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## Staff Report

TO: Honorable Mayor Noon and Members of City Council

THROUGH: Elisha Thomas, Interim City Manager  
Andy Firestine, AICP, Assistant City Manager

FROM: Steve Greer, Community Development Director

DATE OF MEETING: November 14, 2016

DATE OF SUBMITTAL: October 28, 2016

SUBJECT: Nuisance Regulations – Stockpiling and Inoperable Vehicles

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### **1. Executive Summary:**

The purpose of this report is to provide City Council with an opportunity to have a policy discussion about how to move forward with regulations concerning stockpiling and inoperable vehicles. In 2005, 2009 and 2011, City Council discussed the policy of stockpiling and directed staff to only enforce when visible from the adjacent right-of-way. However, in recent years the City has received complaints from residents who are concerned about the condition of a rear or side yard and the negative impact it may have on their property. Many of those complaints have been directed to staff but some have also been shared by residents with individual members of City Council.

On August 8, 2016, City Council discussed the policy of stockpiling and inoperable vehicles during a Study Session and reached a general consensus that the City should evaluate the potential for enforcing nuisance regulations within rear and side yards. Council directed staff to provide additional community outreach and conduct a survey to address specific code issues and assess resident's perspectives about how important it is for the City to enforce or regulate these issues.

The policy issues for City Council to discuss are:

**Does City Council support enforcement of stockpiling within side and rear yards whether visible or not from the adjacent right-of-way?**

**Does City Council support staff to actively seek and enforce code violations or enforce only when there is a complaint (proactive vs complaint based enforcement)?**

**Does City Council support a more aggressive time frame for bringing repeat violators into compliance; and/or**

**Does City Council support a modification to the definition of stockpiling within the Municipal Code to expand it to include the accumulation of items in a quantity not customarily associated with residential properties?**

**2. Discussion:**

**Background – Existing Regulations**

The code referencing stockpiling is located in Chapter 7, Article 2, Section 7-2-30 of the Municipal Code and is limited to what constitutes stockpiling or accumulation of junk and debris. Inoperable vehicles is related and included in this discussion but regulated by a separate section within Chapter 7, Article 2, Section 7-2-40. To aid in the discussion Staff has provided the current stockpiling and inoperable vehicle regulations for reference:

Current Code – Stockpiling Materials on Property

It is a nuisance and unlawful for any owner to permit, authorize, allow, store or keep upon any property any stockpile, pile, stack, stand, collection, assembly or other accumulation of earth, dirt, stone, rock, sand, concrete, asphalt, cinders, lumber, wood, shingles, used or discarded building or construction materials, tires, inoperable equipment, household appliances, scrap metal, scrap plastic, rubbish, refuse, waste or junk, except where:

- (1) Located within a fully enclosed and lawfully existing structure or building;
- (2) Located upon property zoned and lawfully used for agricultural purposes, including the keeping of horses or other livestock;
- (3) Directly associated with and necessary for an activity being conducted pursuant to a valid and effective building permit issued by the City for the same property upon which such conditions exist;
- (4) Directly associated with and necessary for the conduct of a lawfully permitted business activity (excluding home occupations) such as, but not limited to, the stockpiling of lumber associated with a lumber yard or the piling of earth or stone associated with a landscaping materials sales business;
- (5) Earth, dirt, stone or rock is integrated into and made part of a permanent landscape feature located upon a residentially zoned lot containing: a principal or primary residential structure; or
- (6) Not more than two (2) cords of stacked wood suitable and intended for on-site residential use in an interior wood-burning fireplace or heating system located upon a residentially zoned lot. (Ord. 2004-O-26 §1-7.1.103)

