



CITY OF GLENDALE, CALIFORNIA REPORT TO THE CITY COUNCIL

AGENDA ITEM

Report: Discussion and Direction on Consideration of Modifying Compliance Deadlines for Certain Code Enforcement Violations

1. City Council Motion to note and file this report;
2. City Council Motion to direct staff.

COUNCIL ACTION

Item Type: Action Item

Approved for _____ **calendar**

ADMINISTRATIVE ACTION

Submitted by:

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RECOMMENDATION

That the Glendale City Council receive and file this report in consideration of establishing alternative enforcement options for certain code violations and provide direction as deemed appropriate.

BACKGROUND/ANALYSIS

During two regular Council meetings, Councilmember Kassakhian noted concerns regarding enforcement efforts against residents and/or business owners who were notified of code violations and are financially or physically unable to remedy them. These violations are typically the result of one of two circumstances:

1. The owner was unaware of the code violation on their property when they acquired the property; or
2. The owner (knowingly or unknowingly) had performed improvements during their ownership.

In both instances, the violation could be something specifically prohibited by code or if allowed by code, an action that did not receive the proper building permits and/or Planning approvals. The City Council directed staff to explore possible options to help address these types of concerns wherein the owners may be granted some type of extended consideration or alternative/relaxed enforcement for compliance when a demonstrated hardship exists.

The Community Development Department's Neighborhood Services/Code Compliance and Licensing Section (NSCCL) operates a multi-faceted Code Compliance, Problem-Solving and Abatement, Graffiti Removal, and Licensing program to ensure that the quality of Glendale's neighborhoods is maintained. The Section was established in the late 1980's to create a central location to receive and respond to community complaints.

Glendale's Code Compliance program plays a large role in preserving quality of life for our residents, businesses and visitors through enforcement of the City's housing, building, zoning and municipal codes. This program requires that minimum standards be maintained related to health, safety and welfare of community residents and businesses. A good compliance program promotes increased land values, safer neighborhoods, and pride in ownership. Code enforcement is complaint driven from members of the public who can report violations anonymously.

Code inspectors regularly visit Glendale's commercial and residential neighborhoods to investigate complaints such as:

- Illegal use of property;
- Unkempt yards and overgrown weeds;
- Illegal building additions, alterations, and garage conversions
- Junk, litter and debris;
- Parkway and onsite landscape violations;
- Parking and storage of abandoned vehicles;
- Front and side yard fencing violations;
- Property maintenance issues (broken windows, deteriorated roofs, peeling paint);
- Stagnant pools;
- Excessive noise;
- Illegal signs; and
- Inappropriate use of city permits.

In addition to responding to complaints, routine compliance checks (quarterly, semi-annually or annually) are conducted by the field staff to ensure the following:

- Shopping cart containment systems for stores/markets are functioning and are adequate;
- Graffiti prevention controls are in place for those business that sell spray paint, markers and paint pens to eliminate the ease of access to minors;
- News rack maintenance compliance;
- Tobacco retail sales licenses compliance;
- Vacant lot maintenance compliance; and
- Billboard maintenance compliance.

Staff also conducts abatement activities on a daily basis within the residential and business neighborhoods by removing abandoned property that create a public safety issue from the public rights-of-way including furniture, trash, shopping carts and other discarded/unwanted items. The Division is also committed to keeping Glendale graffiti-free. Staff removes graffiti daily from public property including sidewalks, utility boxes and poles, and public buildings and property. Graffiti that is profane and/or hateful is removed immediately. Staff also advises residents and businesses on removal of graffiti themselves from private property and solutions to protect property from future graffiti.

Due to concerns with effectiveness and efficiency of enforcement through criminal process, in 2008 the City Council adopted an *administrative citation* program to better deal with code violations administratively rather than criminally. The intent was to gain quicker compliance through the use of monetary citations, rather than through the traditional criminal prosecution process which was considered to be a longer and more burdensome course to gain compliance. In 2011, the program was refined and the City

Council reaffirmed their support for the *administrative citation* program; the program was then fully implemented.

To determine the effectiveness and efficiency of the *administrative citation* process, in 2018 the Director of Community Development requested that the City's Innovation, Performance, and Audit Department (IPA) perform an audit of the program. IPA's findings determined that the program was indeed effective and efficient and recommended further refinements and expansions to its operations. It was also recommended that the program maintain strict compliance with stipulated time frames which are vital for program success. This is because many people find, or interpret, delayed enforcement as a lack of enforcement, thus the need to remediate violations as quickly as possible.

