



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

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MEMORANDUM

DATE: DECEMBER 19, 2023
TO: HONORABLE BOARD OF SUPERVISORS
FROM: GRETCHEN MCLAUGHLIN, CODE ENFORCEMENT MANAGER
SUBJECT: CODE ENFORCEMENT DIVISION REQUEST FOR BOS PRIORITIZED DIRECTION

PURPOSE:

The purpose of this request to the Board of Supervisors ("Board"), is to provide an update to the Board on the Code Enforcement Division's ("the Division") current activities, its enforcement methodology (based on previous Board Direction) and seek approval of staff recommendations which the Division believes will support a more efficient and cost-effective use of its current resources. The Division has prepared this memorandum to provide important information to the Board, including relevant supporting data, and recommendations.

BACKGROUND:

The Division is currently assigned under the Mendocino County Department of Planning and Building Services ("PBS"). Its primary role is to serve as the enforcement arm for both the Planning Division and the Building Division within PBS. The Division also has secondary enforcement functions to address other specified MCC violations determined to be nuisances within the county.

The Division's main objective within Mendocino County is to reduce public nuisances and unsafe conditions in order to make the county a healthier and more attractive place to live and work. The Division accomplishes this by conducting its investigations and enforcement efforts based on enforcement priorities as directed by the Board.

Current Complaint Types Engaged

The Division currently conducts investigations primarily for violations of Mendocino County Code of Ordinances ("MCC") Title 18 – Building Regulations, and all three divisions (Division I – Inland, Division II – Coastal Zone, Division III – Town of Mendocino) listed under MCC Title 20 – Zoning Regulations. Typical code violations that are investigated and/or enforced by the Division include the following:

Building Regulations (Title 18)

- Non-Permitted Structures (Existing)
- Non-Permitted Remodels/Additions (Active and Existing)
- Non-Permitted Construction (Active)/Stop Work Order Issuances
- Non-Permitted Grading (Active and Historical)
- Substandard/Dangerous Buildings including those qualifying for Receiverships
- Change Of Occupancy Violations for Permitted Structures

Zoning Regulations (Title 20)

- Administrative Permits
 - Family Care Units
- Use Permits
 - Vacation Rentals
 - Commercial Activities or Businesses on Non-Commercial Zone Properties
- General Coastal Development Violations Requiring a Coastal Development Permit:
 - Grading More Than 2 Cubic Yards

- Major Vegetation/Tree Removal
- Non-Permitted Structures or Other Development
- Camping Beyond Exemptions
- General Zoning Violations Including:
 - Travel Trailer Occupancy
 - Development Setbacks
 - Permissible Uses Within Specific Zoning
 - Corridor Preservation Setbacks
 - Camping Beyond Exemptions
 - Commercial Storage of Materials

The Division also has the authority and conducts investigations and enforcement of other violations of the County Code including the following:

- MCC Chapter 8.75 – Public Nuisances (Declared)
- MCC Chapter 9A – Solid Waste regulations on Private Property
- MCC Chapter 10A.17 – Mendocino Cannabis Cultivation Ordinance
- MCC Chapter 16.30 – Stormwater/Illicit Discharge Ordinance

The Division also holds the County’s Joint Powers Agreement (“JPA”) and administers the County’s Abandoned Vehicle Abatement (“AVA”) Program.

Current Board Direction to Code Enforcement

The current Board priorities for the Division are as follows (listed in priority order):

1. **Life/Safety Issues** including Substandard housing or living conditions
2. **Environmental Degradation** such as illegal grading, illegal ponds, and illegal activities that cause environmental damage.
3. **Stop Work** for stopping work on non-permitted construction jobs.
4. **Nuisance Abatement** such as trash, debris and refuse visible from major traffic corridors.
5. **Cannabis Regulatory Compliance** for county wide cannabis regulatory compliance and enforcement

All other complaints not included in the above listed priorities are addressed as they come in and as resources allow. These complaints include, but are not limited to; violations related to use permit requirements, Coastal Development Permit (“CDP”) requirements (with minimal to no environmental impact), MHRB violations, business licenses, etc.

Current Board Direction for Complaint Response

Furthermore, the Board currently has the Division base its investigations and enforcement under a **reactive enforcement or “complaint driven” model** only. The Division currently does not conduct proactive enforcement investigations unless it is specifically provided direction by the Board to carry out “Directed Enforcement”, or if the Building Division deems a Stop Work Order is needed for an observed site constructing without permits. The Division also accepts **anonymous complaints** and will investigate them in accordance with the Board directed priorities, regardless of the details provided.

