

City of Ballwin

Memo

To: Mayor Young
Board of Aldermen

From: Thomas H. Aiken, Assistant City Administrator

Cc: City Administrator Robert Kuntz

Date: 1/22/08

Re: January 26, 2008 Aldermanic Retreat

Enclosed with this memo are two memos from me to City Administrator Kuntz from September of 2003 and March of 2004 that deal with issue of code enforcement in the Inspections Department.

The first memo was written subsequent to statements made by a resident at a Board meeting complaining of what he felt was a code violation at one location that was not being addressed and a second code violation at another location that he felt was not being addressed in a timely manner. The memo did not address so much these specific complaints as it did the regulations and the mechanisms that are in place for enforcement that the department utilizes. This memo itemizes twelve primary areas of code violation and briefly discusses the approach to enforcement that is typically undertaken for each area and the associated time frames. Some code sections spell out specific enforcement steps; others do not and rely on the general code enforcement language of Chapter 1. This memo also discusses the process of going to court for enforcement. One thing that has changed in this process since this memo was written is that summonses can no longer be issued by the inspections department. They must now be submitted to the prosecutor for his review and authorization. This typically adds 2 -4 weeks to the court process. The central thrust of the message in this memo was that I did not believe that tightening up the code language or the specified time frames would greatly improve enforcement or speed up compliance, and might not be well received from the community.

The second memo dealt with many of the same violations and some of the same issues, but looks more at the question of defining the threshold at which a violation needs to be acted upon and the process by which compliance is sought. How is a violation defined and how is enforcement undertaken? What is the "philosophy of enforcement" that the Board wants to utilize? I think the issues are summarized in the opening paragraph. Essentially, enforcement is a balancing act between fast, uniform and efficient on one extreme and cautious, considered and friendly on the

other. It can be difficult to define a middle ground between these extremes that achieves compliance without making too many people too unhappy.

The current system has evolved over the years. This has not been so much due to a comprehensive systematic approach as it has by evolution in response to community and Board reactions to efforts to find an acceptable place on the continuum described above. From my view, the current enforcement philosophy can be summarized as securing compliance at the expense of expediency. It is better to give more time (many times a lot more time) to get voluntary compliance than it is to rush to a quicker compliance utilizing aggressive language, police powers, court summonses, etc. The drawback to this approach is the time frame for compliance can get long. Furthermore, if the gentle approach is unsuccessful and the more aggressive approach becomes necessary, the time frame can become very long. If there are unhappy residents wanting a quick resolution, this enforcement philosophy does not make them happy, but it seems to be more acceptable to the residents that are being pushed to comply.

A major element of this of enforcement philosophy is the use of enforcement by complaint. The code enforcement issues cited in the two attached memos are primarily enforced on a complaint driven basis. Although they are occasionally discovered by chance, little or no inspection staff time is scheduled to a systematic discovery of such violations. It is primarily, therefore, upon the receipt of a complaint that a violation is confirmed and enforcement is initiated. Major drawbacks to this approach are delays in enforcement that can allow a situation to get severe before corrective measures begin and a potential inequity of enforcement. This system essentially leaves enforcement in the hands of residents rather than trained and neutral enforcement personnel.

Another issue that I wanted to discuss is the enforcement of the present commercial signage code. I have recently been advised that there is a perception in Ballwin's business community that the enforcement of this code is not equitable. Although there is more affirmative enforcement of this code than many of the others discussed in the attached memos, there is still no consistent systematic enforcement. Enforcement is still substantially by complaint. The issue is not so much permanent signage as it is the utilization of illegal temporary signs and banners.

The entire approach to code enforcement has not been discussed or reviewed by the Board in any formal or systematic way for many years, and even then only on a piecemeal basis. In light of the recent issues with signage in the right-of-way and the concerns expressed about inconsistent enforcement I wanted to be sure the Board understands the approach being used and either agrees or makes recommendations to enforce differently.

Memo

To: Robert Kuntz, City Administrator
From: Thomas H. Aiken, Assistant City Administrator/City Planner
Date: September 4, 2003
Re: Notices of Violation



At the August 25, 2003 Board meeting a resident complained, for the second time this summer, about the condition of two houses in the Mayfair/Clearview/Whispering Oakwood Subdivisions. The complaint revolved around what the resident believes to be the lack of proper maintenance, the accumulation of junk and trash, possible illegal activities and the presence of non code-compliant improvements and vehicles. The resident also complained about what he perceived to be an unacceptable time frame for getting these problems resolved, particularly in light of the recurrent nature of the problems at these locations. This issue was assigned to the Public Health and Safety Committee for review. This is a complicated issue. The following memo attempts to discuss the elements involved.

