



Loudoun County, Virginia

www.loudoun.gov

Office of the County Administrator

1 Harrison Street, S.E., 5th Floor, P.O. Box 7000, Leesburg, VA 20177-7000

Telephone (703) 777-0200 • Fax (703) 777-0325

At a business meeting of the Board of Supervisors of Loudoun County, Virginia, held in the County Government Center, Board of Supervisors' Meeting Room, 1 Harrison St., S.E., Leesburg, Virginia, on Tuesday, June 15, 2010 at 9:00 a.m.

IN RE: TRANSPORTATION AND LAND USE COMMITTEE REPORT/
FINAL REPORT/STERLING AREA PROACTIVE ENFORCEMENT

Mr. Burton moved that the Board of Supervisors direct staff to continue the Sterling area proactive Zoning and Virginia Maintenance Code inspection effort after June 30, 2010 within normal working hours.

Mr. Burton further moved that staff return to the Transportation Land Use Committee in early 2011 with detailed activity reports for the prior months reporting period and updates on the programs progress.

Seconded by Mrs. Burk.

Voting on the Motion: Supervisors Buckley, Burk, Burton, Delgaudio, Kurtz, McGimsey, Miller Waters and York –Yes; None – No.

A COPY TESTE:


DEPUTY CLERK FOR THE LOUDOUN
COUNTY BOARD OF SUPERVISORS

Date of Meeting: June 15, 2009

**BOARD OF SUPERVISORS
ACTION ITEM**

11

**SUBJECT: Transportation and Land Use Committee Report:
Sterling Area Proactive Enforcement**

ELECTION DISTRICT: Sterling

CRITICAL ACTION DATE: At the Board's Pleasure

**STAFF CONTACT(s): T. Keith Fairfax, Enforcement Program Manager
Terrance D. Wharton, Director, Building and Development**

RECOMMENDATION(s):

Transportation Land Use Committee:

On May 19, 2010 the TLUC voted 4-0-1 (Supervisor Kurtz absent) to recommend to the Board of Supervisors that staff be directed to continue the Sterling area proactive Zoning and Maintenance Code inspection effort after June 30, 2010 within normal working hours. The Committee further moved that staff appear before the Committee in six month increments with detailed activity reports for the prior months reporting period.

Staff:

Staff recommends that the Board of Supervisors authorize continuance of the Sterling area proactive enforcement effort utilizing existing staff resources during the traditional work hours of Monday-Friday with an option to conduct weekend inspections if necessary for specific case resolution.

BACKGROUND:

On November 17, 2009 the Board approved by a vote of 7-0-2 (Supervisors Buckley and McGimsey absent) a proactive Zoning/Property Maintenance enforcement initiative in the Sterling Park area to be conducted from January through June 2010 for residential properties that are not under jurisdiction of a Homeowners Association. Included in this initiative was direction for staff to conduct Saturday inspections and for enforcement staff to submit a monthly report of activity for the Board review. Staff direction was introduced by Chairman York based on citizen concerns expressed during the Sterling/Potomac Outreach sessions and personal observations made by the Chairman while responding to constituent issues.

On February 22, 2010 staff appeared before the TLUC Committee with an update on zoning enforcement activity within the targeted area for the month of January. During the update, staff summarized the type of Zoning and Maintenance Code violations that were detected. Staff also addressed the Committee's questions regarding the Codified Ordinance requirement of removal of snow from sidewalks at the end of each snow event; Maintenance Code requirements of protective treatment (paint); and zoning ordinance Section 5-800, parking of lawns. The Committee requested that staff prepare a final report of detailed activity from January thru April 2010 at the Committee's May 19, 2010 meeting so that the Committee could review the progress of the pilot program and determine whether to recommend that the Board of Supervisors continue the program.

At the April 21, 2010 TLUC Committee meeting, staff submitted detailed monthly enforcement activity reports for the months of February and March for review by the Committee. There were no questions for staff during the meeting. .

On May 19, 2010 the TLUC voted 4-0-1 (Supervisor Kurtz absent) to recommend to the Board of Supervisors that Zoning Enforcement Staff be directed to continue the Sterling area proactive Zoning and Maintenance Code inspection effort after June 30, 2010 within normal working hours. The Committee further moved that staff return to the Committee in six month increments with detailed activity reports for the prior months reporting period.

