

Land Development Services

LOB #64:

VIOLATION ENFORCEMENT

Purpose

The Violation Enforcement LOB is responsible for the intake, review, resolution or prosecution of complaints and violations of the Virginia Construction Code, Code of Virginia §36-105 and §36-106. In addition, through this LOB staff provide County enforcement for the Fairfax County Codes highlighted in the Mandates section of this LOB.

Goals for such regulations include:

- Protect the health, safety and welfare of the public;
- Protect the environment;
- Adhere to industry standards;
- Meet state regulations, permit regulations and delegated authorities; and,
- Reflect Community interests and values.

Description

The Violation Enforcement LOB includes 5/5.0 FTE positions from the Code Development and Code Compliance Division. The following outlines key functions of this LOB:

- **Complaint Response.** Staff intake and investigate complaints received from the public regarding potential violations associated with land disturbances, Resource Protection Areas (RPA), new construction activity (both structural and land development), stormwater/drainage, buildings code violations (Post Occupancy), and unlicensed contractors. On average, staff respond to 300 complaints annually. Staff have maintained a response time (i.e., the time between receipt of the complaint, usually by phone, and initial inspection) of 72 hours or less 98% of the time.
- **Stormwater and Land Disturbance Violations.** As mandated by the Commonwealth, the agency enforces code provisions of Fairfax County Code Chapter 104 (Erosion and Sediment Control), Chapter 118 (Chesapeake Bay Preservation), and Chapter 124 (Stormwater Management) producing on average over 240 violation cases annually (i.e., FY 2013 – 282; FY 2014 – 214; and FY 2015 – 228).
- **Unlicensed Contractor Enforcement.** This agency administers the Home Improvement Contractor Licensing Program, including the enforcement of the unlicensed contractor regulations. The agency handles approximately 20 cases per year. Since 2012, work performed by this agency has resulted in sending four individuals to jail for offenses and recovering over \$200,000 for victims of unlicensed work.
- **Residential Building Code Violation Remedy.** This agency resolves building code violations for homeowners during the residential building's construction and post-occupancy. On average the agency successfully reaches resolution for remedial repair work for 45 homes annually.
- **Coordinate Multi-issue Complaints.** This agency coordinates and coalesces cross agency code violations for all of LDS including: performing onsite inspections, mediating complaint issues, and preparing/presenting criminal court cases on behalf of the County. It also reviews and compiles evidence to in support of criminal summons or warrant actions.

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- **Criminal Case Support.** This agency coordinates with and provides technical expertise for the County Attorney's Office regarding criminal cases, including preparing necessary court documents and witnesses, also representing the County in criminal court prosecution of building code post occupancy, land disturbing, RPA and unlicensed contractor violations.
- **Extra-agency Support.** In addition to working with the Commonwealth Attorney's Office, LDS routinely coordinates with other state and County agencies including Police and Fire Marshal's offices to resolve contractor issues and health and zoning issues. Additionally, staff coordinates with and provides technical expertise for the Department of Professional and Occupational Regulation, the Federal Bureau of Investigation (FBI), and the Secret Service on unlicensed contractor complaints.
- **Mediation and Resolution Monitoring.** LDS facilitates equitable resolution to complex technical code compliance issues, through inspection, mediation, negotiation, and enforcement by court order. The agency also monitors court orders to ensure compliance with court decrees and pursues further legal action, if necessary.

Benefits

Through the enforcement of County codes and industry standards related to land development and building construction, this agency benefits the community by:

- **Protecting Health, Safety and Welfare of the Population.** Compliance with County and state regulations ensure that potential natural hazards (i.e., flooding, problem soils) are mitigated to minimize flooding and drainage issues as well as structural damage concerns. Moreover, compliance with applicable codes and regulations ensures availability of emergency services and public infrastructure and that private facilities achieve expected levels of safety and quality and provide universal access.
- **Ensuring Environmental Stewardship.** Enforcing compliance with code provisions regarding stormwater management, tree preservation, Chesapeake Bay preservation and other similar codes and state regulations; this agency minimizes adverse impacts to the environment stemming from wayward development.
- **Compliance with State and Federal Mandates.** The County is bound by numerous state and federal obligations. The work performed by staff in this LOB helps to achieve the County's obligation for many of these high profile mandates (i.e., ADA, Stormwater MS4 Permit, Erosion and Sediment Control (E&S) Program, National Flood Insurance Program (NFIP); Chesapeake Bay Program; Total Maximum Daily Load (TMDL) Stream Protection; Freedom of Information Act (FOIA).
- **Unlicensed Contractor Enforcement.** Through the work of this agency, the County guides homeowners to avoid unlicensed contractors and assists those who have been taken advantage of by unlicensed contractors.

Listed below are the primary County Vision Elements related to the LOB.