Is it a violation? Ballwin has many regulations that address the maintenance and use of private property. Some of these regulations, such as building setback lines, trailer lengths and the maximum height of grass, are very specific. Other provisions, such as how much peeling paint constitutes a violation or whether items accumulated in a yard are trash or toys and other items commonly found in most yards, is much more subjective. There is also the issue of a particular situation is not being a code violation even though the complainant thinks it is. An example of this last situation is the recent complainant's noting of a gravel driveway as an unsightly condition. Although he may believe that this should not be allowed, Ballwin regulations do not presently prohibit gravel drives.

The question of what to regulate is an on-going issue. Given that Ballwin has adopted extensive regulation over the years to control most property related problems, any new regulation is going to address less common issues and will probably have more to do with public relations than any pressing need from a public health and safety perspective. Staff makes periodic recommendations for minor amendments to the code to address recurring problems. Most such changes do not generate much attention. Occasionally, the reverse is true. What seems on its face to be a fairly innocuous adjustment to the code turns out to be a public relations nightmare. Ballwin already regulates many things. Regulating additional items is an act that needs to be given a lot of thought.

Many complaints that Ballwin receives fall into the categories of not being a violation or not being sufficiently severe to justify a notice of violation. If the complainant is known, we provide

feedback if one of the above situations applies. If the complainant is anonymous, as most are, there is no way to provide such feedback. If the violation is marginal, we watch it to see if it worsens. If it does, a notice of violation is issued. Many times, these situations are corrected by the property owner without any action on Ballwin's part.

How and when are notices of violation issued? There are approximately 12 types of violations for which Ballwin issues some kind of notice of violation. These notices range from a friendly letter describing the problem and asking for its correction to a summons to municipal court. The aggressiveness of the initial communication varies depending upon the type of the violation, the nature of the person receiving it and the frequency with which the individual violates this and similar Ballwin regulations. The time frame allowed for compliance varies depending upon the code requirements, and Ballwin's philosophy of "compliance over confrontation". The approach has been to go easy on confrontation, threatening language and the use of police power. Instead, we have attempted to negotiate compliance by providing additional time to comply (this is usually done after the initial notice has been issued) or working with property owners to find alternative solutions. The issuance of summonses has always been reserved as a last resort when the negotiated approach fails or the property owner has been uncooperative or not true to their word.

The following code sections apply to different types of violations. Some of these have specific time frames associated with notices of compliance. In light of the policy outlined above, we have always considered these time frames to be minimums, but in the time line they are in advance of a matter being taken to court.

1. Chapters 1, General Provisions, Section 1-6: General Penalty, Continuing Violations. This section, unless superceded by other regulations, applies to the enforcement of every provision in the Ballwin Code of Ordinances. It established no notification period and specifies a maximum fine of \$1000 and/or a prison term of no more than 90 days.
2. Chapter 5, Animals and Fowl, Section 5-10: Penalties. No section specifies that any special notification period is to be utilized so the general provisions of Section 1-6 apply. There are special higher fine provisions for 3 or more violations of certain provisions of the chapter. **Many violations of this section are handled by the police which may involve a warning via a face-to-face meeting with the animal owner, a call to animal control and/or a citation.**
3. Chapter 7, Building Code: No special notification period is established so the general provisions of 1-6 apply. **We usually provide between 3 and 15 days for compliance for this kind of violation depending upon the extent of the violation and the seriousness of the health and safety aspects of the situation.** The communication is a Notice of Violation form which lists the code section being violated, the time frame for compliance and the possibility of a summons if the problem is not corrected within the prescribed time.

Dangerous Buildings: This is a special class of building code violation. There are certain notification, procedural and public hearing advertising requirements that apply.

