-way.

Recommendations

The Director recommends approving the proposed Housing and Building Maintenance, Land Use, and Weeds and Vegetation Code amendments. This is a vital service that helps protect the health and safety of Seattle's residents, and the demand for this service is increasing. These reforms will bring efficiency to the process of gaining compliance with the City's regulations. In addition, this bill gives DPD the option to obtain higher penalties that are intended to be a more effective deterrent in DPD's more challenging cases. Adopting these proposals will help DPD to more strategically allocate its enforcement resources to the benefit of all of Seattle.