- **Maintaining Safe and Caring Communities** through defense of the land development and building permitting process public infrastructure and private facilities are constructed to meet the diverse needs of our community.
- **Building Livable Spaces** through customer assistance and innovative programs designed to help overcome hurdles in the regulatory process. In addition, by supporting customers when construction or rehabilitation is part of their business or personal needs. Additionally, enforcement of the land development and building safety codes ensures fairness and confidence in construction sector of Fairfax County's economy.
- **Practicing Environmental Stewardship** by enforcing the environmental code provisions of County and state codes the County realizes its environmental stewardship goals.

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Mandates

The Violation and Enforcement LOB is responsible for the intake, review, resolution or prosecution of complaints and violations of the Virginia Construction Code, Code of Virginia 36-105 and 36-106. In addition, through this LOB staff provides County enforcement for the following Chapters of the Fairfax County Code:

- Chapter 61 – Building Provisions;
- Chapter 64 – Mechanical Provisions;
- Chapter 65 – Plumbing Provisions;
- Chapter 66 – Electrical Provisions;
- Chapter 71 – Expedited Building Plan Review;
- Chapter 101 – Subdivision Provisions;
- Chapter 104 – Erosion and Sediment Control;
- Chapter 107 – Problem Soils;
- Chapter 117 – Expedited Land Development Review;
- Chapter 118 – Chesapeake Bay Preservation; and
- Chapter 124 – Stormwater Management Ordinance.

Trends and Challenges

Current development and County conditions have created the following trends, challenges and opportunities within this LOB.

Rate of Received Complaints on the Rise. Both land disturbance (Chapter 104 and Chapter 118) and unlicensed contractor complaints have begun to increase, resulting in an increased number of branch issued Notices of Violation. In the Fairfax County Code, Chapter 61, Section-7-2 regarding unlicensed contractors was created to assist County residents in dealing with unlicensed contractors who represent themselves as a licensed contractor. As this section was adopted by the BOS on July 30, 2014, it is likely that the number of cases handled by the Violation and Enforcement staff will increase as residents contact the agency on this issue.

Complexity of Complaints. Residential Post Occupancy complaints are typically complex and multifaceted owing to the varied issues uncovered when County staff arrive on site to conduct the response inspection. Notwithstanding, Post Occupancy complaints have decreased over the last couple of years likely due to outreach efforts with County partners.

Impassioned Complainants. Owing the high value the community places on environmental stewardship, land disturbance complainants are extremely impassioned when reaching out to the County and hold a very high level of service expectation regarding response time, thoroughness of work and rate of successful resolution.

Balancing Resources and Expectations. The cases managed by this agency are complex and involve careful coordination with the County Attorney's Office. The balance between staffing resources and case load/customer expectations requires managerial finesse.

Stormwater Enforcement. The Stormwater Enforcement Program is an increasing commitment stemming from the new MS4 Stormwater Permit, the adoption of the Stormwater Ordinance and the shift of stormwater program administration responsibility from the state to the County. As this program is in its infancy it will require many hours to bring it to fruition with a yet to be known workload once the program is finally established.

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Resources

Category	FY 2014 Actual	FY 2015 Actual	FY 2016 Adopted
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FUNDING			
<u>Expenditures:</u>			
Compensation	\$335,820	\$331,399	\$376,450
Operating Expenses	85,244	86,747	89,867
Work Performed for Others	(7,506)	(6,554)	(6,503)
Capital Equipment	1,015	134	0
Total Expenditures	\$414,573	\$411,726	\$459,814
General Fund Revenue	\$0	\$0	\$0
Net Cost/(Savings) to General Fund	\$414,573	\$411,726	\$459,814
POSITIONS			
<i>Authorized Positions/Full-Time Equivalents (FTEs)</i>			
<u>Positions:</u>			
Regular	5 / 5	5 / 5	5 / 5
Total Positions	5 / 5	5 / 5	5 / 5

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Metrics

Metric Indicator	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Estimate	FY 2017 Estimate
Complaint Response Within 72 Hours	98%	98%	98%	100%	100%
Number of Complaints	371	261	283	290	300
Number of Unlicensed Contractor Cases	19	17	20	25	25

LDS receives complaints from the public regarding potential violations associated with land disturbances, Resource Protection Areas (RPA), new construction activity (both structural and land development), stormwater/drainage, buildings code violations (Post Occupancy), and unlicensed contractors. On average, staff respond to 300 complaints annually. Staff review and compile evidence and interview witnesses to determine if there is sufficient probable cause to issue criminal summons or warrant. Staff have maintained a response time (i.e., the time between receipt of the complaint, usually by phone, and initial inspection) of 72 hours or less 98 percent of the time.

This LOB administers the Home Improvement Contractor Licensing Program including the enforcing the unlicensed contractor regulations. The agency handles approximately 20 cases per year. During the last three years work by this agency has resulted in sending four individuals to jail for their offenses and recovering over \$200,000 for victims of unlicensed work. Cases are expected to rise in FY 2016.