4. Chapter 11, Grading, Mining, Filling & Clearing, Section 11-2: Penalty. This section contains no special provisions for notification of violations. This makes the provisions of Section 1-6 applicable. **Violators are typically sent a letter giving them 7 - 10 days to comply.** The letter explains that if the violation is not resolved within the time frame provided a

summons to municipal court will follow. This language may be softened if the violator is a resident as opposed to a contractor. **If there is imminent danger to surrounding properties or the public, a Stop Work order may be placed on the site to cease all work until the violations have been resolved.**

5. Chapter 13, Housing Code, Section 13-26, Housing Code Violations: **This section provides for a maximum of 30 days notice of the violation.** This is one of the most frequently cited code sections. **Time frames never exceed the 30 day maximum but this is usually used for compliance with violations coming from scheduled occupancy inspections or if there is a long list of violations coming from a complaint.** Less serious or extensive violations are given less time at the judgment of the inspector. This communication is a Notice of Violation that outlines the applicable code section, the time frame for compliance and the possibility of a court summons if the violation is not corrected. **This is a situation where the time frame for the multiple violator might be shortened even if he would usually have qualified for the full 30 days. A notice to a repeating offender could provide less time to comply as long as the time frame is reasonable for the violation. Requiring a house to be painted within 10 days in the middle of January, for instance, is probably not reasonable. Ballwin could also be less willing to apply the practice of granting additional time if the offender is a repeat offender. This might get an issue to court sooner, but it might also weaken the case before the court if it is determined that Ballwin has not provided a reasonable period to get the violations corrected. The current philosophy is very generous with time and never puts the City in the position of being accused of unreasonableness.**

6. Chapter 15, Motor Vehicles and Traffic: No special notification periods are specified in this chapter so the provisions of section 1-6 apply. **Violations of this chapter are primarily the responsibility of the police department. This may involve a face-to-face meeting, a verbal warning, or the issuance of a citation. Illegally parked vehicles on private property are still frequently given a 10 day letter prior to the issuance of a citation, but this is no longer a required provision of the code.**

7. Chapter 21, Sanitary Sewers: There are no special notification provisions in this chapter so the general provisions of section 1-6 apply. Notices of violation of this chapter are sometimes done via a letter, but are more commonly combined with a notice of violation of an applicable provision of Chapter 13. **Violations are typically failed septic systems, so a the maximum time frame of 30 days is provided in accordance with the applicable provisions of chapter 13 due to the time frame necessary to get this kind of problem corrected.**

8. Chapter 22, Signs, Section 22-4: **This section establishes a minimum notification time frame of 5 days for all signs except moveable signs which are given a notification period of 2 days.** Notifications for signs on private property are given via a Notice of Violation that gives the code section, the time frame and explains the possibility of a future summons.

Per the instructions of the Board of Aldermen, notifications for signs in the public right-of-way advertising houses for rent or for sale by the owner are sent a friendly letter explaining the violation. The letter explains the time frame by which the signs must be brought into compliance states that after that date they may be picked up and disposed of. Similarly situated commercial real estate signs are not given a notice of violation. They are in the public right-of-way. Since the

code holds the property owner responsible for illegal signs, such signs are just picked up.

9. Chapter 23, Solid Waste: Section 23-1 provides that refuse or garbage accumulation is not a violation for five days and not a violation for 7 days if stored in cans. There is, however, no time frame for notification, so the general provisions of section 1-6 apply. The communication takes the form of a notice of violation. **Typically the offender is given 7 – 10 days to correct the problem.**

10. Chapter 26, Swimming Pools: There are no special notification procedures in this chapter so the general provisions of section 1-6 apply. Minor violations of this section are typically addressed in the same manner violations of Chapter 13. **A 7 - 10 day time frame is generally given for compliance. If the violation is judged to be of a particularly hazardous nature, such as a missing fence, the notice may be as short as 72 hours and may be hand delivered.**

11. Chapter 28, Trailers and Recreational Vehicles: This chapter provides no special notification requirements so the general provisions of section 1-6 apply. Communication takes the form of a letter if it comes from my office. **Generally a 7 – 10 day time frame is given for compliance.** If the police department addresses the matter, a 10 day notice is sometimes given and sometimes a summons is issued on the spot.

12. Chapter 29, Weeds and Vegetation: **Section 29-4 requires a 10 day notification period followed by an administrative hearing. The administrator may declare the vegetation a nuisance and order its abatement within 5 days. The result is that there is effectively a 15 day notification period.** If Ballwin must hire the vegetation mowed, there may be an additional delay until the mowing is actually accomplished. It is not unusual for 30 – 45 days or more to elapse between the vegetation first coming into violation and it actually being mowed. The communication is accomplished via a Notice of Violation that specifies the hearing date, the code section, the possibility of the property being mowed by the city and a lien being placed in the tax assessor's office.