SUMMARY OF ACTIVITY:

Staff has included monthly activity reports in Attachment I-V. During the period from January 4-May 31, 2010, staff conducted 4291 residential inspections within the Sterling area for the purpose of detecting Zoning Ordinance and exterior Maintenance Code violations. As of this date, staff has an open case load of 141 Zoning violations, 56 residential overcrowding violations and 48 exterior Maintenance Code violations. The proactive initiative has generated 79 of the existing open cases and the remaining 209 are a result of the routine complaint/referral process either received during or prior to the pilot program. Currently, \$12, 500.00 in civil penalty fines have been issued as a result of the initiative for zoning and maintenance violations detected. As of this date, there have been no appeals of the Notices of Violations issued during the initiative filed with the Board of Zoning Appeals and or Building Code Appeals Board. In addition, there have been no court related appearances.

ISSUES:

During this initiative, staff modified their normal work week and assigned one inspector to work within the targeted area on Saturday. While staff had anticipated that by having an inspector in the area during nontraditional work days there would be increased public contact and education efforts, this effort did not show significant contact increases over what has been occurring during the normal Monday-Friday work week. If directed to continue the proactive initiative, staff will conduct inspections during normal work hours and revert to modifying individual inspector's work schedules as case investigation and resolution requires; and if necessary, conduct inspections on Saturday or Sunday. Additionally, staff will be continuing to conduct evening inspections for residential overcrowding cases and observed zoning or maintenance code violations not related to

the residential overcrowding. These complaints will continue to be processed by the inspector assigned to the sector where the violation is occurring.

While the current initiative runs through June 30, 2010, staff expects workloads to remain reasonably consistent with data furnished for the Committee's review for the months of January through April. However, during the month of June, enforcement staff receives a yearly influx of response requests based on the Affordable Dwelling Unit (ADU) affidavit process. During this period, staff must respond to potential non-compliance issues related to ADU submission requirements in conjunction with the Department of Family Services. Past experience shows that between 10 and 15 percent of the ADU program participants do not submit the required affidavit by the June 1st deadline which leads to the necessity of additional enforcement action. Based on the ADU issues, and citizen complaint filings, the proactive initiative could see a decline in the number of cases detected and their resolution.

In a related matter, recent changes in the Code of Virginia will impact Zoning Enforcement staff's resolution of outstanding zoning violations, and may present a perception that staff is not diligently pursuing corrective measures. HB 1064 has been signed into law by Governor McDonnell with an effective date of July 1, 2010 which requires jurisdictions upon issuance of a Notice of Violation (NOV) to wait until the end of the thirty day appeal period before issuing civil penalty tickets. Currently, staff issues a NOV, re-inspects the property after 10 days; and if the violation has not been abated, a civil penalty ticket for \$200.00 is issued for each offense. Subsequent 10 day inspections are conducted; and in each occurrence of non compliance, fines increase to \$500.00 per offense to a maximum \$5000.00 for all violations on the subject property. Since staff will have to wait until the appeal period has ended prior to issuing civil penalty tickets, it is possible that the Board of Supervisors will receive constituent inquiries regarding complaints that are lodged and not resolved as quickly as current practice allows. Staff will update complainants of the change in operating procedures when briefing the complainant on the status of the case. In order to increase enforcement effectiveness, staff is in preliminary discussion with the Office of the County Attorney and is exploring the options of introducing an intent to amend the Revised 1993 Loudoun County Zoning Ordinance to allow for 10 day appeal periods for short term, reoccurring violations as authorized by *The Code of Virginia 15.2-2286(4)*. Offenses classified under the proposed amendment would include inoperable vehicles, parking on lawns, commercial vehicles parked in residential districts, residential overcrowding and seasonal and temporary sales. A proposal covering the suggested amendment is being prepared for review by staff and will be presented to the Transportation Land Use Committee for review and action in the immediate future.

FISCAL IMPACT:

There would be no additional fiscal impact by continuing the proactive enforcement effort within the Sterling area since existing staff resources will be used. Should the Board desire staff to continue the proactive initiative beyond December 2010, staff will be requesting continuance of a current part-time temporary position at a cost of \$43, 251 per year. Should the Board recommend that the effort be expanded to other areas of the County, staff would return to the Board with a request for additional FTEs to supplement the anticipated increase in workload that would be created.

ALTERNATIVES:

The Board of Supervisors could direct Zoning Enforcement to return to complaint investigation only upon receipt of a complaint or based on internal referral process, or to direct staff to expand the proactive enforcement approach beyond the limits of the Sterling area to include other specified areas of the County.