Current Code – Junk or Inoperable Vehicles

(a) It is a nuisance and unlawful for any owner to permit, authorize, allow, park, keep or fail to remove a junk or inoperable vehicle located on a public highway, street, road, alley, thoroughfare, right-of-way, parking lot or parking area. For purposes of this Article, a *vehicle* shall mean an automobile, truck, motorcycle, motorbike, boat, trailer, camper, house-trailer or similar mode of wheeled transportation. A *trailer* shall mean any form of nonautomotive vehicle, sled or equipment designed to be towed by a vehicle. *Junk* or *inoperable* shall mean either of the following:

- (1) Inability to be lawfully operated on a public street due to circumstances such as but not limited to: lack of current and valid state license plate or registration; nonexistent, insufficient or inadequate safety or other equipment required by law for legal operation.
  - (2) Inability to be mechanically operated due to circumstances such as but not limited to: inability to start and/or operate as designed and intended due to a mechanical or physical defect or damage; deflated tires; broken or inoperable turn signals; or broken or inoperable headlights.(b) It is a nuisance and unlawful for any owner to permit, authorize, allow, park, keep or fail to remove a junk or inoperable vehicle located on private property that is visible from a public highway, street, road, alley, thoroughfare, right-of-way, parking lot or parking area. The terms and phrases *junk* or *inoperable vehicle*, *vehicle* and *trailer* shall have the meanings provided by Subsection (a) above. This Subsection shall not apply to vehicles and trailers located on property that is zoned to both permit and be actively used for a vehicle or trailer repair business.
- (b) It is a nuisance and unlawful for any owner to permit, authorize, allow, park, keep or fail to remove a junk or inoperable vehicle located on private property that is visible from a public highway, street, road, alley, thoroughfare, right-of-way, parking lot or parking area. The terms and phrases junk or inoperable vehicle, vehicle and trailer shall have the meanings provided by Subsection (a) above. This Subsection shall not apply to vehicles and trailers located on property that is zoned to both permit and be actively used for a vehicle or trailer repair business.

### **Background – Previous Discussions**

In January 2005, City Council adopted its first nuisance regulations addressing dumping on private property and stockpiling. The ordinance defined Junk and outlined exceptions where stockpiling is allowed.