Court: A small percentage of the many notices that are sent out in a year by the Building Department result in a summons to municipal court. So far in 2003 there have been 26 summonses arising from the approximately 280 notices of violation that have been issued. This is about 9%. The majority of these are based on issues such as failure to obtain an inspection or an occupancy permit or other similar non-visible violation. The number of violations that go to court that are obvious to neighbors is significantly less.

Violations are sent to court through the issuance of a citation similar to a traffic ticket. The citation shows the code section being violated, the date of issuance and the court date. Since most citations issued by the Building Department are not deliverable in person they are typically sent by certified mail. This means that any citation issued less than 10 days prior to court will be issue for court the following month. This process can put an additional 30 days into some cases.

If a homeowner fails to respond to the initial notification, in accordance with the present policy, a second notice with a much shorter time frame is sent by certified mail. This is essentially a last chance to correct the problem before the summons is issued. The time frame for a notice of this kind is usually 5 – 7 days depending upon the day of the week. This process can add a week to some cases.

Once the case is on the trial docket, the court system takes over. Defendants are granted one continuance of 30 days by asking or by failing to appear at court. If they are a no-show, a letter is sent reminding them of the situation and that a bench warrant can be issued for a second no-show. A second continuance is many times granted, at the discretion of the judge, if there is a second no-show. Again a letter is sent. A third no-show usually results in a bench warrant being issued. This process takes as much as 90 additional days and gets no resolution to the problem. If the defendant is ultimately arrested, he has to post a \$100 bond to get out of jail. Fortunately, this seldom happens. Additional continuances can be issued by the prosecutor. This is typically done outside of court and is most commonly accomplished with the aid of an attorney. There is evidently no limit to the number of continuances that can be issued in this manner. Although not common, 3-4 are evidently not unknown. The judge too can issue continuances. This is always done in court and usually with the assistance of an attorney. Numerous continuances are not common but 2 -3 are not unknown. Obviously, combinations of the above can lead to cases being before the court for months at a time. If the case is one of poor maintenance the property sits and continues to decline as the neighborhood smolders.

The court is very cordial and cooperative with staff in these cases. An inspector attends every session of court and is prepared to discuss every case on the docket. The judge always gives the inspector the opportunity to present his case. This always includes the background and history of the particular situation and property. The judge is always familiar with the repeat nature of any case or defendant. Fortunately, it is rare that any defendant comes before the judge more than once. Although there are approximately 25 - 30 properties in Ballwin that fall into the category of repeat offenders, few of these ever reach municipal court. Most are ultimately resolved through the process described herein.

Summary: The complaint made to the Board happened to revolve around one of the more durable repeat offender in Ballwin at 913 Camargo. I suspect that a review of the past 10 years would show that this property and this owner have been sent notices of violation for something every year. There is a similar house at 234 Nancy Place. We fight the battle and get compliance only to have it drift back into noncompliance in a short time. This is true to a much lesser degree for the house at 1058 Kehrs Mill and many others like it throughout the community. For some reason, the owners of such properties just refuse to maintain them on a regular basis. It is only with periodic prodding from Ballwin that it is done at all. It is important to note that few properties that are repeat offenders actually end up going to court. The problems are typically resolved through the notice process if we allow sufficient time. It is the time, of course, that is frustrating to the surrounding property owners.

I do not believe that there is any need to rewriting the ordinances to require shorter compliance times or larger fines. The threat of court appearances and fines does not seem to motivate the problem property owners now. Tightening the rules a little probably isn't going to change that. The fundamental issue here, from my perspective, is defining the exact problem. Is there a belief that staff needs to be more aggressive overall in the enforcement of these kinds of violations in order to shorten the time of non-compliance? If so, we can do that, although there may be political ramifications to the hard line position when we end up writing significantly more summonses for one-time or casual violators. If the problem is with the treatment of the very few repeat offenders, we can address that situation as well. The problem here is that shortening time frames and issuing more summonses are actions that are less effective with this small section of the community. The thing we cannot do is make people be good neighbors.

