



To: City Council  
From: Development Services Department  
Date: September 25, 2023  
Topic: Reducing Compliance Times - Code Enforcement Actions & Dangerous Building Demolition Strategies

## **Shorten Code Enforcement Compliance Times**

### **Background**

At the August 7, 2023 work session, Council reached a consensus to ask staff to research shortening compliance time from the date the notice of violation is generated. At the October 4, 2021 City Council Meeting SPA presented research and options to council regarding Code Enforcement Abatement Time Reduction. City Council received the presentation and had no further direction to staff. Elements of that presentation remain valid and have been updated in this report.

### **Compliance Time vs. Time to Correction**

Compliance times are the number of days permitted in the Notice of Violation or Hearing Order where the property owner or violator is directed to come into compliance with the city code. Time to Correction is the time expended to complete the entire process from detection or reporting of a violation all the way through compliance with the city code. The Time to Correction can be instant to many months.

### **How code cases are found and managed**

An average person can walk, bike or drive through the city and note conditions with properties that seem to need correction or improvement. In roughly one third of the cases handled by the Code Enforcement (CE) Division, a complaint or concern is aired by a citizen, a staff member, another agency or an elected official. Complaints may be submitted through a number of channels that include: the CE e-mail address, CE Complaint Line, walk-ins to City Hall, FayFixIt app, 433-1FAY, Council Members, SMT members, other departments and outside agencies. Over two thirds or 68.5% of all CE cases are proactive or initiated by the CE staff in an effort to maintain the look, feel, health and safety of the city. At some point, citizens communicate a concern or complaint. In FY23, this happened over 4,000 times. Most complaints dealt with maintenance of the yards, buildings, curbside issues or vehicles. Citizens feel that an old car parked in the driveway beside their property or the house across the street with tall weeds detracts from their property's visual appearance and value.

The properties in question may or may not be under some form of CE action already or the complaint may be for a condition that is not a city code violation. A significant negative visual impact across the city is curbside debris. Code compliant or not, debris and junk stacked at the curb never leaves anyone with a good feeling. Many complaints handled by the city are curbside based which are managed by the city's RAPID CE team working out of Solid Waste.

In FY23, RAPID handled 6,453 service requests and of those 842 resulted in enforcement cases.

### **Typical Case Flow**

A case is opened in the Cityworks database. After a case is opened, inspected, found in violation and the required research conducted (*property records searches, GIS analysis to confirm property, Accurint searches for people and asset information, utility records checks for account holder information, internet and social media searches to tie individuals to properties or to locate company contacts*), a notice of violation letter is generated and mailed first class mail to the property owner/occupant/violator. Current operations dictate that all notices generated after 11am on any business day be dated for the following business day. This is due to the mail preparation process (sorting, producing labels for cc's, scanning, folding, stuffing, sealing, applying postage and delivery to post office) and associated requirements of the Print Shop. In a typical business day, 50 to 100+ notices are processed.

For the majority of the case types, the compliance inspection follows after a code required or practice set ten business day period given in the Notice of Violation (NOV). After the compliance time has passed, staff inspects the property/location as soon as possible. Weekends, city holidays, leave, caseloads and even weather have impacts on follow up timing. All mail sent by the City enters at the Green Street Post Office, then is shipped to Charlotte's mail processing center and then back to Fayetteville before it is delivered. It is not uncommon for mail to take longer than expected to reach a property owner even in Fayetteville. Postal delivery delays reduce the time a property owner has to respond to a NOV.

If the property is in compliance, the case is closed. If the violation has not been corrected the steps to issue a citation are followed and once created, it is mailed to the owner/violator. In some cases of undeveloped lots or vacant structures, the city exercises the option to abate the violation by assigning a lot cut contractor to cut and clean the property in lieu of issuing a citation. A motor vehicle that was tagged with a violation notice may be towed if appropriate. After a citation is issued, the violator has ten business days to appeal. If an appeal is made, further actions on the case halt until the appeal is entertained. If the appeal moves forward, a hearing is set by Legal and takes place within a couple weeks. If the appeal is upheld, the case is closed. If the appeal is not upheld, the violator must come into compliance. At this point in the case, a non-abated letter is issued giving the violator 60 days to pay the penalty and come into compliance. In FY23, citations were issued on 459 or 3.3% of the total cases. If no compliance is gained, the case is forwarded to Legal for action that could include a criminal summons or a civil complaint.

### **Factors to Reducing Times**

Reducing the compliance times and the times to correction for city code violations depends on a number of factors. The Code Enforcement Staff opens nearly 1,150 new cases each month while managing the cases that remain open from previous months.

Some of the main factors are:

- 1-Ownership Issues
- 2-Service to owner/violator
- 3-Owner's ability to comply
- 4-Owner's desire to comply
- 5-Requested or required extensions

Some cases are resolved very quickly as no violation cases. These are responses to complaints where a violation was not documented and no further action was needed.

Other cases are handled with a verbal discussion with the violator and promptly corrected. In others, the violators respond quickly to the Notice of Violation letter or the posting left on the property/vehicle.

