



## MEMORANDUM

DATE: January 14, 2019  
TO: Chairperson Carter, Members of the Planning Commission, and Administrator Meyer  
FROM: Cynthia Smith Strack, Community Development Director  
RE: Agenda Item 6.4: Code Enforcement Policy.

### GENERAL INFORMATION

The City Council reviewed a proposed code enforcement policy at a work session on December 17, 2018 and officially adopted the policy at the January 7, 2019 regular meeting.

Prior to approving the 2018 policy, the City had a code enforcement flowchart but not a formal written policy. As a means of clarifying process, roles/responsibilities, and to clearly communicate with residents, a formal enforcement policy was developed.

The policy continues the reactive approach to enforcement. The policy seeks voluntary compliance as the principal remedy. As presented the policy does not include responding to anonymous or unwritten complaints from the public as staff resources are limited.

The policy prioritizes compliant investigation and creates a framework for the code enforcement process. Remedies to cure violations and enforcement options are set forth within the narrative. The policy provides for enhanced action for repetitive violators and provides an outlet for excessive complaints.

The proposed policy and the existing process flowchart are attached.

### ACTION:

This item is for information.

## **CODE ENFORCEMENT POLICY CITY OF BELLE PLAINE**

This Code Enforcement Policy, approved by the Belle Plaine City Council, provides guidelines for enforcement of the Belle Plaine City Code and other regulatory instruments adopted by the City. This document is intended to regulate only those enforcement/compliance processes, and activities specifically initiated by the City pursuant to receipt of a signed complaint and/or enforcement efforts initiated by City staff.

### **I. CODE ENFORCEMENT PROGRAM PURPOSE**

Minnesota Statutes give the City Council the “power to provide for the government and good order of the City, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order and convenience, and the general welfare as it shall deem expedient.”

#### **A. STANDARD ENFORCEMENT POLICY**

City of Belle Plaine residents are supported in their efforts to maintain the physical environment of their neighborhoods through standards set in the City Code. To assist in this endeavor, the following code enforcement policy has been established to guide the City and City staff in addressing properties with code violations.

This policy is a guideline and does not bind the City. The City may deviate from the policy at any time if a deviation is deemed appropriate. Staffing levels and other resources may vary and affect the City’s response. Specific facts of a situation may make a different approach appropriate.

#### **B. COMPLAINT PRIORITY CLASSIFICATIONS**

City staff inspects every signed complaint it receives. When a violation is confirmed, the appropriate action is taken. Due to staff and time constraints, it is sometimes necessary to prioritize complaints and violations. When this happens, complaints are prioritized as follows:

1. Immediate risk to public health and safety.
2. High rise to health and safety through potential environmental impacts.
3. Work begun or actions taken without the necessary permits.
4. Aesthetics and nuisance violations.

### **II. DEFINITIONS**

“Abatement” – Abatement is the removal or repair of a substandard property condition(s) and/or Code violations. Abatement may be performed by a property owner, agent, contractor, the City, or the City’s designee.

“Business Day” – In the context of this policy a Business Day is considered Monday through Friday, from 8:00 a.m. to 4:30 p.m. on a normally scheduled workday exclusive of holidays. Therefore, the next business day would be the next day that the City is scheduled to be open.

“City Code” – The City Code includes all ordinances passed by the City including those that have not been codified.

“Code Enforcement Agent” – An employee of the City designated as an agent of code enforcement. The term Enforcement Agent includes any City employee with the authority to enforce the City Code and/or their designee.

“Compliance Deadline” – The Compliance Deadline (re-inspection date) is the date compliance is required and listed on the Notice of Violation or Notice Order. If compliance has not occurred by the compliance deadline misdemeanor charges may be initiated, civil remedies may be pursued, and/or an abatement process may be initiated. The Compliance Deadline may be extended at the discretion of the Enforcement Agent.

“Compliance Inspection” – The Compliance Inspection is re-inspection of the property on or after the date established in a violation notice and/or order.

“Extension” – An extension provides additional time for a responsible party to fully remedy an identified code violation. When a legitimate need arises a responsible party may request an extension beyond the initial compliance deadline. Extensions are determined at the sole discretion of the Code Enforcement Agent or other City official handling the matter.