It is important to note that the Division's primary goal regarding enforcement of city codes and regulations is **compliance**. City residents, business owners and customers are provided reasonable opportunity to resolve their issues without being assessed any fine or penalty. The Code Compliance staff use various tools to gain compliance, including but not limited to verbal notifications, warning notices, administrative citations, and legal prosecution as a last resort when the administrative processes fail. There is no penalty or re-inspection fee assessed on a warning notice. Assuming compliance on initial notification, there is no charge. If non-compliance continues, penalties are assessed with each citation (\$100 - \$2,000) in addition to a re-inspection fee of \$382 each time staff has to go out to inspect for compliance.

A typical enforcement case will follow the process/timeline outlined below:

1. If violation(s) verified, an administrative warning notice (or Notice of Violation) is issued requesting compliance within a set period of time from notice and a re-inspection is scheduled;
2. If violation(s) remains, citation 1 is issued noting violation(s) must be corrected within a set period of time from citation and a \$100 - \$400 fine and re-inspection fee is assessed;
3. If violation(s) remains, citation 2 is issued noting violation(s) must be corrected within a set period of time from citation and a \$200 - \$1,000 fine and second re-inspection fee is assessed;
4. If violation(s) remains, citation 3 is issued noting the case will be referred to the City Attorney to pursue legal remedy to correct and a fine of \$500 - \$2,000 and third re-inspection is fee assessed.

Fines/penalties are only assessed when compliance deadlines are not met. Such compliance deadlines range from twenty-four (24) hours to thirty (30) days depending

on whether the violations are life-safety or general maintenance related. When compliance is contingent upon City process (e.g. a resident submits plans to legalize a patio and the Planning Division process takes beyond the initial 30-day compliance period), then additional time is awarded to the customer to account for the Planning processing time and staff monitors the entitlement process.

Over the years, City Councils have implemented some variation of formal delayed enforcement for certain violations. The specific items captured in these exemptions include amortization of violations following a code change (front yard fences) or for violations that were common city-wide (window replacement). In those cases, Council provided for delayed enforcement from compliance and prosecution until the property is sold at which time the new owner would have to correct the violation(s).

It is also important to note that informal extensions to compliance times are available when requested, depending on the personal need and circumstance. Any request for an extension of time to bring the property into compliance must be in written form. These requests for extension are left to the discretion of the Compliance Inspector who will notify the property owner/responsible party by letter or email confirming the extension and advising them of the new compliance date. Again, extensions may be granted for a reasonable period of time depending on the circumstances, the stated reasons for the extension, and the nature of the violation. As with other specified deadlines, the circumstances and reasoning for the length of the extension will be documented in the file. The extension will be granted for no more than thirty days unless circumstances clearly warrant a longer extension. Authorization for any extension longer than thirty days must be obtained from the Code Compliance Supervisor. The NSCCL unit has operated under this informal policy direction for several years seeking to balance the needs of non-compliant owners and maintaining the quality of neighborhoods.

To address Council's request of identifying alternatives to current timelines and actions for compliance that would provide some level of flexibility for the violator, staff explored the types of violations that could possibly apply to such a program and potential remedies that could be implemented for them.

Initially, staff contacted a number of agencies inquiring about practices they might have in place similar to council direction including Long Beach, Los Angeles, Burbank and Santa Monica, to see if they operated any type of program/policy that may provide such relief. None of the cities contacted have or were aware of a similar policy/program being implemented. In discussing the idea with counterparts in other cities, a concern was raised regarding the possible legal ramifications if such a program or policy were implemented related to statutes of limitation on future enforcement.

Staff then evaluated the types of violations that could be placed into an alternative program compliance schedule. Both Community Development and City Attorney staff agreed that certain violations related to health and safety issues should be remedied immediately, not only for the safety of occupants but also for liability purposes. This includes lack of heat, lack of running water or sewage systems, stagnant water, and construction without benefit of a city permit, just to name a few.

Finally, staff eliminated from consideration violations that can be viewed as significantly impacting quality of life within neighborhoods and with very limited exceptions, can be easily remedied by responsible homeowners or property owners. Those violations include: overgrown vegetation; junk and debris; general property maintenance; inoperable vehicles; etc.

After accounting for those identified violations that should be immediately corrected, there is a small list of violations to consider for inclusion in a program where compliance could be delayed or extended indefinitely. Such violations may be determined by City Council to be too important to be considered for delayed enforcement and as such, City Council direction should be given. The list includes violations such as:

- Front yard fencing and walls (already under enforcement suspension for those identified prior to June 2005, this new proposal would apply to fencing/walls constructed after 2005).
- Street and side yard setback fencing (currently under suspension pending Council direction on this program concept).
- Window replacement (already under enforcement suspension under pre-approved City Council direction for those that purchased the property as is with the violations in place, this new proposal would apply to windows illegally installed by the current homeowner).
- Parkway Landscaping (City Council adopted new regulations and directed NSCCL to reinstate enforcement).
- Excessive front yard paving for parking.
- Excessive use of artificial turf in front yards.
- Peeling exterior paint.
- Percentage of required landscape coverage.
- Portable canopies.