City of Ballwin

Memo

To: Robert Kuntz, City Administrator

From: Thomas H. Aiken, Assistant City Administrator

Date: 3/5/04

Re: Code Enforcement Process and Philosophy

Although Ballwin has a long list of standards and regulations that regulate activities in the community, the codes do not typically address how Ballwin employees are to go about enforcing the regulations. Clearly it is important to do so in a manner that is courteous and seen as appropriate and fair. At the same time, it is necessary to enforce the code in a manner that is comprehensive and gets a swift correction of the violation. Sometimes these objectives are at cross-purposes. Notice language that minimizes the time for compliance can be viewed as aggressive and threatening, but utilizing telephone calls and friendly reminder notices can drag out the time for compliance. Enforcing provisions primarily on the basis of complaints leads to frequent long-standing violations and inequitable enforcement.

The Code Enforcement Division of the Department of Administration has, over the years, developed procedures for the enforcement of all of the codes under its charge. As I said above, most of these procedures are not specified in the code. They have evolved over time in an effort to provide enforcement in a manner that is acceptable to most of the stakeholders involved. This includes, at a minimum, the alleged violator, the neighbors, the courts and the city. Since there is rarely a serious objection to most of our enforcement procedures, I have assumed that they are politically acceptable to the Board of Aldermen as a part of its philosophy for Ballwin's governmental operations. In some cases, the Board has specified certain procedures for certain violations, but to my knowledge, there has never been any comprehensive review of these procedures. Following are brief descriptions of the procedures utilized by the staff of the Code Enforcement Division for the most frequently occurring types of code violations. Higher level staff and perhaps aldermanic review may be appropriate to assure that the overall enforcement philosophy is being met.

1. Sign Code Enforcement:

The enforcement of the sign code falls into two basic areas: signs on private property and signs on public property. These categories are not mutually exclusive, there is some grey area, but they do not usually overlap or conflict much. It is important to note the sign code enforcement is not something that is done in a systematic manner for permanent signs. The division responds to

complaints and inquiries, but primarily relies on the inspectors' knowledge of the existing signage stock to identify violations. No regular systematic inventory or review for compliance is done. There is closer scrutiny of temporary signs. Not only is there a follow-up inspection to verify that signs are removed when permits expire, but the inspectors and supervisors frequently patrol the community for violations of these provisions.

A. Regulated signs on private property primarily consist of permanent signs such as wall and ground signs used for commercial/institutional identification. Most of these signs are therefore in commercial areas, although subdivision entry signs also fall into this category. These signs tend to be in place for a long time and are essentially permanent improvements. Temporary signs that are allowed for a specific limited period of time are also common on private property. Applications are required and permits are issued for all of these types of signs.

Signs on private property in residential neighborhoods are typically small and used for the sale of real estate, garage sales, residential construction work, lost pets, etc. No permit is required for up to 2 signs for the sale of real estate on a lot of less than 1 acre provided that the signs do not exceed an area of 6 sq. ft. each. Such signs are supposed to be no closer than 10 feet to any property or right-of-way line. These signs are not usually a problem. Although not specifically allowed by the sign code, we typically allow one sign that is not a real estate sign as long as it does not exceed 6 sq ft in area and it is not in the right-of-way. Permits, in accordance with the provisions of the sign code are required for larger signs.

We do not regularly or systematically patrol for violations involving these types of signs, but, if a violation is discovered or brought to the division's attention, the owner of the business or property where the sign is located is sent a Notice of Violation by letter. The notice gives a 5 day time frame for compliance as is stipulated by the code. The letter also says that, if the violation is not corrected in this time, a summons will be issued. This usually gets compliance. If it does not, a final notice is sent via certified mail notifying the property owner/business of the violation. If this fails to get a resolution, a summons is issued. If the property owner/business contacts us as the result of the notices, additional time may be granted to bring the violation into compliance. Under normal circumstances, a maximum of 60 days of additional time is allowed. The biggest problem with the enforcement of this code is that the violation is limited to a \$50 fine. This is not much of an incentive to comply.

B. Small signs such as real estate open house and directional signs are frequently and illegally placed within the public right-of-way. These are picked up and disposed of without notice. They are on Ballwin's property without the permission of the property owner. This is a violation of the code. The division is very careful to be sure that signs it picks up are not on private property.