“Immediate Enforcement Violations” – Immediate Enforcement Violations are code violations where immediate action is required to protect the public health, safety or welfare, the issuance of a written notice is considered ineffective in deterring repeat, or future violations. As a result, abatement action, civil remedies, and/or criminal charges may be immediately initiated.

“Initial Property Inspection” – The Initial Property Inspection is the first inspection conducted on a property where a new case is opened. During the Initial Property Inspection, the Code Enforcement Agent documents potential code violations so as to make a determination of whether or not a code violation exists or potentially exists. If the Code Agent determines a violation exists, the Agent will attempt to make direct contact with the responsible party and then establish a compliance deadline, and issue a notice/order.

“Life Safety Hazard” – A Life Safety Hazard is any identified code violation that has the potential to directly, or indirectly, cause bodily harm. Examples of life safety hazards include, but are not limited to: vehicles dangerously positioned on jacks, concrete blocks, wood, or other physical objects; certain types of right-of-way obstructions; dead trees or trees leaning at precarious angles; missing or obscured building addresses; swimming pools which are not properly fenced or secured; broken windows; electrical hazards; unsecured structures; and any other hazardous conditions where there exists a foreseeable danger to the public.

“Misdemeanor Charges” – Misdemeanor charges are citations or formal criminal complaints issued by a Code Enforcement Agent to the responsible party for uncorrected code violations.

“Notice of Violation and/or Compliance Order” – A Notice of Violation and/or Compliance Order is a standard formal notification (written notice) issued by a Code Enforcement Agent advising the responsible party that a violation(s) exists on their property. It also establishes a compliance deadline and provides an opportunity for the responsible party to request a hearing before the Planning Commission in the event the responsible party is aggrieved by the Enforcement Agent’s finding. This written notice is principally designed to encourage timely voluntary compliance.

“Repeat / Recurring Violation” – A Repeat / Recurring Violation is a newly identified code violation on a property involving the same responsible party for the same or substantially the same violation as identified on a previous investigation within the last twelve (12) months.

“Responsible Party” – A Responsible Party is one or all of the following:

1. The listed owner(s) in the Scott County real property information record.
2. All tenants on the property.
3. Any person or entity creating a violation even if they are not the record owner or tenant.
4. For limited liability companies, corporations, or other forms of businesses and corporations, the responsible parties are the principals and offices of the entity.

“Voluntary Compliance” – Voluntary Compliance is achieved when all identified code violations are corrected before the established compliance deadline. Voluntary Compliance is the preferred method of resolving code violations. This allows the Code Enforcement Agent to pass the inspection without the issuance of misdemeanor charges, without seeking civil remedies, without posting of stop work orders, and/or without initiating an abatement process.

### **III. REACTIVE ENFORCEMENT**

The City of Belle Plaine code enforcement policy is complaint-based. The City Code, including but not limited to, zoning standards and other regulatory codes adopted by the City are principally enforced on a complaint basis. This is designed to encourage a resident, business owner, neighborhood association, block watch program, or other community members to actively participate in the enforcement/compliance process. Complaints shall be signed and submitted in written form.

### **IV. GENERAL PROCEDURES**

#### **A. LIFE SAFETY COMPLAINTS**

If the alleged violation concerns a potential health or safety hazard to the neighborhood or neighbors, inclusive of open/vacant buildings, fire hazard and/or health hazards, or other health and safety hazards, the City’s goal will be to respond within one (1) business day of receiving the complaint, depending upon staff availability and time constraints.

#### **B. NON-LIFE SAFETY COMPLAINTS**

If the alleged violation is not a potential health or safety hazard the City’s goal will be to respond within ten (10) business days of receiving the complaint, depending upon staff availability and time constraints.

#### **C. NOTICE OF VIOLATION / COMPLIANCE NOTICE AND ORDER**

Upon the Initial Property Inspection, the responsible party will be notified of any violation(s) discovered during the inspection process through the issuance of a written notice sent through postal mail to the Responsible Party. If the written notice sent through postal mail is returned undeliverable and/or the Responsible Party’s mailing address is not available, the written notice will be posted on the property in a conspicuous location. The Notice Of Violation will specify a compliance deadline and appeal remedies. The Notice Of Violation will also list any observed code violation(s). Failure of the Responsible Party to receive the Notice does not invalidate the enforcement process.

