

August 16, 2023

**ITEM TITLE: CODE COMPLIANCE ENFORCEMENT DISCUSSION. (0470-95)**

**ORIGINATING DEPARTMENT:**

Community Development

**EXECUTIVE SUMMARY:**

On April 5, 2023, during a Regular City Council Meeting, the City Council provided direction to City staff to investigate ways to make the nuisance abatement process more efficient and effective. In response, staff reviewed Chapter 1 of the Imperial Beach Municipal Code and identified areas that required updates to the existing language to meet the requirements per Government Code Section 36900(d), to streamline the nuisance abatement process, and to implement cost recovery procedures. On June 21, 2023, the City Council adopted Ordinance 2023-1228 amending Imperial Beach Municipal Code Sections 1.12, 1.16, and 1.22 to be in compliance with State Law, streamline the nuisance abatement process, and implement cost recovery procedures, enabling the City to recover costs incurred to investigate, remedy and prosecute violations.

During this process, the City Council provided direction to staff to research and provide a comprehensive overview of Code Compliance enforcement to facilitate a discussion for the City Council on how code compliance enforcement should be implemented throughout the City moving forward.

**RECOMMENDATION:**

That the City Council provide guidance and direction regarding implementation of code compliance enforcement.

**OPTIONS:**

The City Council can also:

- Provide direction to the City Manager; or
- Request additional information and an additional report.

**BACKGROUND/ANALYSIS:**

The efforts that surround city beautification and maintaining a safe, clean and healthy cityscape/environment requires the effort and coordination of multiple different Departments and the individuals that make up each department. The primary means of addressing the issues that create blighted areas and impact the overall appearance and functionality of a city are code enforcement actions. The term “code enforcement action” refers to the processes whereby an issue or violation is identified that is in direct violation of an existing code and an enforcement procedure is implemented to rectify or address the identified violation. The term “code” is in

reference to any local, state, and/or federal regulation. Although it is largely assumed that all actions that relate to code enforcement are managed and regulated by the Code Compliance Division, within the City of Imperial Beach, the responsible party to address a code violation and/or initiate the code enforcement process is largely dictated by the location and type of violation that is occurring within the City; many different divisions and departments contribute to the code enforcement process.

### **Department and Division Introductions and Code Enforcement Roles:**

The primary departments that contribute to the code enforcement process include: the Sherriff Department, the Marine Safety Department, Animal Control, the Parks, Recreation, and Community Services Department, the Public Works Department, Fire-Rescue Department and the Community Development Department. Within each department exist specific divisions and roles that handle code enforcement matters.

Starting with the San Diego County Sherriff's Department, the Imperial Beach substation serves the City of Imperial Beach and other unincorporated areas such as Bonita, with a total of 26.8 sworn officers that service the Imperial Beach community. Patrol deputies are on call for service 24-hours a day for law enforcement; traffic deputies handle vehicle code enforcement, traffic collision investigations and traffic control in Imperial Beach; detectives investigate cases involving theft, physical assaults (excluding homicides), sexual assaults, vandalism, burglaries, and other crimes; crime prevention specialists offer information and presentations to inform the public about crime prevention methodologies; community service officers issue parking and related citations and provide other paraprofessional law enforcement support duties, and senior volunteers provide community service that enhance the quality of life within the city. The typical code enforcement violations and issues that are managed and directed by the San Diego County Sherriff's Department include, but are not limited to, noise violations and enforcement of on-street vehicular issues such as abandoned vehicles and parking violations. They also coordinate with other departments to facilitate and supplement any related activity that would require a deputy.

The Marine Safety Department provides lifeguard services through a variety of functions and responsibilities. This includes the lifeguards who enforce beach regulations, provide life safety services for all beach goers, manage the Junior Lifeguard program, manage the beach access program to ensure accessibility for the beach, and provide public education to the community and beach goers. The lifeguards are responsible for addressing and responding to the code enforcement actions that occur on and around the beach areas within the community such as dogs off-leash, drinking in public, and enforcing and regulating the municipal code with the beach and tidelands areas, including the pier.

