



Arapahoe County

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Board Summary Report

File #: 21-276

Agenda Date: 3/29/2021

Agenda #:

To: Board of County Commissioners

Through: Bryan Weimer, Director, Public Works and Development;
Jan Yeckes, Planning Division Manager, Public Works and Development

Prepared By:

Caitlyn Cahill, Zoning and Animal Services Manager, Public Works and Development

Presenter: Caitlyn Cahill, Zoning and Animal Services Manager, Public Works and Development; Robert Hill, Assistant County Attorney

Subject:

1:00 PM *Zoning Violations: Repeat Complaints/Offenders

Purpose and Request:

Staff is providing an update on the challenges of zoning violation enforcement and is requesting general feedback, as well as seeking direction from the Board on addressing situations where property owners use zoning complaints against neighbors as a means of dealing with more personal disputes between themselves and the neighbor against whom they filed the complaint. Staff will provide examples during the study session and staff from Zoning and the County Attorney's Office (CAO) will be available to answer any questions pertaining to process involving enforcement and legal action.

Feedback being requested is regarding the desired level of service for ongoing zoning violation issues that involve neighborhood disputes in which the complained of zoning violation is a moving target and long term, voluntary compliance falters. In these situations, zoning complaints often get resolved short term and then reoccur when the underlying neighbor dispute heats up, or staff cannot make a clear determination if a violation exists or can be mutually resolved without cooperation from multiple property owners.

Background and Discussion:

Zoning is responsible for the enforcement of regulations outlined in the Arapahoe County Land Development

Code. Most common zoning violations currently being investigated by staff include the following: commercial use of residential properties, storage of junk/debris and inoperable vehicles, construction without prior approval/permits, and residing on property illegally (in RVs/outbuildings/unapproved accessory dwelling units). Violations are opened based on complaints received from the general public and through County staff. Complaints are received through the online reporting system, by email, or by phone and complainants can remain anonymous or provide their contact information.

There are currently 110+ open cases being worked on by Zoning staff, many of which will not see voluntary compliance without escalation of the case to the CAO for support. Between January 2020 and March 2021, staff gained voluntary compliance on 78 cases and were able to close out the investigations as resolved.

There are currently two standard outcomes involving compliance when it comes to violations:

- **Voluntary**: Compliance with the regulations in a voluntary manner, normally involving extensive coordination by Zoning staff initially by way of gentle request for compliance, escalation to strict deadlines for compliance, and then potential involvement of the County Attorney's Office (CAO) staff if negotiations waiver.
- **Court Ordered**: If voluntary compliance fails, then the CAO must start the process of taking the owner to court to gain compliance through legal action. This process is significantly taxing on staff time and resources in addition to existing workload, so voluntary compliance is always the first attempt.

At this time, there are no other courses of action (i.e. fines or penalties) that can be taken against property owners who fail to come into and stay in compliance with the Arapahoe County Land Development Code regulations. Each time a case is closed due to compliance, a new one must be opened and reinvestigated if a complaint is received, essentially starting the process over. Moreover, the statutory enforcement authority for zoning violations, CRS 30-28-124 and 124.5 does not provide escalation provisions for repeat offenses; each offense is a new case if the earlier offense is determined to be resolved.

During 2021, staff will be evaluating the possibility of creating an ordinance that will address the use of property for accumulation/storage of junk, trash, and debris. This ordinance would allow staff to cite the property owner with a petty assessment (fine) for each violation; however, this would not include any other types of violations that fall under the Zoning purview, as this authority is limited by the Colorado Revised Statutes to junk, trash and debris.

Staff would like to discuss specific scenarios with the Board, the history of attempts made to resolve issues long term, and expectations of citizens regarding Zoning staff's involvement in suspect and repeated violations.

Fiscal Impact:

Zoning violations require a significant amount of dedicated staff time and coordination surrounding field inspections, internal communication/assessment, and communication with property owners and complainants, while not having any financial or fiscal return to the County. Additionally, if a property owner fails to come into voluntary compliance by a deadline date, the only next course of action is to turn the case over to the CAO for review. After review, the CAO proceeds with notification of the property owner about the final compliance

request, followed by legal action if determined appropriate and reasonable.

Due to the high volume of cases and the lack of voluntary compliance by property owners, both Zoning and CAO staff must reasonably prioritize cases based on public safety and community impact. It has not been fiscally reasonable to take all cases to court to seek a judgement against the property owner when voluntary compliance fails. In these situations, staff continues to work with property owners to gain voluntary compliance, but without realistic leverage. This can create dissatisfaction with neighbors who file complaints and do not see these reasonably resolved.

Alignment with Strategic Plan:

- Be fiscally sustainable
- Provide essential and mandated service
- Be community focused

Staff Recommendation:

Staff does not have a specific recommendation generally applicable to repeat violations at this time, but instead is seeking feedback and direction from the Board of County Commissioners. While we always continue to seek voluntary compliance, this discussion is for those situations where voluntary compliance has not been a workable path forward. Alternative options may include: (a) increase the number of cases that proceed to court, and/or (b) determine that cases related primarily to neighbor disputes will eventually be left to the property owners to resolve on a private basis when impact to County resources exceed community benefit.