

City of Bainbridge Island
PLANNING & COMMUNITY DEVELOPMENT



MEMORANDUM

TO: Mayor, City Council

FROM: Mary Jo Briggs, City Administrator
James P. Harris, Interim Director of Planning and Community Development
Meghan McKnight, Code Enforcement Officer

DATE: October 2006

RE: Profile on Code Enforcement

Work Program

The intention is to provide consistent and clear code enforcement procedures to deal with citizen complaints while maintaining due process. This evaluation considers those areas of the current code and policies that need to be revised as well as makes recommendations for improving and streamlining the complaint review administration processes. This includes some ideas from the previous administration while incorporating new items and removing items that are no longer of concern.

The City of Bainbridge Island is rich with beautiful shorelines, pristine views, forests and wetlands. These features, along with the tranquility of a small town with excellent schools and easy access to Seattle, have inspired many people to make Bainbridge Island their home. The increasing demands for new development as well as demands to expand and improve existing properties, often collide with desires to keep Bainbridge Island, "just the way it is." The choice and ability of the citizens to participate in their community government makes this an interesting and active place to perform.

Statistics

1016 calls Jan 1st – Aug 31st
223 complaints Jan 1st – Aug 31st
12 substantial record requests (beyond basic looking at individual file)
87% of cases started as warning letters were closed in warning letter stage
Closed 37 cases
Referred 3 cases to the prosecuting attorney
Issued 2 monetary infractions
Hearing examiner reviewed 4 cases

Concerns

Clearing

Owners and developers often end up clearing large areas of ground and topping or completely cutting down trees that interfere with building plans, block views or limit access for sunlight. Many neighbors of these properties along with actively concerned citizens struggle with this ongoing issue.

Critical Areas

With the majority of the easier to build upon sites rapidly diminishing, focus has shifted to the remaining, more difficult sites involving critical areas, steep slopes, and wetlands. Although there are strict rules designed to control development and protect these delicate areas, vegetation buffers are often encroached upon, requiring costly restoration. This is less prevalent in the construction stage, where regularly scheduled inspections take place, and is instead more common on already built and occupied properties.

Confusing Requirements and Responsibilities

Confusion over requirements and also confusion regarding responsibility for interpreting and enforcing various requirements, especially “conditions” and active permits, are areas of concern. This is particularly challenging as the municipal code specifies a number of departments responsible for enforcement of specific requirements while the City has only one specific Code Enforcement Officer with enforcement abilities only for certain chapters of the municipal code.

Code Changes

Several sections of code need to be changed to strengthen enforcement and to reduce confusing and conflicting requirements and responsibilities. These sections include chapters 1.24 General Penalty, 1.26 Code Enforcement, 18.96 Home Occupations, 5.04 Business Licenses, 15.04 Building, 8.16 Litter, 15.18 Clearing, 16.22 Vegetation Management, 18.85 Landscaping, and other minor modifications.

Penalties

Currently fines/penalties can only be imposed if the person is a repeat violator or ignores a stop work order. Criminal penalties can only be imposed if a civil judgment has been imposed in the past five years.

Administrative Secretary

The Code enforcement area has recently lost 3 ½ years of institutional knowledge in the resignation of the Administrative Secretary. Currently the Code Enforcement Officer is performing some of the tasks previously handled by this position, while training the interim, and completing the hiring process for the replacement. The replacement will also require extensive training. In addition, constant and extensive record requests take time from this position away from the previous goals of written responses to all complaints, up-to-date files, and timely responses to the complainants.

Education Programs

Day-to-day fulfillment of the necessary tasks for active complaints, involving research, site inspections, warning letters, notices of violation, response and follow-up correspondence, telephone calls, and hearings has resulted in a lack of resources for education programs that would reduce consistent violations.

Media

Code enforcement has been a high profile item for the past year, increasing especially in the past few months. This requires that time by numerous staff members in different departments be spent attending to code enforcement “fires”.

Steps toward Improvement

Restructured Organization

The Code Enforcement Officer position now reports immediately to the Director. The administrative secretary position now reports to the Code Enforcement Officer and the proposed specialist position will also report to the Code Enforcement Officer.

Clearing / Tree Regulations

The Code Enforcement Officer is already working closely with the Forestry Commission to identify areas of concern with the current regulations and proposal of new or modified regulations, including penalties. This moves us positively toward enforceable consistent regulations. Changes in Chapters 15.18 Land Clearing, 16.22 Vegetation Management, and 18.85 Landscape Requirements are proposed in the Forestry Commission’s 2007 work plan.