#### **D. REMEDIES TO NON-COMPLIANCE**

Any uncorrected code violations remaining after the Compliance Deadline are subject to the initiation of misdemeanor charges, abatement as defined in Section 400 of the City Code, issuance of stop work orders, and/or pursuit of civil remedies.

#### **E. EXTENSIONS**

In general, extensions may be authorized by the Code Enforcement Agent for a specified period of time. Responsible Parties who demonstrate to the Code Enforcement Agent the existence of circumstances requiring additional flexibility or deviation from the compliance deadline may be granted an extension for a specified reasonable period of time based upon consideration by the Code Enforcement Agent of the following factors:

1. Resolution of all Life-Safety Hazards – An extension will not be considered, or provided, to any responsible party where, in the opinion of the Code Enforcement Agent, a life-safety hazard exists or where active and verifiable steps to physically mitigate the hazard are not in place.

2. Achievement of Measurable Progress – Upon the Compliance Inspection the property shows significant measurable improvement from the conditions observed during the Initial Property Inspection.
3. Establishment of Direct Communication – The responsible party establishes direct communication with the assigned Code Enforcement Agent prior to the initial compliance deadline. Direct Communication could be face-to-face, e-mail, or direct phone contact.
4. Written and/or Verbal Commitment to Voluntarily Comply – The Responsible Party states their intention to fully remedy all recorded violations on their property. This statement can be made verbally to the Code Enforcement Agent or in writing after establishing direct communication. The timeframes requested will be reviewed by the Code Enforcement Agent.

## **V. EXCESSIVE COMPLAINTS**

The purpose of this section is to address situations where one or more parties inappropriately use the code enforcement system. For example, in situations where what begins as a complaint escalates into multiple complaints between two parties and/or instances where both parties use the complaint process to antagonize each other.

The City has limited resources, in both staffing and funding, to manage complaints and code violations. The City has the right to choose how to best use these resources in a fashion that prudently utilizes taxpayer resources. The purpose of this Complaint Policy is to establish a protocol and standards for City staff to use to determine whether the enforcement tools available to the City are no longer effective. The City does not intend to ignore complaints; staff will continue to take the appropriate enforcement action when a legitimate code violation exists. Depending on the nature of the code violation and the impact the code violation has on the health, welfare and safety of the City and its residents, the City staff will prioritize the list of pending complaints it receives. Staff may choose to limit the amount of follow-up in certain situations.

Staff will use the following guidelines to determine if a complaint is defined as excessive. Excessive complaints are ongoing complaints where all or a majority of the following are present:

1. The alleged violation does not pose an immediate risk to public health and safety, or there is no high risk to health and safety through potential environmental impacts, or alleged violation is a private property dispute (i.e. a dispute that is not related to a Statute or Code).
2. The nature of the complaints move from reporting a legitimate code violation to a frivolous complaint or a complaint deemed to be using the City to harass another party; or
3. City staff find the dispute is the result of a private dispute between property owners and not based on a code violation.

Staff may choose to limit the amount of, or entirely refrain from, follow up when excessive complaints from an individual or property owner are determined to be frivolous or capricious. Staff will consider the following when making a determination whether or not excessive complaints are frivolous or capricious:

1. How much time the City has invested in working with the parties to address the City Code violation.
2. Whether the essential basis of the dispute is civil.

Once a determination is made, staff may consult with the City Attorney to determine the City's legal obligations and options. Staff will investigate any subsequent and unrelated complaints received from the parties and take the appropriate action.

## **VI. REPEAT / RECURRING VIOLATIONS**

Repeat or recurring violations exist when there are repeated violations and the owner has demonstrated an inability or unwillingness to correct or cease the activity giving rise to the violation(s). When repeat or recurring violations exist, City staff may consider alternatives other than voluntary compliance, including consulting with the City Attorney to determine the best course of action, seeking injunctive relief, and/or immediate enforcement of violations.

## **VII. IMMEDIATE ENFORCEMENT VIOLATIONS**

Certain types of illegal activities constitute an imminent public safety and health hazard. In addition, certain types of illegal activities are time-sensitive and/or transient in nature. The following types of illegal activities may result in the initiation of abatement, misdemeanor charges, issuance of stop work orders, or pursuit of civil remedies without the benefit of receiving a written notice.