Animal Control Services are specialized services provided by the City of Chula Vista. The services include providing animal care and animal control services such as shelter and licensing. Enforcement includes investigation of animal cruelty, enforce animal control laws and codes such as dogs off-leash, issue citations for violations, respond to calls, and investigate complaints. Animal control also offers other services such as clinics for spay/neuter, microchips, and vaccines.

The Parks, Recreation, and Community Services Department serves residents and visitors by providing recreational opportunities and programs for youth, teens, adults and seniors. The programs and services offered through the department provide an opportunity to improve the health, wellness, and quality of life of all residents while also enhancing the image of the City. In addition to managing park and recreational programs, the department manages special events within the City. Community services is a vital role of the department under the Community Park Rangers who address enforcement issues that arise within the parks and public areas. Their role includes patrolling the parks and public areas to ensure public safety and enforce city ordinance, park rules and regulations. Rangers also perform traffic control and parking enforcement when

necessary, solve issues pertaining to homelessness, and address complaints from the community. In addition to enforcement duties, Community Park Rangers also assist with special events throughout the year. The Department, under the community services component, staffs the Community Response Team which maintains a clean and safe City by clearing blight items in the neighborhood and responds to resident complaints and/or requests for service that may lead into other type of enforcement issues.

The Public Works Department provides essential services in creating an environment that is healthy, safe, and clean for the citizens of Imperial Beach to live, work, and play. Public Works provides professional and cost-effective services to ensure the design, construction, maintenance, and operation of public infrastructure, facilities, and services that are responsive to the needs of residents, businesses, and other City departments are provided in a manner that respects the environment and the future ability of government to adequately preserve these assets for succeeding generations. Within the Public Works Department, the Environmental and Natural Resources Division is responsible for implementing several programs required by federal, state, and local laws that include: a stormwater management program, a solid waste management and recycling program, and collaboration on various conservation programs that are important to the community. These activities serve to promote a clean and healthy environment for the enjoyment of Imperial Beach residents, businesses, and visitors. Code enforcement items that the Environmental and Natural Resources Division are typically responsible for are primarily related to stormwater violations that include the implementation of the State and Federal regulations pertaining to Watershed Protection. Other enforcement includes new mandated organic waste collection (SB 1383), local municipal code ordinances, such as the ban of polystyrene, proper implementation of construction best management practices, and addressing illegal discharges into the City's stormwater facilities.

Staff in the Fire-Rescue Department, specifically on the fire prevention side, perform safety and fire prevention inspections for fire protection systems, new construction sites, industrial, commercial and institutional occupancies to ensure compliance with Local, State, and Federal building and fire code regulations.

Finally, the Code Compliance Division within the Community Development Department addresses quality of life issues for the Imperial Beach community as it pertains to violations on private and commercial properties, such as property appearance, nuisance abatement, land use and zoning violations, and enforces the City's municipal code relating to these areas. The Code Compliance Division does so by responding to and investigating citizen complaints of violations of the City's Municipal Code, with an emphasis on voluntary compliance. Code Compliance coordinates with other City divisions and departments including Planning and Zoning, Building, Public Safety (including Animal Control), Public Works, and the Sheriff Department to encourage and enforce adherence to State Building Codes, State Health & Safety Regulations, and the Imperial Beach Municipal Code. The Code Compliance Division responds to complaints about private and commercial properties. The goal of the Code Compliance Division is to educate and assist Imperial Beach citizens to enhance their neighborhoods and quality of life through cooperation, involvement, and community spirit in the City's "Classic Southern California" community.