The cases/complaints that don't resolve themselves quickly are usually a result of one or some of the following circumstances:

### 1- Ownership issues

Ownership issues usually lead to delays and extra steps, work and research by staff. Code Enforcement staff have to search Accurint records, social media, tax records, conduct google searches and have conversations with family members & neighbors in order to gain needed information.

- Owner is deceased (no estate or family members taking responsibility)
- Owner is in hospital or other medical facility and unable to make/take actions due to physical, mental or financial incapacity.
- Property is tenant occupied
- Property is occupied by squatters (no legal tenancy, owner unable or unwilling to evict)
- Property is owned by heirs (often unknown and usually unresponsive)
- Property is owned by unresponsive LLC (often based out of state)
- Property is in bankruptcy
- Property is in foreclosure
- Property owner current address is unknown (mail returned)

### 2- Service to owner/violator

- Relies on databases supplied by Cumberland County that are not 100% updated or accurate. Often changes in ownership are not reflected for weeks or months.
- Owners do not update records often showing the violation address as their mailing address
- Owner moved and forwarding address has expired or was not provided
- Mail service can be unreliable and slow. In some cases, returned mail is returned to the city weeks after being sent.

### 3-Owner's ability to comply

- Depending on the violation, some owners may not have the legal right to abate the violation such as the case with landlord/tenant disputes. It is not uncommon for owners to be working through the courts to gain control of the property or to evict the tenant that is causing the violation.
  - Owner is in hospital or other medical facility and unable to make/take actions due to physical or mental incapacity.
  - Owner does not have the financial means to comply. In these cases, the owners may be given suggestions, resource contacts and guidance to city programs. This is an area where a more structured program of resources and guided approaches could result in faster correction times.
- As an example, Economic Community Development reports that in FY23 their department funded the demolition of four buildings at \$46,662, issued 24 Commercial Corridor Improvement grants at \$914,988 and awarded two Business Assistance Loans Program loans at \$100,934. In all, over 1 million dollars in improvements.

### 4-Owner's desire to comply

- In many cases, the owners make no efforts to comply.
- In some cases, the owners dispute the code or application and do not want to make the effort to comply.

### 5-Extensions

Extensions are applied to compliance times by CE staff (Inspectors, Supervisors & Manager) based on requests or needs of violators, required processes or at the direction of City Management, Legal and Elected Officials.

In some cases, the owner's ability and resources would not allow a speedy resolve. Example would be a lower income household with a house needing a new roof. Owner does not have funds within 60 days to fund a reroof (\$5,000+) and is working with an outside agency, lender, non-profit or ECD to fund repairs. In these cases, the application and approval process is often lengthy. In this example, the Inspector would make one possibly more than one extension based on presentation of documents showing owner is making good faith efforts to get repairs completed.

Factors that influence the need for extensions or new compliance dates:

- Ownership, mail returned, post office or Accurint supplies new address, new notice sent.
- Ownership, different from GIS/Cityworks, new notice sent.
- Ownership, owner is deceased when checked on Accurint, title search requested.
- Ownership, waiting for title search.
- Ownership, is pending due to bankruptcy, could result in new notices.
- Ownership, is pending due to foreclosure, could result in new notices.
- Owner request, owner request more time prior to next enforcement step based on:
- Owner just received notification and needs time to comply.
- Owner is not local and needs time to coordinate with resources.
- Owner has health or personal issues delaying compliance.
- Owner is working with city to gain approvals, permits, inspections.
- Owner was victim and is working with police, insurance, contractors, etc. in order to comply.
- Owner has application with outside agency for funding of repair project or resources for compliance.
- Owner partial compliance, owner is making significant efforts towards compliance and inspector extends case in order for owner to complete the task and come into compliance
- Owner, pending legal actions that prevent them from making changes or accessing property
- Landlord/tenant actions
- Bankruptcy/foreclosure
- Domestic civil cases
- Civil cases (disputes between partners)

#### Automatic extensions

These extensions are made with specific case types such as:

- Nuisance Vehicles (must establish violation after 48 hours)
- Abandoned Vehicles (must establish violation after 24 hours or 7 days)
- Casualty damaged buildings

#### Other case factors

When a civil penalty citation is issued, the violator has 10 business days in which to appeal the citation. If appealed, Legal will send for review. If the review indicates that there are no issues, the appeal will be scheduled. Appeals typically fall 2-4 weeks after the initial request.

#### Extensions from legal

Rare and typically deal with them reviewing the CE process and actions. It is uncommon for Legal to initiate or direct that an extension be made. Example 3276 Yarmouth Dr. Extended because owner was stationed overseas.

#### Extensions from the CMO

Rare and typically driven by a violator making contact to appeal for more time once notified that they must comply.