DRAFT MOTION(S):

1. I move that the Board of Supervisors direct staff to continue the Sterling area proactive Zoning and Virginia Maintenance Code inspection effort after June 30, 2010 within normal working hours. I further move that staff return to the Transportation Land Use Committee in early 2011 with detailed activity reports for the prior months reporting period and updates on the programs progress;
or,
2. I move an alternative motion

ATTACHMENTS:

- I- January 2010 Zoning Enforcement Activity Report
- II- February 2010 Zoning Enforcement Activity Report
- III- March 2010 Zoning Enforcement Activity Report
- IV- April 2010 Zoning Enforcement Activity Report
- V- May 2010 Zoning Enforcement Activity Report

Monthly report of Zoning Enforcement Activity January 2010

Proactive enforcement inspections (Sterling):

Inspections conducted: 883
Zoning violations detected: 87
Maintenance Code violations detected: 66
Civil Penalty fines issued, ZO: \$400.
Civil Penalty fines issued, Maintenance. Code: 0

County-wide activity

Zoning violation complaints received: 36
Residential overcrowding complaints received: 15
Property Maintenance Code complaints received: 1
Residential Occupancy inspections conducted: 228
Commercial Occupancy inspections conducted: 14
Staff, sign collection (Friday only): 60
Volunteer sign collection: 914
Civil Penalty fines issued, 1993 ZO: \$7000.
Civil Penalty fines issued, Maintenance. Code: 0
Criminal warrants obtained, 1972 ZO: 0
Administrative Search Warrants obtained, Maintenance Code): 0
Court appearances, General District Court: 1
Court appearances, Circuit Court: 0
Appeals filed, Zoning Ordinance: 2
BZA appearances: 1
Appeal filed, Maintenance Code: 0

Monthly report of Zoning Enforcement Activity February 2010

Proactive Enforcement Inspections (Sterling):

Inspections conducted: 652

Zoning violations detected: 46

Offense breakdown: 25 inoperable vehicles, 7 fences exceeding permitted height in yards, 6 Commercial vehicles, 4 no zoning permit issued as required, 3 major recreational equipment, 1 parking on non paved yard.

Residential overcrowding violations detected: 0

Maintenance Code violations detected: 60

Offense breakdown-28 structures not in good repair, 18 protective treatment, 7 premise identification (addresses not visible), 4 roofs and drainage, 2 failure to maintain decorative features, 1 window, door not in good repair

Civil penalty fines issued, (Zoning): \$1,000

Civil penalty fines issued, (Maintenance. Code): 0

Proactive Enforcement totals to date:

Inspections conducted: 1592

Zoning violations detected: 132

Residential overcrowding detected: 7

Maintenance Code violations detected: 130

Civil penalty fines issued, (Zoning): \$1,400

Civil penalty fines issued, (Maintenance Code): 0

County-wide activity:

Zoning complaints received: 67

Zoning complaints investigated, no violation detected: 24

Residential overcrowding complaints received: 4

Residential overcrowding complaints investigated, no violation detected: 4

Maintenance Code complaints received: 1

Maintenance Code complaints investigated, no violation detected: 0

Snow on public sidewalks complaints investigated: 59

(Complaints received included inter and external referrals)

Residential Occupancy Inspections: 163

Commercial Occupancy Inspections: 11

Staff Sign collection pickups (Friday's only): 27
Volunteer sign collection pickups: 382

Civil penalty fines issued-1993 ZO: 14 = \$6,700
Civil penalty fines issued-Maintenance Code: 0
Criminal warrants obtained (1972 ZO): 0
Administrative Search Warrants obtained (Maintenance. Code): 0

Court Appearances-General District: 0
Court Appearances-Circuit: 0

Appeals filed-Zoning Ordinance: 0
Appeals filed-Maintenance Code: 0

Monthly report of Zoning Enforcement Activity March 2010

Proactive Enforcement Inspections (Sterling):

Inspections conducted: 860

Zoning violations detected: 52

Offense breakdown: 32 inoperable vehicles, 10 parking on yards, 9 commercial vehicles, 1 no zoning permit

Residential overcrowding violations detected: 3

Maintenance Code violations detected: 50

Offense breakdown-8 structures not in good repair, 19 protective treatment, 9 premise identification (addresses not visible), 6 roofs and drainage, , 1 window, door not in good repair, 1 exterior wall, 1 handrail, 3 Doors not functioning, 2 windows glazing repairs

Civil penalty fines issued, (Zoning): \$6200.

Civil penalty fines issued, (Maintenance. Code): 0

Proactive Enforcement totals to date:

Inspections conducted: 2452

Zoning violations detected: 142

Residential overcrowding detected: 10

Maintenance Code violations detected: 131

Civil penalty fines issued, (Zoning): \$7600.