### **Overview of Code Compliance Division Enforcement**

When Code Enforcement is considered holistically, the collaboration between many different divisions and departments within the city is what leads to the maintenance of a safe, clean, and inviting community. However, some of the more prevalent enforcement violations that are typically discussed within the realm of code enforcement primarily pertain to the Code Compliance

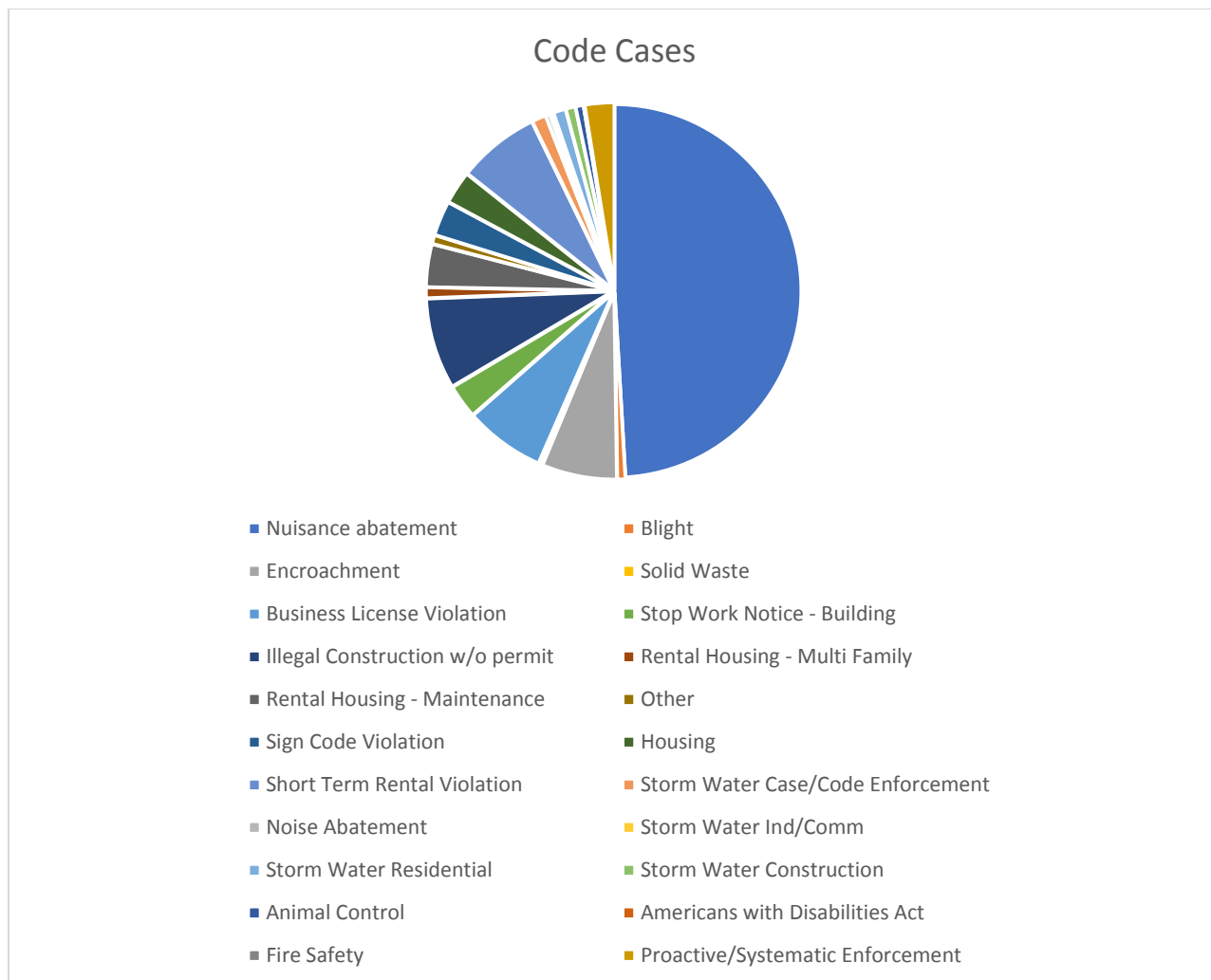
Division. As such, a deeper discussion and overview of the Code Compliance Division within the Community Development Department is provided below:

The Code Compliance Division is comprised of one (1) full-time Code Compliance Officer and one (1) part-time Code Compliance Officer. The different types of Code Compliance Violations are categorized within the tracking and reporting system as one of the following types:

- Short Term Rental Violation
- Blight
- Nuisance Abatement
- Encroachment
- Illegal Construction w/o permit
- Business License Violation
- Rental Housing - Maintenance
- Stop Work Notice - Building
- Fire Safety
- Other
- Solid Waste
- Storm Water Residential
- Housing
- Rental Housing - Multi Family
- Animal Control
- Storm Water Construction
- Sign Code Violation
- Americans with Disabilities Act
- Storm Water Case/Code Enforcement

Within the past two years, there have been 1,364 new code compliance cases reported and opened (631 in 21/22 and 733 in 22/23) and 1,201 cases closed. Of those case types, (669 cases) 49% of the new cases opened are “Nuisance Abatement” cases and 93% (623 cases) of these cases are closed and resolved through Code Compliance Action and Processes. The graphic provided below illustrates the breakdown of Code Cases received and opened. The highest percentage of code cases are attributed to:

1. Nuisance Abatement
2. Illegal Construction w/o permit
3. Short Term Rental Violations
4. Business License Violations
5. Encroachment



The Code Compliance Process is largely guided by the procedures set by the Imperial Beach Municipal Code (Chapters 1.12, 1.16, and 1.22) and appropriate Government regulations. The code compliance process typically follows an administrative citation procedure (IBMC Section 1.22.030), however, as applicable, a nuisance abatement procedure can be initiated to abate nuisances within the City (IBMC Chapter 1.16).

Both processes start with the City being informed, generally by receiving a confidential complaint by a member of the public, regarding an issue that is observed. Prior to the nuisance abatement procedure being initiated, the administrative citation procedure is followed. The administrative citation process starts at the time of receipt of the confidential complaint. At that time, the complainant is requested to provide evidence of the violation, should this be available, to supplement the code case that is opened. After a complaint is received, a code case is opened, and a Code Compliance Officer (CCO) is assigned to the case. After assignment, the CCO sets a date to inspect the alleged violation. When an inspection occurs, and no violation is identified, the case would be considered unfounded and closed. If upon inspection the validity of the complaint is confirmed, the CCO would include the pertinent evidence to the case file documenting the identified violation and then proceed with issuing a Notice of Violation (NOV) to both the property owner and the tenant, as applicable. The NOV would include the details regarding the violation, the relevant code sections that are being violated, a date to address said issues by, and contact information for the pertinent City staff to facilitate addressing and resolving

the issue. Should the individual in violation of the code not contact and/or resolve the identified violation within the set time frame, a civil fine shall be assessed by means of an administrative citation issued by the CCO and shall be payable directly to the City. Fines are assessed in the amounts as specified by Resolution by the City Council or as specified in IBMC Section 1.22.030(D). Of note, if the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues that do not create an immediate danger to life, health, or safety of persons or property, then the responsible person shall be issued a warning only on the first violation. The warning will advise the responsible person of the nature of the violation and the date upon which the violation shall be corrected. The responsible person will be given a reasonable period of time to correct the violations, and the time provided to correct the violation will depend on the nature and extent of work required. If the violation is not corrected within that time period, an administrative citation with a fine shall be issued. If after receipt of the administrative citation, the responsible person resolves the violation and pays the civil fine, the code case is closed. However, once the administrative citation is issued, the recipient of the administrative citation may contest that there was a violation of the municipal code, or whether the recipient is the responsible person, by completing a request for hearing form and returning it to the City within 30 calendar days from the date the administrative citation is issued. At this time, the appeal hearing procedure may be completed consistent with IBMC Section 1.22.100 where the appellant would be able to contest the administrative citation before a Hearing Officer. Note, that to file the appeal the appellant must pay the assessed fine. The Hearing Officer, after considering the testimony and evidence submitted at the hearing, must prepare a written decision that is provided to the relevant parties within 10 calendar days of the hearing and shall either affirm the issuance of the citation as issued or dismiss the citation. Should the citation be dismissed, the deposited fine would be refunded and the code case would be closed. If the Hearing Officer affirms the issuance of the administrative citation, then the fee deposit with the City shall be retained by the City; and if the violation has already been addressed and resolved, then the case would be closed. If the violation(s) are not resolved, then another civil fine would be issued via an administrative citation.

