



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

I-1

For the meeting of: **May 16, 2017**

Date: **April 28, 2017**

To: **Board of Supervisors**

From: **County Counsel's Office, Code Enforcement Unit**
Jeffrey S. Blanck, County Counsel *JSB*

Subject: **Revised Code Enforcement Procedures**

RECOMMENDATION(S):

That the Humboldt County Board of Supervisors:

1. Receive the staff report on options for revised code enforcement procedures;
2. Direct staff on the options regarding expedition of the code enforcement process found on pages three (3) through four (4) of this report, which include:
 - a. Continuing to conduct code enforcement investigations and proceedings in the same manner as is done currently;
 - b. Implementing a moderately expedited enforcement process which reduces the grace period after the service of a Notice of Nuisance and Findings of Nuisance and Order of Abatement from thirty (30) days to ten (10) days; and
 - c. Implementing a substantially expedited enforcement process that combines the abatement and administrative penalty processes, and significantly reduces the time required to abate and penalize nuisances and other violations of the Humboldt County Code.

Prepared by Blair Angus, Scott Miles and Jeff Conner

CAO Approval *E. Hays*

REVIEW:

Auditor _____ County Counsel *Sm* Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:

☐ Consent
☒ Departmental
☐ Public Hearing
☐ Other _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor _____ Seconded by Supervisor _____

Ayes _____
Nays _____
Abstain _____
Absent _____

SEE ACTION SUMMARY

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: _____

By: _____

Kathy Hayes, Clerk of the Board

3. Direct staff on the additional options related to the code enforcement process found on pages four (4) through five (5) of this report, which include:
 - a. Designating a County Hearing Officer, pursuant to California Government Code Section 22770, for the purpose of conducting and ruling on nuisance abatement, administrative penalty and other County hearings;
 - b. Designating the Code Enforcement Unit as the primary enforcement agency for violations of County ordinances regulating commercial marijuana cultivation; and
 - c. Ending the referral process and having the Code Enforcement Unit directly handle all complaints regarding alleged violations of the Humboldt County Code.

SOURCE OF FUNDING:

Costs to prepare this agenda item have been borne by the General Fund.

DISCUSSION:

During a recent code enforcement cost recovery hearing, the Humboldt County Board of Supervisors ("Board") asked how the code enforcement process could be expedited. Specifically, the Board pointed out that the process to abate illegal cannabis grows was too lengthy to be a productive form of abatement. The purpose of this agenda item is to present some suggestions on how expedition of the code enforcement process can be accomplished.

The current nuisance abatement process entails the service of two notices on the property owner and/or responsible party. The first is a Notice of Nuisance that lists the violations observed by staff from the Code Enforcement Unit ("CEU") as well as providing the necessary steps to cure those violations. If the owner fails to correct the violations, he is served with a Notice to Abate Nuisance. This notice advises the owner that there will be a hearing before your Board to address the violations. Humboldt County Code requires that the CEU wait a minimum of thirty (30) days after a Notice of Nuisance has been served before serving a Notice to Abate Nuisance. The Humboldt County Code also requires that the CEU wait a minimum of thirty (30) days after your Board issues a Findings of Nuisance and Order of Abatement before commencing the abatement process.

Recent Changes to the Internal Code Enforcement Process:

In preparation for this agenda item, staff from the Division of Environmental Health ("DEH"), the Planning and Building Department ("Planning") and the CEU met to discuss specific improvements to the internal code enforcement process.

Based on these discussions, DEH, Planning and the CEU has taken, or will take, all of the following actions:

1. Conduct monthly meetings for the purpose of tracking cases and coordinating efforts. DEH, Planning and the CEU will also meet regularly with staff from the Sheriff's Office to discuss issues relating to the enforcement of state statutes and County ordinances regulating commercial marijuana cultivation. Regular communication will ensure that information is shared promptly and efficiently and will help prevent the duplication of efforts.

2. Explore options regarding the use of a more centralized data tracking system to strengthen the procedures for cross-reporting complaints between DEH, Planning and the CEU. Currently, these departments use different case management systems that are integrated into their respective business processes. CEU has been given access to both DEH and Planning's case management systems and has, in turn, shared its case management system with the other two departments. This cross-departmental data sharing has improved case management for each department. However, further integration and data sharing could be beneficial, particularly when new case investigations are initiated.
3. Submit additional General Fund Appropriation requests to accommodate the additional staff time that may be needed to support the expected increase in the volume of cases requiring expedited enforcement due to anticipated violations of County ordinances regulating commercial marijuana cultivation.
4. Implement a pass-through process on complaints regarding two (2) specific types of Humboldt County Code violations. As the CEU is the enforcing agency for the County's junk vehicle ordinance, complaints that only deal with junk and/or inoperable vehicles are now sent directly to the CEU. Complaints regarding violations of the County's personal use, small parcel, medical marijuana ordinance are also sent directly to the CEU as they require expedited enforcement. A similar process is being discussed with Planning where violations of the commercial marijuana cultivation ordinance would also receive expedited handling by Planning before being referred to the CEU. All of these pass-through efforts speedup the code enforcement process and reduce duplication of effort.