Current Division Staff Resources

On May 11, 2021, under the Board approved Enhanced Cannabis Enforcement Plan (“ECEP”) the Division was allocated positions to include one (1) Code Enforcement Manager, two (2) Supervising Code Enforcement Officers, and eleven (11) field officers for both traditional and cannabis enforcement. The Division was also allocated one (1) half-time Department Analyst, (1) Administrative Assistant, and (1) Staff Assistant. However, some of these positions were never funded.

The Division has the following allocated funded positions filled:

- (1) Code Enforcement Manager
- (2) Supervising Code Enforcement Officers/Enforcement Officers (dual responsibility)
- (4) Field Investigation Officers (three Inland, one Coast)

- (1) half-time Department Analyst (currently assisting PBS admin staff at front counter 80% of time)
- (1) Administrative Assistant

Additional Information:

- (2) Field Investigation Officer Positions are ***“Frozen” after recent promotions of Supervisors and Manager***
- (5) Code Enforcement Officer Positions are ***“Allocated, but not Funded”***

Additional Division Updates

In 2023, the Division has taken on additional roles in order to support the County’s requirements to provide support for other County mandates and services. These include the following Code Enforcement as a Service Model (CESM), Substandard Housing Inspections and Reporting, and Resource Sharing.

Code Enforcement as a Service Model (CESM)

Code Enforcement as a Service Model (“CESM”) was proposed by the Division as a means of providing support services for other County-based agencies and departments. All County Departments have the ability to use the enforcement tools codified in the Mendocino County Code of Ordinances (MCC), including but not limited to:

- MCC 1.04.130 – Recordation of Notice of Violation
- MCC 1.08 – Administrative Citations and Penalties
- MCC 8.75 – Uniform Nuisance Abatement Procedure

However, most departments do not utilize these tools or procedures on a consistent basis. Typically, departments and/or divisions are subject matter experts in their particular field – however, this does not necessarily result in them also being experts in regulatory enforcement. There are several factors which can result in other departments or divisions being unable to successfully engage in enforcement, including but not limited to:

- A lack of expertise in regulatory enforcement
- Staffing shortages
- New laws and/or ordinances

This leads to poor experience retention, inconsistent application, and inefficiency. To assist with these issues, the Division has proposed CESM whereby it would offer administrative regulatory enforcement services for other county departments under a signed and established Memorandum of Understanding (MOU) Agreement. The largest beneficiary of CESM would be other departments or divisions within the County, who may have extensive subject matter knowledge but little or no experience with regulatory enforcement. The Division will also benefit from CESM, as it would be acting as a central resource for enforcement needs in the County, and also greatly expanding its knowledge base and levels of expertise. Additionally, with CESM the Division will be able to recover costs for its billable staff time for services provided under the approved MOU.

The Division will provide a regulatory enforcement and compliance service for other departments and divisions within the County (CESM), with cost recovery from other departments and divisions. Other Departments and Divisions will send case referrals to Code Enforcement for further action, following an initial investigation to be conducted by their own subject matter experts.

CESM Pilot Program – Solid Waste (Department of Transportation)

The Division has partnered with the Mendocino Department of Transportation Solid Waste Division to form a MOU agreement for the Division to conduct regulatory enforcement services for confirmed violations related to Senate Bill – 1383 (SB-1383) for organic waste enforcement. In 2016, Governor Brown signed into law SB-1383, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants (SLCP) in various sectors of California’s economy. The new law codifies the California Air Resources Board’s Short-Lived Climate Pollutant Reduction Strategy, established pursuant to SB 605 (Lara, Chapter 523, Statutes of 2014), to achieve reductions in the statewide emissions of short-lived climate pollutants. Actions to reduce short-lived climate pollutants are essential to address the many impacts of climate change on human health, especially in California’s most at-risk communities, and on the environment.

As it pertains to Mendocino County, SB-1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025. The law grants the County the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that not less than 20 percent of currently disposed edible food is recovered for human consumption by 2025. Additionally, jurisdictions are required to implement an inspection and enforcement program to ensure organic waste generators comply with the requirements.

To meet this legislative mandate, both the Code Enforcement Division and the Solid Waste Division have formed a MOU Agreement to ensure there is an adequate and effective process for investigations and enforcement of determined violations of SB-1383 and MCC Chapter 9A. The MOU agreement is currently pending review by County Counsel.

The Division hopes that this pilot program will assist in determining the feasibility and longevity of this proposed service model, which is intended to support the county as a whole.

Substandard Housing Inspections and Reporting Requirements

Effective July 1, 2022, under Assembly Bill – 838 (AB-838), the State Housing Law placed requirements on local government jurisdictions to receive and respond to complaints of substandard housing. Under AB-838's California Health & Safety Code (HSC) § 17970.5, the County is required to inspect for Lead Hazards (HSC §17920.10) and Substandard Building (HSC §17920.3), document any violations and provide free certified copies of inspection reports and/or citations issued to all potentially affected tenants, residents, occupants, or their agents. Determinations for substandard conditions fall under the purview of the Planning and Building Services Chief Building Official, the Public Health Officer and the Environmental Health Department.