Staff has developed four different options for discussion. These include:

Option 1. No changes to current policy and continue with existing enforcement directive. This would continue to allow staff discretion to informally work with owners to develop a plan for compliance, considering their ability to correct and the severity of the violation.

Pros: No change in policy, equity is maintained with no perceived preferential treatment with violations not included in the program or lack of enforcement; no potential legal ramifications for non-enforcement.

Cons: Owners facing hardship would be required to eventually remediate violations within policy guidelines.

Option 2. Create a Code Compliance/Licensing review board to review such requests.

Pros: Provide a hearing body that would review and make a decision on the request. This would be taken out of the hands of staff to provide a more objective review of the request.

Cons: Provides additional bureaucracy; significantly extends out enforcement cases that go through this process; requires staffing resources to implement.

Option 3. Require a pre-purchase inspection (PPI) that requires a physical inspection by a private certified inspector, copy of assessor records and certified copy of city records to include building records and copies of any code compliance cases to be provided to purchaser by the seller so that they have a good understanding of what they are purchasing. This would help to avoid situations wherein homeowners cite that they had purchased the property in that condition or that the previous homeowners were responsible for the violation. This will allow for violations to be addressed during the time of escrow or in preparation of escrow or sale.

Pros: Owners would clearly know what they are purchasing; no impact on city programs or processes.

Cons: Creates an additional burden to assemble and provide documents; property representatives and realtors could be concerned with potential added liability.

Option 4. Stay enforcement on non-life safety violations for a finite period of time (i.e. 1-3 years) for those homeowners who claim a lack of financial means to correct the violation. A notice of sub-standard/notice of zoning non-compliance or other lien would be filed on the property to ensure if property is sold within the “stay” time frame a purchaser of the property

would be made aware of the violations that would need to be remedied within 60 days after purchase. A criterion would need to be developed to provide guidance on who would be permitted to claim this option and for how long it should be delayed. This criterion would need to consider such things as income, cost of compliance and required length of time to remediate. Note: There is a similar program and criterion for certain prohibited front and street side setback walls/fences and unpermitted window replacements that was put in place by City Council approved policy.

Pros: owners would be given extended time to remediate non-life safety issues; lien recorded against property would provide notification of issues.

Cons: Public perception regarding equity with enforcement; may impact future litigation for non-compliance; difficulty to track cases approved under the program; liens recorded against the property may temporarily impede sale and refinancing.

If it is the City Council's preference to explore the final option to extend compliance from 1-3 years for certain violations, staff would recommend a process similar to the procedure below be implemented.

1. Owner/violator must put their request in writing and must clearly demonstrate financial hardship that would preclude them from remedying the violations. The form in which the owner/violator must show hardship is to be determined.
2. Owner/violator would sign an acknowledgement of the violations and agree to remedy violations at the end of the term. Violations must be remedied by the end of the acknowledged term or upon any change in title, whichever occurs first.
3. A "Notice of Substandard", "Notice of Zoning Non-compliance" lien or similar document will be recorded against the property noting the condition. This will ensure that if the property is sold or transferred that prospective owners will clearly understand that issues exist on the property that will need to be remedied within 60 days of close of escrow.
4. The case would be suspended and noted in the code compliance system and scheduled for inspection at the end of the acknowledged term. All documentation would be attached to the case file.
5. Any fees to remove liens including any accrued citation fines and inspection fees will be borne the property owner.
6. Any new violations created will null/void the agreement and all violations would need to be remedied within thirty (30) days of this determination.

Any program designed to give temporary relief for owners that find themselves unable to comply with code and correct violations should balance the hardship of the non-compliant owner and the desire to maintain quality of neighborhoods. Checks and balances should be developed to ensure only truly hardship cases are eligible and that the program does not become abused by those who purposely violate the code and then seek forgiveness and exemption through the program.

FISCAL IMPACT

There is no significant fiscal impact associated with this action. If a new program is adopted that waives or rescinds accrued penalties and fees, then there would be a negligible fiscal impact.

ALTERNATIVES

Alternative 1: City Council may adopt a motion to receive, note and file this report and provide direction as to a compliance program for certain violations;

Alternative 2: City Council may adopt a motion to receive, note and file this report;

Alternative 3: City Council may elect to consider any other alternative not proposed by staff.

CAMPAIGN DISCLOSURE

Not Applicable.

EXHIBITS

None