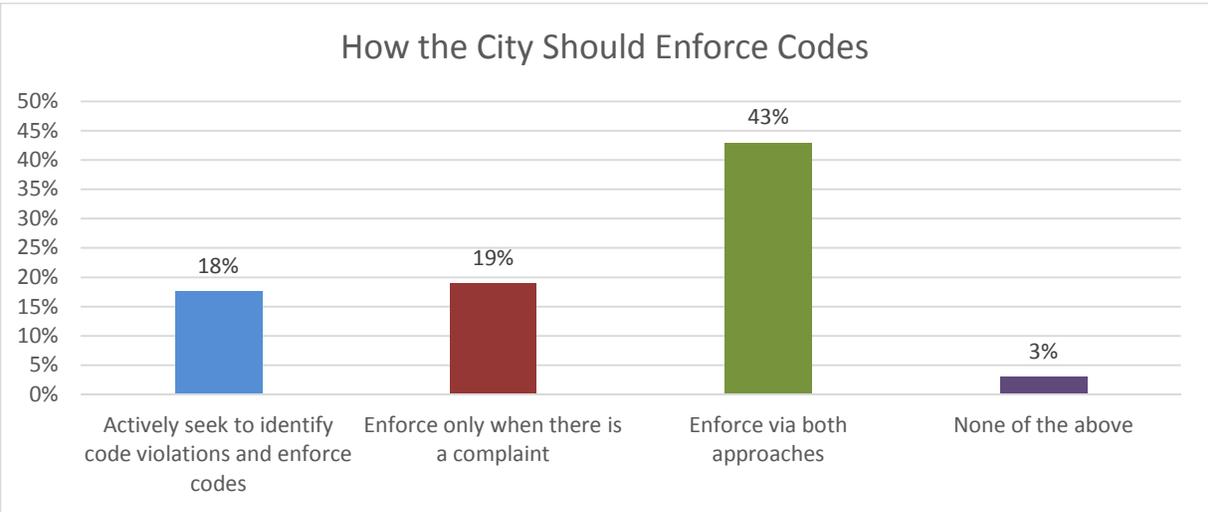
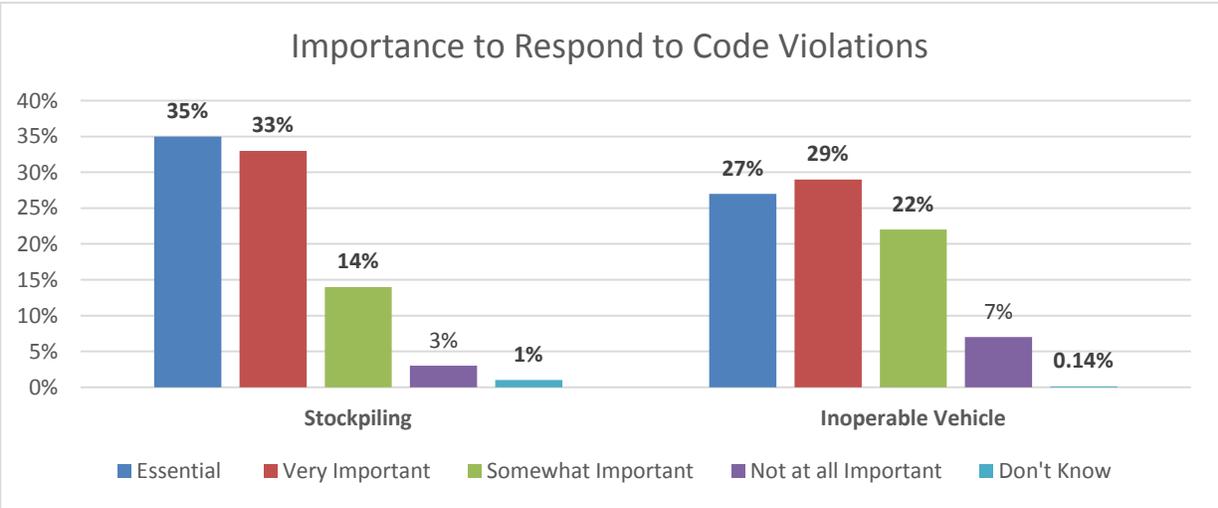
In April and September 2009, staff provided City Council a variety of code issues related to property maintenance, nuisance and zoning matters. City Council directed staff to begin public outreach efforts to obtain citizen opinions and comments on the proposed code revisions and bring back to Council for further discussion. A survey was provided online via the City's website for two months and resulted in 337 submittals. Additionally, the outreach included numerous District meetings, neighborhood meetings and a CenCON meeting. The outreach illustrated that the majority (57%) of survey participants would support an ordinance addressing the accumulation of goods not customarily associated with residential properties and a split of opinion that would support a policy allowing officers to enforce stockpiling in side and rear yards. The open ended comments from this survey are attached for reference and illustrate opinions from those who provided written answers. The direction from Council at the outcome of the Study Session was to not amend the nuisance regulations and only enforce stockpiling if observed from the adjacent right-of-way. The consensus from Council was that the City should not regulate private property in rear and side yards and leave enforcement up to the homeowner associations.

In March 2011, staff discussed whether Council would support expanding the definition of stockpiling to include items in a quantity not associated with residential properties based on the 2010 Centennial Citizen Survey conducted by the National Research Center (NRC). The survey addressed specific code issues and assessed resident's perspectives about how important it is for the City to address these issues. For code violations typically associated with stockpiling, the results are as follows: essential – 27%, very important – 45%, somewhat important – 24% and not at all important - 4%. The direction from Council at the outcome of the Study Session was to not amend the nuisance regulations and only enforce stockpiling if

observed from the adjacent right-of-way. The consensus from Council was that the City should not regulate private property in rear and side yards and leave enforcement up to the homeowner associations.