The Division currently serves as a complaint reporting center for the County and carry out inspections for similar issues that fall under MCC Title 18 – Building Regulations. Therefore, the Division has assumed responsibility to ensure this state mandate is met on behalf of the County.

The Division is the primary receiver of these complaints and will immediately schedule an inspection as a result of a complaint. The division will gather information to identify potential concerns of conditions noted for lead hazards and substandard building. Further determinations of certain conditions will be made by other divisions and departments (under their respective purviews). Once all conditions are determined, the Division will complete the required documentation and provide certified copies to the required parties. The certified copy of a report can be used by the affected tenants, occupants, etc. to bring to civil court as evidence of substandard housing. It is believed that its main purpose is to provide added protections for tenants who are forced to pay rent while living in unsafe or uninhabitable dwellings.

Resource Sharing

The Division has also been assisting the Mendocino County Cannabis Department ("MCD") with site visits in support of completing Cannabis Cultivation Business License ("CCBL") processing for all pending applications. For sites that have not already received a pre-site inspection, the Division has provided support to carry out these site inspections so MCD can meet their December 2024 deadline set by the state's Department of Cannabis Control ("DCC").

The Division has provided one field officer to assist with these inspections since mid-August 2023, primarily for Phase I and II applications with a DCC provisional license. These inspections are based on a checklist provided to the assigned field officer by MCD to address all site requirements. MCD is currently reimbursing the Division for its billable staff time through an approved grant funding source. The Division and MCD are currently discussing options for a long-term solution for this assistance.

Since the resource sharing effort has begun, the field officer has been averaging approximately 30 inspections per month, covering all geographical areas of Mendocino County. The average time spent by the officer in inspections since August 2023 is 13.68 hours per week. This average is based on weekly hourly totals ranging anywhere from 2 hours to 39 hours (including travel time).

Current Code Enforcement Metrics – 2023

The Division has collected the following data (as of 11/28/2023) for the Board's consideration.

COMPLAINTS RECEIVED 2023 *Not including Cases Opened	
COMPLAINT TYPE	TOTAL
Incoming Complaints - inc. cannabis (IC)	605
Town of Mendocino (MV)	91
Stormwater (SW)	2
Directed Enforcement (DE)	148
TOTAL	846

ENFORCEMENT CASES OPENED *Opened after efforts to achieve voluntary compliance were unsuccessful	
CASE TYPE	TOTAL
Building Coastal (BC)	3
Building Inland (BI)	40
Zoning Coastal (ZC)	2
Zoning Inland (ZI)	4
TOTAL	49

TOTAL DIVISION ACTIVE COMPLAINTS & CASES *Including cases from years prior to 2023	
RECORD TYPE	TOTAL
Complaints/Cases	605
Recorded Liens	291
TOTAL	896

COMPLAINTS/CASES CLOSED 2023 *Including cases from years prior to 2023	
COMPLAINT/CASE TYPE	TOTAL
Incoming Complaint (IC)	537
Building Coastal (BC)	9
Building Inland (BI)	83
Zoning Coastal (ZC)	4
Zoning Inland (ZI)	7
Directed Enforcement (DE)	146
Town of Mendocino (MV)	42
Stormwater (SW)	2
TOTAL	830

AVERAGE TIME TO CLOSE COMPLAINTS/CASES 2023	
INCOMING COMPLAINTS	DAYS
Inland	54
Coastal	48
Town Of Mendocino (MV)	51
CASES	DAYS
Building Coastal (BC)	298
Building Inland (BI)	161
Zoning Coastal (ZC)	209
Zoning Inland (ZI)	120

ABANDONED VEHICLE ABATEMENT (AVA) PROGRAM - COUNTY ONLY	
Total Number Vehicles Abated	90
Average Time to Close AVA	9 Days

RECOMMENDATIONS:

Based on the current staffing resources and objectives of the Division, the Division is requesting the Board direct staff to execute the following recommendations:

- An updated list of recommended enforcement priorities
- Authority for the Division to exercise discretion on response and action taken for anonymous complaints where limited information is given
- Authority for the Division to exercise discretion on response and action taken for complaints which do not fit within the Board's recommended enforcement priorities
- Authorization for the Division to develop and implement new enforcement tools for complaints that fall outside the list of priorities