As directed by the Board of Aldermen, for-sale/for-rent by owner and similar resident-placed signs in the right-of-way are not initially picked up. For these signs, the resident is notified that the sign is in violation. This may be done by letter or by taking the sign to the resident and explaining the situation. The letter option is more frequently used because it creates a written record that supports the fact that the contact was made. If the sign is not removed within the specified in the letter, usually one week (the code only specifies 5 days), it is picked up and discarded. Illegal signs of this nature are collected as an adjunct to staff's regular inspection duties and via occasional

patrols by supervisors. For this reason enforcement is somewhat irregular. Real estate agents are not given the courtesy of a notice for illegal signs in the right-of-way. They know or should know the City's sign regulations. The local real estate board provides a manual containing the sign regulations of every city. Many such signs are erected on weekends. The division does not typically pay an inspector overtime to remove signs at that time. This leads to the frequently experienced situation where many real estate signs are erected late Friday and removed late Sunday. If they remain on Monday, they are picked up. As of this writing Ballwin does not receive a lot of complaints about this violation situation. It seems, however, that there is a growing number of these signs put up on weekends and the signs seem to be getting bigger.

C. It is my understanding that, due to Missouri and federal law, political signs on private property are pretty much exempt from any kind of local regulation. They can only be controlled if they create some sort of danger to the public. The division does not require permits or in any way limit the number or size of political signs in Ballwin. If such signs are placed in the public right-of-way, however, they are picked up and disposed of because the permission of the owner of the property was not granted. We assume that signs on private property are placed with the permission of the property owner.

2. Housing and Building Code and Zoning Enforcement:

These kinds of code violations are relatively common and are all dealt with according to essentially the same procedure. Violations of these codes frequently come to the city's attention via a complaint. Additionally, the inspectors and supervisory staff look for violations of this kind while on their inspection rounds. No inspector time is scheduled solely to the enforcement of these issues. Once a violation is identified and/or confirmed, a Notice of Violation listing the issues is sent to the property owner of record via regular mail. The notice contains a specific time period for compliance and a reference to the fact that the summons may be issued if the violation is not corrected. The time frame for compliance varies according to the nature of the violation, the number of violations and the time of the year. If the notice is not effective a Final Notice is sent via certified mail. A much shorter time frame is allowed for compliance in this notice. If the Final Notice is not successful, a summons is issued. If the property owner communicates with Ballwin as the result of one of the notices, additional time for compliance may be granted. It has been the Division's experience that granting additional time is a statistically better approach to getting the problem resolved quickly than is going to court. The court is reserved as a last alternative.

The inclusion of the reference to a summons in the Notice of Violation has occasionally been an issue to some. They feel that the limited time for compliance and the summons reference is unnecessarily threatening. The feeling seems to be that a communication with a friendlier tone should come first. The Division is not opposed to the concept of a friendlier initial communication and has attempted this approach in the past with both friendly reminder letters and telephone calls. The results were dismal. The issue was seldom corrected as a result of the friendlier approach. In almost the same proportion of cases Notices of Violation, Final Notices and summonses had to be issued. The friendly letter resolved few issues. It prolonged compliance time for most problems for at least an additional 30 days, and to send a follow-up communication in anything less than 30 days from the date of the "friendly communication" seemed to generate more issues than skipping the friendly letter in the first place.

3. Trailer and Commercial Vehicle Parking:

Violations of these code sections seem to run in streaks. We may go a long time with few such violations and then have several come in over a short period of time. Violations are enforced primarily on a complaint basis, but the division occasionally does a sweep through a neighborhood (sometimes on the basis of a complaint and sometimes at the direction of a supervisor) when there are many violations in a relatively small geographic area. This is not done, however, on a regular basis, nor is it done in the same neighborhoods on a frequent basis. It is interesting to note that the neighborhoods with large lots seem more likely to have violations of this nature.

The process for the first notification of a violation of these code sections is similar to that utilized for housing and zoning violations. Once the violation is established, a Notice of Violation is sent to the owner of the vehicle and/or property. This notice contains a 10 day period for correction of the violation and a reference to the possibility of a court summons. (10 days is not a ordinance requirement but it has been used for years with all kinds of vehicle violations by the division and the Police). A copy of the notice goes to the Police Department. If the violation is not corrected within the 10 day period and there has been no communication from the owner, the police will issue a summons. No final notice is issued. Under certain circumstances additional time may be granted to obtain compliance. Although these are vehicle violations, which are traditionally the purview of the police department, the police do not become involved until the Division of Code Enforcement issues the original Notice of Violation.