1. Person(s) found illegally dumping litter, or waste, onto any property, vacant parcels, or City Right of Ways.
2. Transporting of diseased-bearing wood without having obtained permission from the Superintendent of Public Works, unless the disease-bearing wood is being transported directly to a sanitary landfill or other lawful place of disposition.
3. Failing to take appropriate measures to contain or allowing any soil or other debris to wash or erode from private property or construction sites onto the public street, drainage system, adjacent property, ponds, wetlands, ravines, or waterways.
4. Selling of food items without proper licenses/permits.
5. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under any conditions as shall be permitted by this Code or other applicable law.
6. Any use of property abutting, on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free uses of the streets or sidewalks.
7. The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.
8. Wastewater cast upon or permitted to run upon streets or other public property.
9. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials.
10. All snow and ice not removed from the public sidewalks within 24 hours after the snow or other precipitation causing the condition has ceased to fall.
11. Any grass or weeds, whether noxious as defined by law or not, growing upon any lot or parcel of land in the City of Belle Plaine to a height greater than eight (8) inches, except as allowed under Section 400 of the City Code.
12. Repeat/reoccurring violations.

13. Other Code violations causing an imminent public safety or health hazard, as determined by the City.

## **VIII. CONDUCT OF CITY COUNCIL AND CITY STAFF IN CODE ENFORCEMENT MATTERS.**

### **A. CITY COUNCIL.**

The City Council is responsible for adopting this Code Enforcement Policy which is intended to guide City staff in the performance of its duties.

### **B. CITY STAFF.**

1. City staff shall perform code enforcement in its discretion after considering this policy guidance.
2. City staff shall perform its duties in accordance with the Belle Plaine City Code and other applicable laws.
3. The City Administrator may adopt additional standard operating procedures, as necessary, to implement this policy.
4. Enforcement.
  - A. The form of notice and enforcement action to be pursued, if any, will be determined by the City staff after considering to the extent applicable:
    1. This policy guidance.
    2. Priority status.
    3. Nature of violation(s).
    4. Scope of, and circumstances associated with the violation(s), including facts that may have been identified during an investigation.
    5. Repeat or recurring violations.
    6. Excessive violations.
    7. Number of complaints received.
    8. Such other factors deemed relevant by the City.
  - B. City staff is authorized to use its discretion in enforcement matters or refraining from enforcement, so long as the same is accomplished in a non-discriminatory manner. It is recognized that the City has limited resources in both staffing and funding to manage complaints and violations. The City has the right to choose how best to use its resources. Depending on the nature of the violation and impact on health, welfare and safety, City staff will prioritize the list of pending complaints. Staff may choose to limit the amount of follow up in certain situations. For example, for matters of the lowest priority, staff may refrain from issuing a notice until such time as one or more written complaint(s) have been received.
5. Code enforcement is a product of interdepartmental cooperation as directed by the City Administrator with the Community Development Department as the lead department. Interdepartmental cooperation may include assistance in enforcement or abatement actions. Staff's goal is to provide seamless and coordinated service in all circumstances and to facilitate the resolution of identified violations.



## Code Enforcement Complaint Form

Violations of City Code are handled on a complaint only basis. All complaints are kept anonymous and the City will NOT disclose any information regarding who filed the complaint. If you do not provide contact information, the City may not be able to investigate the complaint due to lack of information. Please be as thorough as possible.

In order to file a complaint, please fill out 1 through 3 below:

### 1. Address of Violation:

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\*Please provide the full address including street direction. Example: 218 Meridian Street North. If you are unsure of the address, please provide an accurate description. *Example: The vacant lot directly north of 218 Meridian Street North.*

### 2. Description of Alleged Violation:

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\*Please provide a complete description of the alleged violation. *Example: Grass on the property is longer than 12 inches. Red Ford Van in the driveway is unlicensed and no longer operable. There are old appliances, piles of old shingles and bags a trash stacked on the east side of the garage.*

### 3. Your Contact Information:

First Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Email: \_\_\_\_\_ Would you like confirmation?  Yes  No

Signature: \_\_\_\_\_

\*Please note, your contact information is confidential and ALL complaints are kept anonymous. We ask for this information only to confirm the details of the complaint with you. The City will NOT disclose where the complaint initiated. We will assume you wish not to be contacted with an update if you do not provide your contact information. Please return completed form to City Hall.