In the scenario where the violation is not resolved and the fee is not paid within a 30-day period of the assigned date, a delinquent notice and a notice of intent to lien would be provided to the responsible person and a lien would be recorded on the property. Should there be an ongoing violation or a recurrence of violation within an 18-month period, the assessed fine amount increases incrementally and would be considered a second or subsequent violation.

For scenarios where the violation is not resolved by the administrative citation procedure and the violation and/or issue identified is classified as a nuisance (IBMC Section 1.16.030), the nuisance abatement procedure can be initiated. This process is similar procedurally to the administrative citation process; however, it also includes the provision of abatement by the City with the invoice being sent to the owner of the property where the abatement occurred. The details of the nuisance abatement process are provided in IBMC Chapter 1.16 Nuisance Abatement.

### **Most Common Complaints Received, Code Compliance Case Context, and the Historical Approach to Implementation of Code Compliance Enforcement**

While from a reporting standpoint the most common case type opened is “Nuisance Abatement”, the actual content of the complaints received by the City are varied. In general, the most common complaints and/or reports of issues submitted include the following:

- Short term rentals illegally operating
- Illegal Sheds
- Recreational Vehicles parked in the driveway or on non-compliant surfaces
- Blight – primarily along Design Corridors (IBMC Section 19.83.020)

- Neighbor disputes
- Signage
- Illegal construction
- Illegal Work Completed in the right-of-way
  - o Driveway/flatwork
  - o Curb cut
  - o Parkway concreted
- Illegal creation and use of off-street parking spaces (within the front yard)
- Operation of food trucks
- Abandoned vehicles
- Overgrown weeds and landscaping
- Illegal dumping
- Damaged/overflowing trash enclosures
- Mold Reports

A commonality with many of the cases are responses received from the person(s) who are in violation of the code. Many of the individual(s) that receive the NOVs informing them of the violation express or experience confusion, are upset, and/or affronted by receipt of the notice and/or citations. It is not uncommon for those in violation of the code to respond with concern. The following are examples of the rationale for said infractions:

- Lack of funds to address or correct the violation
- The work completed or purchased was expensive and/or makes the property better
- Individual property rights
- Examples of other violations throughout the City

To be more community forward with code enforcement, the City Council previously provided direction to City staff to adopt a “You Plus Two” procedural approach to Code Enforcement for matters that did not relate to public health and safety. For example, if a complaint was not a safety issue or considered largely a nuisance to the surrounding community, three separate complaints would need to be provided for the same violation to the Code Compliance Division prior to code enforcement action taking place. A large part of understanding this approach to the code enforcement process is understanding the context with which the public receives and responds to the violations and how that impacts the implementation of code enforcement throughout the City. The evolution of the “You Plus Two” approach was created in direct response to a recreational vehicle (RV) off-street parking violation. Off-street parking is not allowed within the front yard setback (IBMC Section 19.48.110.F and 10.36.110), and historically, when RV’s were parked within the front yard setback, if a complaint was received a NOV would be sent to the property owner and tenant as applicable consistent with the administrative citation process. However, at one point, a single complainant provided numerous complaints of similarly parked RVs in driveways within the front yard setback within a single neighborhood. Each of these complaints became a code compliance violation consistent with the code enforcement policies at the time. Ultimately, a City Council Meeting was held to discuss the approach to code enforcement. In response, the conclusion by the City Council was to implement the “You Plus Two” approach to Code enforcement.

Occasionally, the approach to code enforcement should be evaluated. As such, staff recommends that the City Council consider code enforcement procedures and provide direction, as necessary.

**ENVIRONMENTAL DETERMINATION:**

Not a project as defined by CEQA.

**FISCAL IMPACT: N/A**