

CODE ENFORCEMENT

Models & Practices

Planning Association of Washington
2018 Land Use Boot camp



Code Enforcement “Why”

The purpose of Code Enforcement is to **provide minimum requirements to safeguard the public health, safety, and general welfare** through regulation and enforcement.

Spokane: Code Enforcement is the primary contact for land use complaints, enforcing City **health, safety codes and ordinances**. Code Enforcement *helps the public understand* their rights and obligations and work closely with other government agencies to promote community goals; and acts as a liaison with community members on programs and policies to ensure stable improvement to quality of life and neighborhoods.



Code Enforcement Approaches



Proactive vs. Complaint

- Pros & Cons to both.
- Can be based on Policy...
 - Staffing Levels & Budgets
 - Politics
 - Legal Opinion



Proactive Approach

- Citizens feel the City “is doing their job”.
 - More noticeable results when an area is improved vs. spot cases.
-
- Equal Protection.
 - Larger case loads (when responding to complaints also).



Complaint Approach

- Equal Protection is not in question as the response is based on a submitted complaint.
 - More information provided by complainant.
-

- Citizens respond with “why me” “what about them”, etc.
- Neighbor feuds.



Legal Access

Right of Entry

- The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
- U.S. Const. amend. IV

Right of Entry

- Curtilage

“The curtilage is that area “so intimately tied to the home itself that it should be placed under the home's ‘umbrella’ of Fourth Amendment protection.” *United States v. Dunn*, 480 U.S. 294, 107 S.Ct. 1134, 94 L.Ed.2d 326 (1987).”

State v. Ridgway, 57 Wash. App. 915 (1990)



Right of Entry

- Expectation of Privacy

There is no legitimate expectation of privacy “in those areas of the curtilage that are impliedly open to the public.”

State v. Browning, 67 Wash.App. 93 (1992)

Note: *Curtilage can include areas deemed to have a reasonable expectation of privacy and areas that do not. This makes curtilage a “super-grey area” to search(!)*

Right of Entry

TIP:

THE 'WRIST' TEST: IF YOU NEED TO USE YOUR WRIST TO OBTAIN ACCESS, THE CURTILAGE IS MOST LIKELY CONSTITUTIONALLY PROTECTED!

Right of Entry

Ferrier Warnings:

Inform the person from whom consent is sought
that **they may lawfully refuse to consent,**

**They can revoke at any time the consent that
they give**

Privacy



Privacy

Aerial surveillance of open fields at 1,500 feet above ground, without the use of visual enhancement devices, is not unreasonably intrusive nor does it jeopardize a reasonable person's sense of security.

- State v. Myrick, 102 Wash.2d 506 (1984)



CASE DEVELOPMENT



Steps to Successful Case Development

- Proper Violation Identification/Proper ordinance
- Personal Contact
- Give notice of violation (if applicable)
- Documentation
- Issue a citation
(if warranted)



CITY OF SPOKANE
NEIGHBORHOOD SERVICES AND CODE ENFORCEMENT
808 W SPOKANE FALLS BLVD
SPOKANE, WA 99201-3333
(509) 625-6083
CodeEnforcement@spokanecity.org
www.beautifyspokane.org

NOTICE OF LAND USE VIOLATION

NAME	Owner/Occupant	DATE DELIVERED/POSTED	09-27-18
ADDRESS	4915 E Union Ave		

NOTICE IS HEREBY GIVEN that the following violations of the Spokane Municipal Codes for Land Use are occurring on the property at the above referenced address:

- | | |
|--|---|
| <input type="checkbox"/> Vehicle Parked in the Front Yard in residential zone
SMC 17C.230.145 | <input type="checkbox"/> Living in Garage, Shed or other Illegal Structure
SMC 17C.300 |
| <input type="checkbox"/> Home Occupation Violation
SMC 17C.340 | <input type="checkbox"/> Living in Camper/RV/Trailer or other Vehicle
SMC 17C.319 |
| <input type="checkbox"/> Residential Setback Area Violation
SMC 17C.110.220 | <input type="checkbox"/> Exterior Storage
SMC 17C.110.270 |
| <input type="checkbox"/> Clear View Triangle Obstruction
Residential: SMC 17C.110.230 | <input type="checkbox"/> Residential Fencing Violation
SMC 17C.110.230 |



Proper Violation Identification and Ordinance Usage

- Case Study:
 - Use: Freight Movement/ Warehouse
 - Zoning: GC-General Commercial
 - No CO on file.
 - Complaint: Parking Commercial Vehicles/ Residential Street. Noise (between hours 2am-6am). Business Licenses.

How would you approach?

Personal Contact

Public Servant or Private Eye?