In August of 2016, staff provided City Council a policy discussion regarding enforcing code violations in rear and side yards. City Council directed staff to begin public outreach efforts to obtain citizen opinions and comments on the proposed code revisions and bring back to Council for further discussion. A survey was provided online via the City's website for two months and resulted in 739 submittals. Additionally, the outreach included numerous District meetings, neighborhood meetings and a CenCON meeting. The outreach illustrated that the majority of survey participants consider responding to nuisance violations as either essential or very important, that the City should also enforce codes proactively and split as to whether or not the City should enforce in side and rear yards. The following summary and graphics depict the specific percentages in each category:

- Importance to respond to stockpiling code violations?
  - Essential/Very Important – **68.47%**
  - Somewhat/Not At All – 16.37%
- Importance to respond to inoperable vehicle violations?
  - Essential/Very Important – **55.89%**
  - Somewhat/Not At All – 28.69%
- How the City should enforce codes?
  - Proactive – 17.59%
  - Complaint based – 18.81%
  - Enforce using both approaches – **42.76%**
  - Not enforce – 2.57%
- How the City should enforce stockpiling and inoperable vehicle code violations?
  - Only when seen from the adjacent street – 43.03%
  - Side and rear yards – **45.20%**
  - Not enforce – 7.58%



## Background – Stockpiling Assessment and Violation Data

An analysis was performed earlier this year to determine similar regulations within over a dozen communities and counties within the Front Range. It was found that a majority of the survey respondents enforce stockpiling in the rear and side yard if a complaint is received. Centennial is an outlier in this regard and is one of the only communities not enforcing stockpiling on private property.

Violation data was also compiled to illustrate the types of code violations that the City has received over the past few years. It shows an increasing trend of stockpiling complaints from 15% of the total complaints in 2015 to 20% in 2016.

## Background – Recent Examples

Since 2011, when staff received its most recent policy direction from City Council, the City has received numerous complaints about stockpiling and inoperable vehicles where enforcement capability was limited due to existing codes and policies. In these recent examples, staff could have been more effective in resolving resident complaints if enforcement included side yards, rear yards and generally not limited to requiring visibility from adjacent public right-of-way. Stricter interpretations and methods of enforcement are common amongst other adjacent and nearby communities and would provide another “tool” for appropriate enforcement within our neighborhoods. As the City ages over time, there may be increased pressure to regulate these activities as a measure to maintain property values and ensure Centennial is an attractive choice for residency.



## 3. Recommendations:

Staff recommends that the City Council authorize Staff to develop an Ordinance amending the Municipal Code to include within the definition of stockpiling the accumulation of items in a quantity not customarily associated with residential properties. Staff also recommends that City Council provide policy direction on the enforcement of stockpiling in side and rear yards and whether requiring visibility from the public right-of-way should be amended. In addition, related

to these policy discussions staff would like further direction on whether the speed of enforcement should be increased and more proactive when dealing with repeat violators or when the situation warrants a more aggressive and timely resolution to the violation.

**4. Alternatives:**

Council can advise staff to move forward with all or selected recommendations or Council may modify the scope of the proposed Municipal Code amendments. If additional research or information is needed Council can also request additional study session discussions as necessary.

**5. Fiscal Impact:**

If the regulations are enforced by complaint based only then the workload would be absorbed by the existing staff and would not result in an increase of services by Code Compliance.

**6. Next Steps:**

Should the Council direct Staff to proceed with the amendments as summarized within this report, an Ordinance will be developed and presented at a future City Council meeting.

**7. Suggested Motions:**

As this is being presented to the City Council at a Study Session, no motion is needed.

**8. Attachments:**

- Attachment 1: January 12, 2005 Staff Report
- Attachment 2: September 14, 2009 Staff Report
- Attachment 3: March 14, 2011 Staff Report
- Attachment 4: Stockpiling Assessment of Peer Communities - 2016
- Attachment 5: Violation Data – 2015/2016
- Attachment 6: Comments from 2009 Citizen Survey
- Attachment 7: Results from 2016 Citizen Survey