Options to Streamline the Code Enforcement Process:

The Humboldt County Code can be amended to streamline the code enforcement process. Doing so would allow the CEU to begin the enforcement process sooner and conduct abatements in a timelier manner. Your Board has the following three (3) options regarding modification of the current code enforcement process:

1. Direct staff to continue using the existing code enforcement process as currently set forth in the Humboldt County Code. It should be noted that this option will not expedite enforcement of local or state laws and regulations.
2. Direct staff to prepare, and return to the Board with, a proposed ordinance that would reduce the existing minimum time periods set forth in the Humboldt County Code from thirty (30) days to ten (10) days. This option would reduce the amount of time before enforcement actions could be undertaken. However, it retains separate abatement and administrative penalty hearings as well as separate cost recovery processes.
3. Direct Staff to prepare, and return to the Board with, a proposed ordinance that would significantly revise the nuisance abatement and administrative penalty processes currently set forth in the Humboldt County Code. This new process, as envisioned, would begin with the service of a Notice to Abate Nuisance and/or a Notice of Violation. The property owner and/or violator would have a ten (10) day period to abate the nuisance or other violation and/or request a hearing. Failure to do either within the ten (10) day period would give the CEU jurisdiction to conduct an abatement of the nuisance or other violation after requesting a transfer of funds from your Board. In situations in which a Notice of Violation is served on the violator, either in

conjunction with, or separate from, a Notice to Abate Nuisance, a daily penalty of \$1 to \$1,000 will commence, if the violation(s) is not abated within ten (10) days, regardless of whether a hearing is requested. The daily penalties will continue for a period of ninety (90) days, unless the violation(s) is abated by the violator or dismissed or suspended by a hearing officer. If a violation(s) continues after the expiration of the ninety (90) day period, an additional Notice of Violation can be served on the violator at that time. If a hearing is requested in situations in which both a Notice to Abate Nuisance and a Notice of Violation has been served, the abatement and administrative penalty hearings will be combined and heard at the same time. The cost recovery process is also simplified, and would only require a hearing if the property owner or violator demands one. This option will simplify the hearing and cost recovery processes, and thereby reduce the amount of time between confirmation of the nuisance and/or violation and the commencement of enforcement action by the CEU. However, the limitations of human and financial resources will still limit the number of complex investigations, including abatements, that can be conducted.

Additional Considerations:

Additional options related to the County's code enforcement process for your Board to consider include all of the following:

1. **Designation of a County Hearing Officer.** Presently, all abatement hearings, including appeals of Notices of Illegal Marijuana Cultivation, are heard before your Board. If, as expected, the enforcement of County ordinances regulating commercial marijuana cultivation results in an increased volume of abatement appeals, it may become burdensome for your Board to conduct these hearings. Accordingly, another option for your Board to consider is to direct staff to prepare, and return to the Board with, an agenda item that designates, and allows the County to contract with, a "County Hearing Officer," pursuant to Government Code Section 27720. The County Hearing Officer would not be limited to code enforcement hearings, but could also hear and rule on other matters, including, without limitation, Measure V complaints.
2. **Commercial Marijuana Enforcement.** Your Board's adoption of the commercial medical marijuana cultivation ordinance presents a unique enforcement challenge. It is staff's belief that the Sheriff's Office is best trained and prepared to deal with violations of state laws regulating commercial marijuana cultivation. Likewise, staff believes that the CEU is best trained and prepared to deal with violations of County ordinances regulating commercial marijuana cultivation. Only the CEU has the combined experience of using the County's administrative enforcement process in conjunction with the investigation of violations related to marijuana cultivation. Thus, another option for your Board to consider is to designate the CEU to be the primary enforcement agency for violations of Humboldt County Code Sections 313-55, et seq., after final approval by the Coastal Commission, and Humboldt County Code Sections 314-55, et seq. regarding commercial marijuana cultivation.
3. **Referral Process.** When the Community Assistance Unit ("CAU"), the forerunner of the CEU, was established in 1995, it took complaints directly from the public. The amount of work overwhelmed the one (1) and sometimes two (2) CAU investigators. In 2000, the CAU was renamed the CEU and began taking referrals only from other County departments after efforts to gain voluntary compliance had been taken. This process reduced the workload of the CEU investigators and allowed them to function as intended. The referral process was reaffirmed by the Code Enforcement Task Force in 2009. However, this process prolongs the time between the

initial complaint and enforcement action, and results in at least some duplication of effort by different departments. Consequently, another option for your Board to consider is to have staff analyze the feasibility of removing the referral process and having all code enforcement complaints come directly to the CEU. The feasibility study would include issues such as minimum staffing levels and what qualifies as code enforcement.

FINANCIAL IMPACT:

There is no immediate impact to the budget from this agenda item. However, some of the proposals suggested will require additional funding before they can be implemented.

Today's recommended actions support the Board's Strategic Framework by seeking to more efficiently enforce the Humboldt County Code and other local and state laws and regulations.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Your Board could elect not to discuss this report and leave the code enforcement process in the status quo.

ATTACHMENTS:

None