Civil penalty fines issued, (Maintenance Code): 0

County-wide activity:

Zoning complaints received: 85

Zoning complaints investigated, no violation detected: 17

Residential overcrowding complaints received: 43

Residential overcrowding complaints investigated, no violation detected: 25

Maintenance Code complaints received: 20

Maintenance Code complaints investigated, no violation detected: 0

(Complaints received included inter and external referrals)

Residential Occupancy Inspections: 320

Commercial Occupancy Inspections: 21

Staff Sign collection pickups (Friday's only): 24

Volunteer sign collection pickups: 1250

Civil penalty fines issued-1993 ZO: \$4300.
Civil penalty fines issued-Maintenance Code: 0

Criminal warrants obtained (1972 ZO): 0

Administrative Search Warrants obtained (Maintenance. Code): 0

Court Appearances-General District: 0
Court Appearances-Circuit: 0

Appeals filed-Zoning Ordinance: 1
Appeals filed-Maintenance Code: 0

Monthly report of Zoning Enforcement Activity April 2010

Proactive Enforcement Inspections (Sterling):

Inspections conducted: 615

Zoning violations detected: 28

Offense breakdown: 14 inoperable vehicles, 9 parking on yards, 3 no zoning permit, 1 commercial vehicle, 1 fence exceeding required height

Residential overcrowding violations detected: 0

Maintenance Code violations detected: 21

Offense breakdown-6 accessory structures not in good repair, 6 protective treatment (paint), 5 roofs/drainage, 1 roof structural member collapsing

Civil penalty fines issued, (Zoning): \$4500.

Civil penalty fines issued, (Maintenance. Code): \$400.

Proactive Enforcement totals to date:

Inspections conducted: 3312

Zoning violations detected: 172

Zoning violation cases resolved: 121

Residential overcrowding detected: 10

Residential overcrowding cases resolved: 8

Maintenance Code violations detected: 153

Maintenance Code cases resolved: 59

Civil penalty fines issued, (Zoning): \$12,100.

Civil penalty fines issued, (Maintenance Code):\$400.

County-wide activity:

Zoning complaints received: 60

Zoning complaints investigated, no violation detected: 15

Residential overcrowding complaints received: 33

Residential overcrowding complaints investigated, no violation detected: 24

Maintenance Code complaints received: 2

Maintenance Code complaints investigated, no violation detected: 0

(Complaints received included inter and external referrals)

Residential Occupancy Inspections: 207

Commercial Occupancy Inspections: 23

Staff Sign collection pickups (Friday only): 56

Volunteer sign collection pickups: 1003

Civil penalty fines issued-1993 ZO: \$4300.

Civil penalty fines issued-Maintenance Code: 0

ATTACHMENT-IV

Criminal warrants obtained (1972 ZO): 0
Administrative Search Warrants obtained (Maintenance. Code): 0

Court Appearances-General District: 2
Court Appearances-Circuit: 0

Appeals filed-Zoning Ordinance: 0
Appeals filed-Maintenance Code: 0

Monthly report of Zoning Enforcement Activity May 2010

Proactive Enforcement Inspections (Sterling):

Inspections conducted: 979

Zoning violations detected: 84

Offense breakdown: 20 inoperable vehicles, 18 parking on yards, 3 no zoning permit, 2 commercial vehicle, 5 fence exceeding required height, 2 major recreational equipment, 31 High grass complaints referred to Health Dept.

Residential overcrowding violations detected: 0

Maintenance Code violations detected: 19

Offense breakdown-7 accessory structures not in good repair, 8 protective treatment (paint), 1 roofs/drainage, 1 roof/drainage, 2 premise I.D.

Civil penalty fines issued, (Zoning): \$2350.00.

Civil penalty fines issued, (Maintenance. Code): \$350.

Proactive Enforcement totals to date:

Inspections conducted: 4291

Zoning violations detected: 256

Zoning violation cases resolved: 141

Residential overcrowding detected: 10

Residential overcrowding cases resolved: 8

Maintenance Code violations detected: 172

Maintenance Code cases resolved: 77

Civil penalty fines issued, (Zoning): \$14450.00

Civil penalty fines issued, (Maintenance Code): \$750.00

County-wide activity:

Zoning complaints received: 47

Zoning complaints investigated, no violation detected: 25

Residential overcrowding complaints received: 20

Residential overcrowding complaints investigated, no violation detected: 28

Maintenance Code complaints received: 4

Maintenance Code complaints investigated, no violation detected: 0

(Complaints received included inter and external referrals)

Residential Occupancy Inspections: 360

Commercial Occupancy Inspections: 19

Staff Sign collection pickups (Friday only): 27

Volunteer sign collection pickups: 389

Civil penalty fines issued-1993 ZO: \$2550.00

ATTACHMENT-V

Civil penalty fines issued-Maintenance Code: 0

Criminal warrants obtained (1972 ZO): 0

Administrative Search Warrants obtained (Maintenance. Code): 0

Court Appearances-General District: 2

Court Appearances-Circuit: 0

Appeals filed-Zoning Ordinance: 0

Appeals filed-Maintenance Code: 0