



**CITY COUNCIL MEETING
STAFF REPORT**

Meeting Date: January 5, 2023		Subject: Code Revisions Relating to Code Enforcement	
		Staff Members: Ryan Adams, Assistant City Attorney	
		Department: Legal	
Action Required		Advisory Board/Commission Recommendation	
<input type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable	
		Comments: N/A	
Staff Recommendation: N/A			
Recommended Language for Motion: N/A			
Project / Issue Relates To: The City's Code enforcement provisions.			
<input type="checkbox"/> Council Goals/Priorities:	<input type="checkbox"/> Adopted Master Plan(s):	<input checked="" type="checkbox"/> Not Applicable	

ISSUE BEFORE COUNCIL:

Shall the Office of the City Attorney draft an ordinance revising our City Code's enforcement provisions?

EXECUTIVE SUMMARY:

The Wilsonville Code (WC) is inconsistent as to who has the authority to enforce specific provisions. Additionally, fine amounts are often so low that they do not act as a deterrent for larger businesses. For example, our sign code imposes a maximum fine of \$100 per day for violations. While that amount may dissuade residential citizens from violations, often, it does not dissuade a large business. The Wilsonville City Charter imposes a responsibility on the City Manager to “see that all ordinances are enforced.” However, the Wilsonville City Code delegates enforcement of various sections to 11 different staff positions and one councilor.

Wilsonville has a Code Compliance Coordinator; however, that position is not mentioned within our Code. Thus, the Code Compliance Coordinator’s enforcement ability is limited. For example, the Assistant City Attorney recently signed a citation regarding an off-leash dog because the code did not provide the Coordinator with authority to do so.

1. STAFF AUTHORITY

Staff has reviewed the municipal codes for twelve jurisdictions within our state.¹ Ten out of twelve of those jurisdictions vest ultimate enforcement authority in a City Manager and allow the City Manager to delegate administratively which staff member is authorized to enforce certain provisions of the code.

2. CODE ENFORCEMENT PROCESS

City Code is enforced in different ways based on different chapters of our code. For example, if an individual has a dog off leash in a park, our Code Compliance Coordinator is not authorized to issue a citation. In this case, a citation would need to be issued by a member of our parks staff, a police officer, or the city councilor in charge of parks (which we do not have). Our development code is enforced by the Planning Manager or the City Attorney, depending on the offense. If there is a violation of a zoning ordinance, the Planning Manager is vested with enforcement authority. However if an individual violates our tree code, the City Attorney is responsible for enforcement. There are many other examples in our code where alignment could potentially be helpful. Other jurisdictions have recently updated their City Codes to vest enforcement authority in a code compliance Coordinator. The City of McMinnville recently vested enforcement of their code in a compliance officer. West Linn operates in a similar fashion as do most other nearby jurisdictions.²

¹ Staff reviewed: Lake Oswego, West Linn, Bend, Gresham, Tualatin, Sherwood, Albany, Canby, Beaverton, Troutdale, Tigard, and Clackamas County.

² West Linn vests enforcement authority in: “City police officers, community service officers, City Public Works Director, Chief Financial Officer, Community Development Director, Parks Director, Building Official, and any employee with an approved job description that includes code compliance or enforcement. City officials are authorized to enforce any and all of the provisions of the code and have all law enforcement authority granted by charter, ordinance and general law.” (WLMC 1.220).

3. REVIEW AUTHORITY

Our appeal process is also unclear and situationally dependent. For example, a violation of our building code allows an appeal to the City Manager and then to a Board of Appeals appointed by City Council. Whereas, a violation of our sign code may be cited into the Wilsonville Municipal Court or the Clackamas County Circuit Court. Other jurisdictions handle this in a more consistent manner. In McMinnville, for example, if an individual violates the zoning, business, health and safety, or building codes, the individual has the opportunity to appeal any fine to the City Manager, and if dissatisfied, to a hearings officer.

4. FINE AMOUNTS

Wilsonville's fine schedule is disjointed and does not provide significant deterrence to larger businesses who would violate a code provision for economic gain. Section 1.012 of our code generally allows a fine of \$500 per day and provides that a second conviction for the same offense is chargeable as a misdemeanor. However, in charging a misdemeanor, the City would be required to appoint an attorney for the defendant. We do not have the budget to do so at this time. Other jurisdictions provide more flexibility. Specifically, West Linn classifies violations into specific categories with metrics for the severity of violation. McMinnville, on the other hand, classifies different levels of violations for purposes of assessing a specific civil penalty.

A recent update to Chapter 9 (Buildings) of the Wilsonville City Code created a system whereby any fine amount is determined based on prior violations, the gravity and magnitude of the current violation, whether the violation was intentional, and the cooperativeness of the violator (WC 9.410(5) is attached as exhibit 1). There is no apparent reason why this same system could not be applied to the entirety of the Wilsonville City Code.

EXPECTED RESULTS:

To the extent City Council believes that revising the enforcement provision of our Code will be beneficial to Wilsonville, Staff will immediately draft provisions for your consideration.

TIMELINE:

Approximate timeline of expected events:

1. January 5, 2022 – First Council Work Session to request input from Council.
2. February 6, 2023 – Second Council Work Session to go over draft revisions.
3. March 6, 2023 – Third Council Work Session to go over draft revisions.
4. April 3, 2023 – First Reading of Ordinance
5. April 17, 2023 – Second Reading of Ordinance
6. May 17, 2023 – Any new ordinance becomes effective

CURRENT YEAR BUDGET IMPACTS:

N/A

COMMUNITY INVOLVEMENT PROCESS:

Any proposed code amendment must follow the standard notice requirements set forth in Oregon law and Wilsonville's charter.

POTENTIAL IMPACTS OR BENEFIT TO THE COMMUNITY:

The community will benefit because its Code Compliance Coordinator will be empowered to enforce the code in an equitable manner that provides justice for all, regardless of economic status.

ALTERNATIVES:

Take no action.

CITY MANAGER COMMENT:

N/A

ATTACHMENT:

1. WC 9.410 – Authority to Impose Civil Penalty