Updated Board Priorities to Code Enforcement

The Division previously received direction from the Board concerning enforcement priorities; these have not been re-assessed in over five years. The Division's overall recommendation is to maintain the current order of Board directed priorities; however, each listed priority will incorporate more specific descriptions of the intended complaint concerns. These recommendations are based on new state enforcement mandates, common complaints and violations observed, and consideration of overall community quality of life. The Division's recommendations for updated Board priorities are as follows:

- **Life/Safety** – Substandard and Dangerous Buildings, HSC §17970.5 Substandard Housing Inspection Reports.
- **Environmental Degradation** – Non-permitted grading and ponds, water diversion (to be referred to CDFW and Waterboard), major vegetation removal within the coastal zone, development within Environmentally Sensitive Habitat Areas without approval.
- **Non-permitted Construction** –Active non-permitted construction requiring posting of a Stop Work Order notice.
- **Nuisances** - Excessive storage of trash/refuse on private property visible from public areas, public nuisances defined under MCC Chapter 8.75 likely to negatively impact community quality of life
- **Illegal cannabis cultivation** including violations of MCC Chapter 10A.17 and continued cultivation after CCBL has been revoked.

For all other complaints received, which do not fall within the parameters described above, the Division recommends that it have authority for the discretion to determine the appropriate response to complaints, and an enforcement methodology to address the complaint.

Authorization for Division Discretion on Non-Priority Complaints and Anonymous Complaints

For complaints not determined to fit within the approved Board directed enforcement priorities, the Division seeks the Board's support for the Division to develop and implement alternative investigative and enforcement methods to address the reported concerns. For example, the following list of complaint types rarely fit within the Board's current and recommended updated Board directed enforcement priorities:

- Non-approved signage (all zonings)
- Certain violations requiring a Business License (all zonings)
- Certain violations requiring Administrative Permit (all zonings)
- Certain violations requiring Use Permit (all zonings)
- Certain violations requiring a Coastal Development Permit
- Certain violations requiring MHRB approval

The Division intends to still receive and log all non-priority complaints for potential investigation, and address each non-priority complaint in a cost-effective way. The Division is requesting the authority to assess each type of complaint based on how it fits within the priorities, and whether there is an alternative method to address the complaint and seek compliance, without excessive use of staff time and resources. As an example of this, the Division recommends it begin to implement the use of Courtesy Letters to notify property owners or responsible parties of complaints received, provide applicable codes related to the concern, and provide resource information of how to come into compliance. The noted benefits to this recommended tool include:

- The complaint is logged and tracked to keep a record of all related complaints and concerns, to assess for overall applicability to the Board directed enforcement priorities.
- The Division is taking the least costly approach to code enforcement without expending excessive amounts of staff time and resources to conduct inspections and long-standing efforts to seek voluntary compliance.
- Addressing the complaint notification of the complaint, educating the responsible party and providing resources to address the concern.
- The responsible party is still expected to ensure compliance is achieved, as dictated in the courtesy letter. Failure to do so may result in further enforcement action later on.
- If numerous complaints are received, the tracked records and actions taken can be elevated to a higher level of enforcement, when determined the complaint(s) do fit within the Board directed enforcement priorities.

The Division is also seeking BOS support for Code Enforcement to have strategic discretion for response and enforceability to **anonymous complaints**. At this time, the Division applies the same priorities designation and enforcement tactics to all anonymous complaints regardless of how much information is provided. It has been the Division's experience that in some cases, anonymous complaints are received with very little information related to the concern and there is no person to follow-up with to get further helpful information to better understand the complaint and notify the complainant of the outcome. By allowing the Division to carry out this discretionary action, it would allow the following benefits:

- The Division can determine its appropriate prioritization of the complaint based on details, or lack of details, provided.
- The Division can avoid duplicative staff time efforts for multiple complaints received where the violations have previously been determined to be unfounded or resolved.
- The Division can determine alternative enforcement methods for non-priority anonymous complaints.
- The Division can determine to close the complaint due to lack of required information, but can re-engage when further information is received.
- All complaints will still be tracked, without expending excessive staff time and resources.

The Division requests the Board's approval of the above staff recommendations in order to support its ability to be effective in its efforts to address the Board directed enforcement priorities, while at the same time having the discretion to address non-priority issues more efficiently. The Division believes that approval of staff recommendations will result in the Division becoming more efficient and to more effectively resolve complaints that cause negative impacts to the community. At the same time it will be able to take a more cost-effective low-level enforcement approach to non-priority and certain anonymous complaints. As a result, the Division seeks the benefits to: focus its efforts on priority complaints with improved time efficiency and cost effectiveness, re-direct some of its focus to support the county to meet state mandates (including for other County departments), and have Board supported discretion on complaints that do not meet prioritization criteria and their resolutions.