Critical Areas Ordinance

The implementation of the critical areas ordinance effective February 15, 2006 has been a time-consuming, painstaking process for the entire department. The change in ordinance has required the Code Enforcement Officer to handle cases involving both versions of the ordinance and to work with violations that have “vested” under the previous ordinance. The current ordinance is more stringent, makes enforcement more clear, and bases penalties on the cost of mitigation should the violator knowingly break the rules. An education program for this ordinance is encouraged and on the agenda for 2007 should the staffing be available.

Accountability

The enforcement process has become more streamlined. It also has more consistency of interpretations and enforcement, and improved communication between key staff members and subject matter experts both within and outside the department. The Code Enforcement Officer works closely with other divisions and other departments to provide comprehensive, consistent enforcement. This includes “templating” of warning language and “back up” to other staff as needed for compliance.

Monthly Status Meetings

Regular monthly meetings occur with key members of the Code Enforcement and other divisions within the department. Developments on cases as well as strategies for developing standard approaches to repeat violations are discussed. These frequent meetings have been beneficial to strengthen a consistent response to code enforcement complaints and to determine where further education and code clarity are needed.

Written Responses to All Complaints

Written responses have been provided for all complaints whether they evolve into a case or not. If the complaint is anonymous, a letter or memo is written to the file to clearly delineate the determination for future reference. This process further improves communication, trust, and helps to develop an atmosphere of collaboration, while making record inquiries easier to respond to and find.

Improved Reporting Tools

The present access database has been modified to track all complaints and calls rather than one confidential complaint record and one call record for greater ease in logging and searching. This includes quicker responses to public records requests and does not require the positions to track if the call was confidential or not as all are treated as confidential. A second database has been designed and is being implemented to track violators to establish repeat offenders for ability to issue monetary infractions.

Warning Letters

The Code Enforcement Officer's goal is to seek compliance with development codes and ordinances through various means including education, collaboration, and if necessary, formal enforcement action. In many cases, formal enforcement action is the most appropriate course of action. However, in other instances, a written warning informing the violating party of the issue and requesting cooperation is a far more efficient and effective means of achieving compliance. The focus becomes less on any potential "criminal-like" stigma or on the costly fees required and instead, more on education, understanding, and in all likelihood results in a more timely, voluntary resolution.

Code Changes

Modifications to the Bainbridge Island Municipal Code to strengthen code enforcement have been identified and, should the staffing be available, will be brought before council for consideration. This includes language provided by the Kitsap County Prosecuting Attorney for the penalties section for more expedient fines; consistency of "tree" regulations; and properly referenced citations.

Education & Outreach

The Code Enforcement Officer has been working with the Bainbridge Island Downtown Association, the Chamber of Commerce, and other groups and organizations to improve relations with code enforcement and to provide information regarding the City's regulations. This outreach is resulting in the possibility of encouraging code revisions in several areas, as a product of the response of the public.

Staff

Code enforcement has asked for a Code Compliance Specialist position in the 2007 budget to allow for education and outreach to expand, improve and continue; respond more quickly to non “crisis” complaints and with the resultant follow-up; allow staff to work on necessary code revisions; and improve compliance of conditions of project approvals.

Action Items

Code Changes

Staff will prioritize code revisions for review by council. “Clean-up” items such as referencing the correct sections of code will be proposed in the first quarter. Items that will take further review, such as the changes in “tree” regulations will be coordinated with the applicable groups or commissions for recommendation.

Education

Staff will hold workshops and create “how-to” pamphlets for the following areas: clearing; native vegetation zone; signs; removal of invasive species; slopes; wetlands/streams; and agriculture. Work will continue with organizations such as Bainbridge Island Downtown Association and the Chamber of Commerce to educate and encourage compliance and to identify further areas of possible code revisions.

Penalties

The Code Enforcement Officer is completing the necessary requirements to obtain the limited commission necessary to issue infractions. Currently a police officer co-signs the infractions. The limited commission should be in place by the second quarter. The code revisions for civil and criminal penalties, as recommended by the prosecuting attorney, should be proposed to the council for review the first quarter with the “clean-up” sections.

Reporting Tools

Temporary help has been requested for the remainder of 2006 to log all previous cases and complaints into the necessary databases. The temporary help will also log all violators into the newly created database to allow for tracking for penalties.

Staff

Interviews are being held for the Administrative Secretary position. This position will be hired by the end of 2006. Implementation of the code changes and education outreach are dependent on the funding of the Code Compliance Specialist position currently proposed in the 2007 budget.