4. Recreational Vehicles:

Violations of these code provisions are almost exclusively driven by complaints. As is the problem with any enforcement that is driven exclusively by complaints, there are a lot of violations that are not addresses. This puts the City in the position of appearing to be, at best, inconsistent and unfair, and at worst, vindictive and discriminatory, against a specific individual when the code is enforced.

Once a complaint is filed and the violation is verified, the same procedure used for trailers and commercial vehicles is utilized.

5. Trash Violations:

Although the division is on the lookout for trash accumulation violations in the same manner that it is for building code violations, no specific inspector time is dedicated to this effort. As a result, many of the violations are brought to the City's attention by complaints. This is not a frequent issue so this level of surveillance is adequate to stay on top of this problem.

Once a potential violation of this code is verified, it is monitored for 5 days. At that point it becomes a violation according to the code and the property owner is sent a Notice of Violation. This notice includes a specific time for compliance (usually 10 days) and a reference that a summons to court is possible for continued violation. Should the violation continue after the notification period, a Final Notice is sent via certified mail giving a final compliance date. If the

violation continues after that time, a summons is issued. As is the case generally, if the violator contacts the City prior to the issuance of a summons, additional time may be granted to obtain compliance.

6. Weeds and Vegetation Violations:

Violations of this code generally fall into one of two categories. The more common area of violation is weed and grass height. The less frequent violations deal with issues such as vegetation blocking driver and/or pedestrian visibility at intersections and vegetation overhanging public roadways and sidewalks.

Grass height violations are naturally related to the growing season, but the bulk of the violations occur in the months of April, May and June. Violations continue from July through October but they are substantially less frequent in that time period. Beginning in April, the code enforcement division dedicates the equivalent of about 1.5 man-days per week for the exclusive enforcement of weed and grass height violations. This effort is supplemented by complaints received from residents.

Once a violation is verified, a Notice of Violation is sent to the property owner (in cases where ownership is unclear the site is posted). As required by code, this notification gives the property owner 10 days to correct the violation or appear at an administrative hearing held by the City Administrator. Most violations are corrected within the 10 day period. It is the policy of the division that no notices are sent to local homeowners on Thursdays or Fridays. Experience shows that most residential violations are addressed on the weekend. No positive purpose is served sending a notice that is received the day, or the day after, the violation is corrected. Administrative hearings are all scheduled for 9:00 A. M. Prior to the hearings, the inspector surveys every location and verifies the continued existence of the violation. If the violation is corrected, the matter is closed. If the violation is still current and the violator does not appear at the administrative hearing, a Final Notice giving 5 days to correct the violation is sent via certified mail or the site is again posted. (I can only recall two instances of anyone ever coming to a hearing.) If the violation has not been corrected after the expiration of the five day final abatement period, the city hires a private contractor to mow the site and repeat offenders are issued a summons. First time offenders are not summonsed. Once the bill is received for mowing the property, owners (first time and repeat) are given 30 days to reimburse the city for the expense. If this is not done, a lien is filed against the property in the St. Louis County Tax Assessor's Office. As is the case with all violations, if the property owner contacts the city during the notification process, additional time for compliance is frequently given. The majority of violations are resolved prior to the end of the 10 day notification period. Of the few cases that go to the 5 day abatement period, most are resolved within that time. In a typical season Ballwin will arrange to mow 3 –5 properties. Of these half or better typically pay the cost prior to a lien being filed.

Other vegetation violations are far less common. If the matter is one of visibility at an intersection the division will ask the Police Department and the Public Works Department to review the situation and advise as to the validity of the alleged violation. If it is agreed that there is a violation, a Notice of Violation is sent to the property owner. Typically the owner is given 10 days to correct the situation. The notice contains language referencing the possibility of a summons for continued violation. If the problem has not been corrected within the specified time, a Final Notice

is sent via certified mail. If the violation is not corrected within the time frame of the final notice, a summons is issued. The code does not give Ballwin the right to go on private property to correct these kinds of vegetation violations, so it will continue while the issue makes its way through the court system. If the property owner contacts the city within the notification period, additional time may be granted for compliance.