Personal Contact

- It is important to be able to identify the violator. Why???
- Prove ownership or rental status.
- Provide educational materials

Education vs. Regulate

Give Notice

- What purpose does notices of violations serve?
- How do you give them to the violator?
- What is the best cost effective way to give them to the violator?



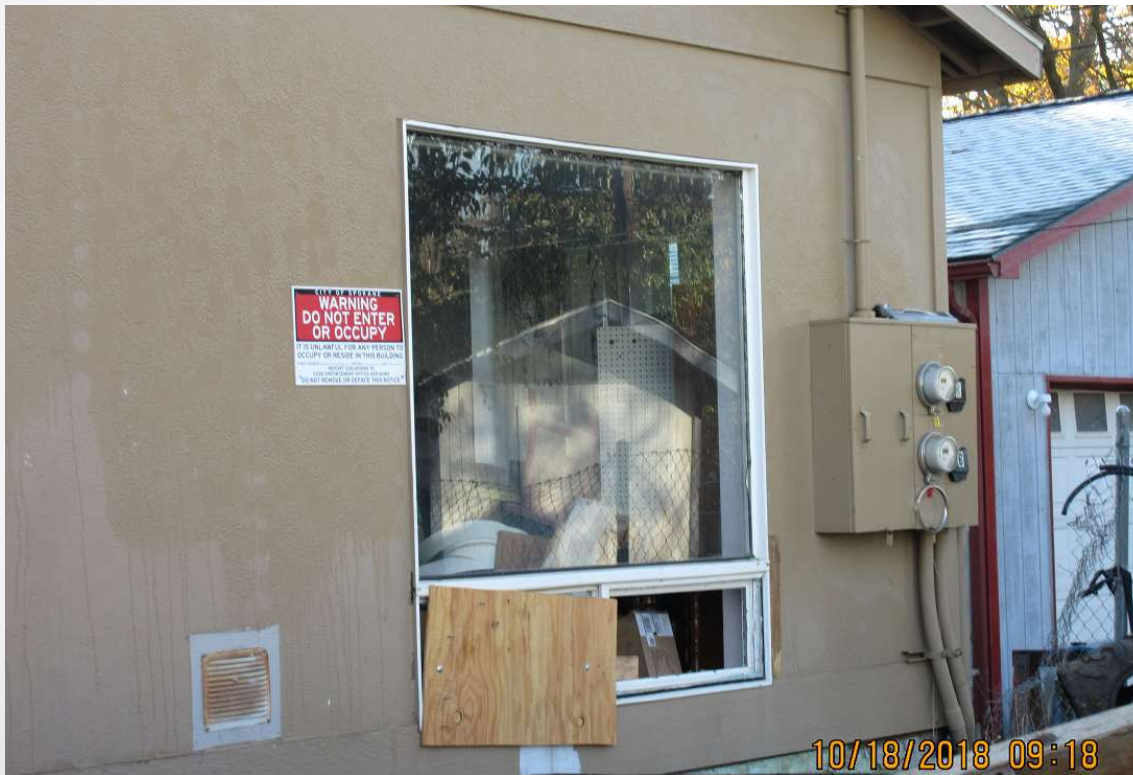
Documentation

- Photographs
 - Good documentation begins as you soon as you approach the property. Addresses should be captured to solidify the correct property.
 - Photograph each violation.
 - Information Age- Digital photos are cheap.



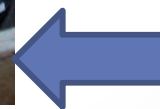
Documentation

- Date/ Time Stamp



Your Experience?

Meta Data is King!!!



Good Practice

Enforcement

- Citation
 - Authority?
 - Not all Jurisdictions have citation powers.
 - A tool to compel compliance.
 - Does not cure the violation.
- Other
 - End all be all?....
 - Notice and Order- Fine
 - Abatement Warrant

Prosecuting Cases

- Prepare every case as if you will have to defend it in court.
- Relationship with the City Prosecutor is vital.
- Educate Prosecutor the same as a member of the public.



Tools/ Technology



Technology Benefits

- Reporting
- Real-time access to property owner information
- Improve Efficiency & Effectiveness
- Time Management
- Filing



Case Tracking

- Physical Files?
- Tracking Database?
- Mobile Apps?



**CODE
ENFORCEMENT
DATABASE**



Efficiency

- Real time data and complete parcel history.
- Less office time = more case time.
- Expedited noticing contact- mobile printing.



Tools



Sound Meter



Light Meter

Recommendations

- Include Code Enforcement in the crafting of code provisions.
- Citation authority is a useful tool, abatement warrants should be last resort.
- HB2057 (foreclosures). No longer limited to \$2k first priority liens. Good for the city (budget), good for the neighborhood.



Thank you!!!

Luis Garcia, CBO, CSBA
Enforcement Supervisor
lgarcia@spokanecity.org