#### Extensions from Council

More common and almost exclusively driven by the violator appealing for more time once CE has taken actions (NOV, Citations, Demolition Ordinance). Recent examples: 5002 Collins, 302 Pennsylvania, 1416 Coley, 322 Preston,

### **Key demographic Statistics**

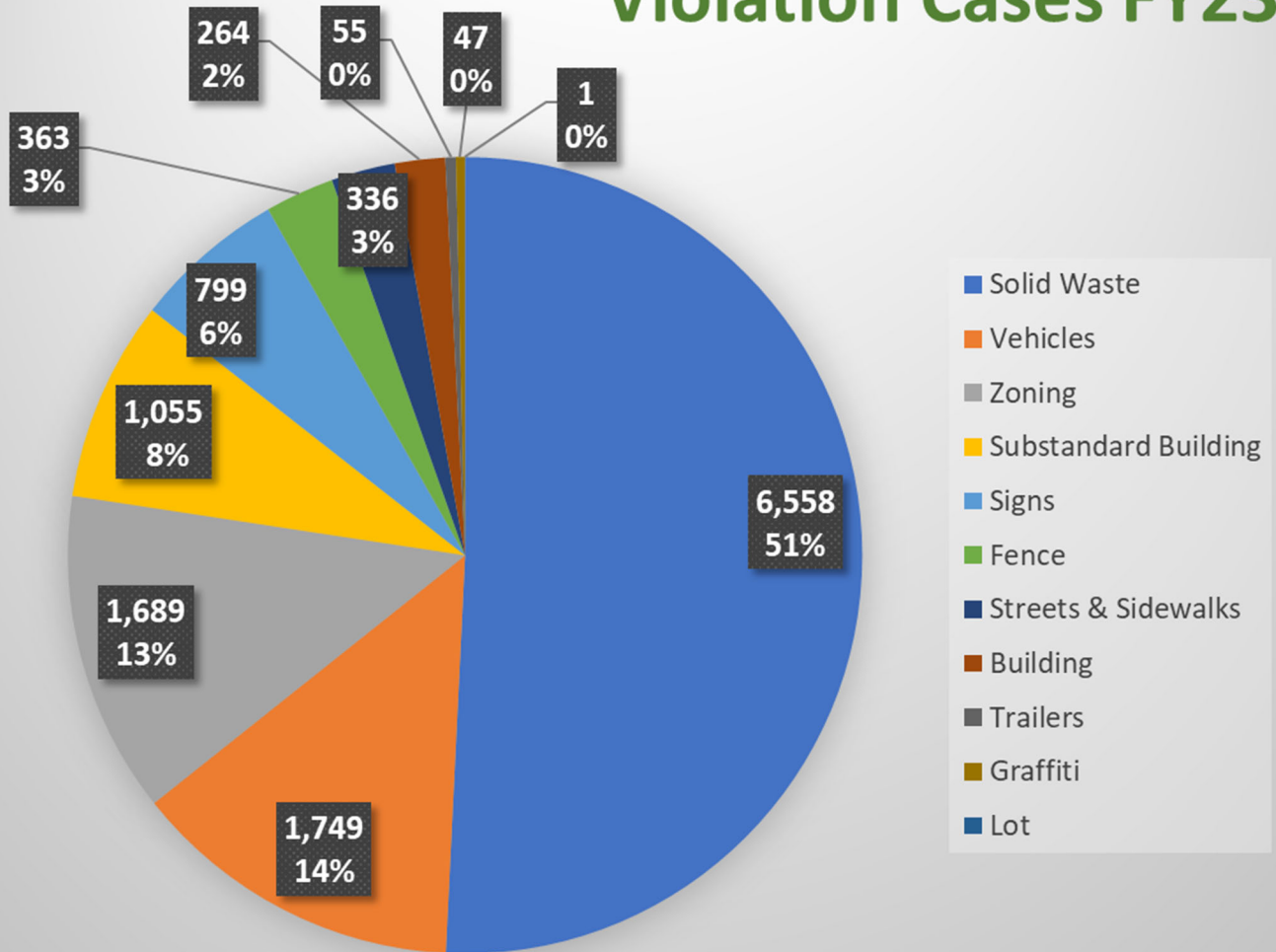
	<b><u>Fayetteville</u></b>	<b><u>Greensboro</u></b>	<b><u>Wilmington</u></b>
Total City Residents	208,873	301,115	120,324
Number of Single Family Homes	58,275	-	-
Total Number of Dwellings	91,054	-	60,415
Number of Parcels in the city	80,868	-	-
Total miles of streets and roads	1,189	-	-
Total miles of sidewalks	297	-	-

<b><u>Code Enforcement Division Staff</u></b>	<b><u>Fayetteville</u></b>	<b><u>Greensboro</u></b>	<b><u>Wilmington</u></b>
Number of CE Inspectors	9	-	-
Supervisors, Manager, Office Asst.	4	-	-
Total	13	19	9

<b><u>FY23 CE Cases</u></b>	<b><u>Fayetteville</u></b>	<b><u>Greensboro</u></b>	<b><u>Wilmington</u></b>
Total Cases Managed	13,754	9,418	3,088
Cases Officer Initiated	9,422	-	-
Cases Complaint Initiated	4,332	-	-
Cases per staff member	<b>1,058</b>	495	343

In the 2021 peer study, the average cases per staff member of the peer cities was 497 and Fayetteville was 1,106. The trend continues with Fayetteville posting greater than double the average caseload per staff member.

# Violation Cases FY23



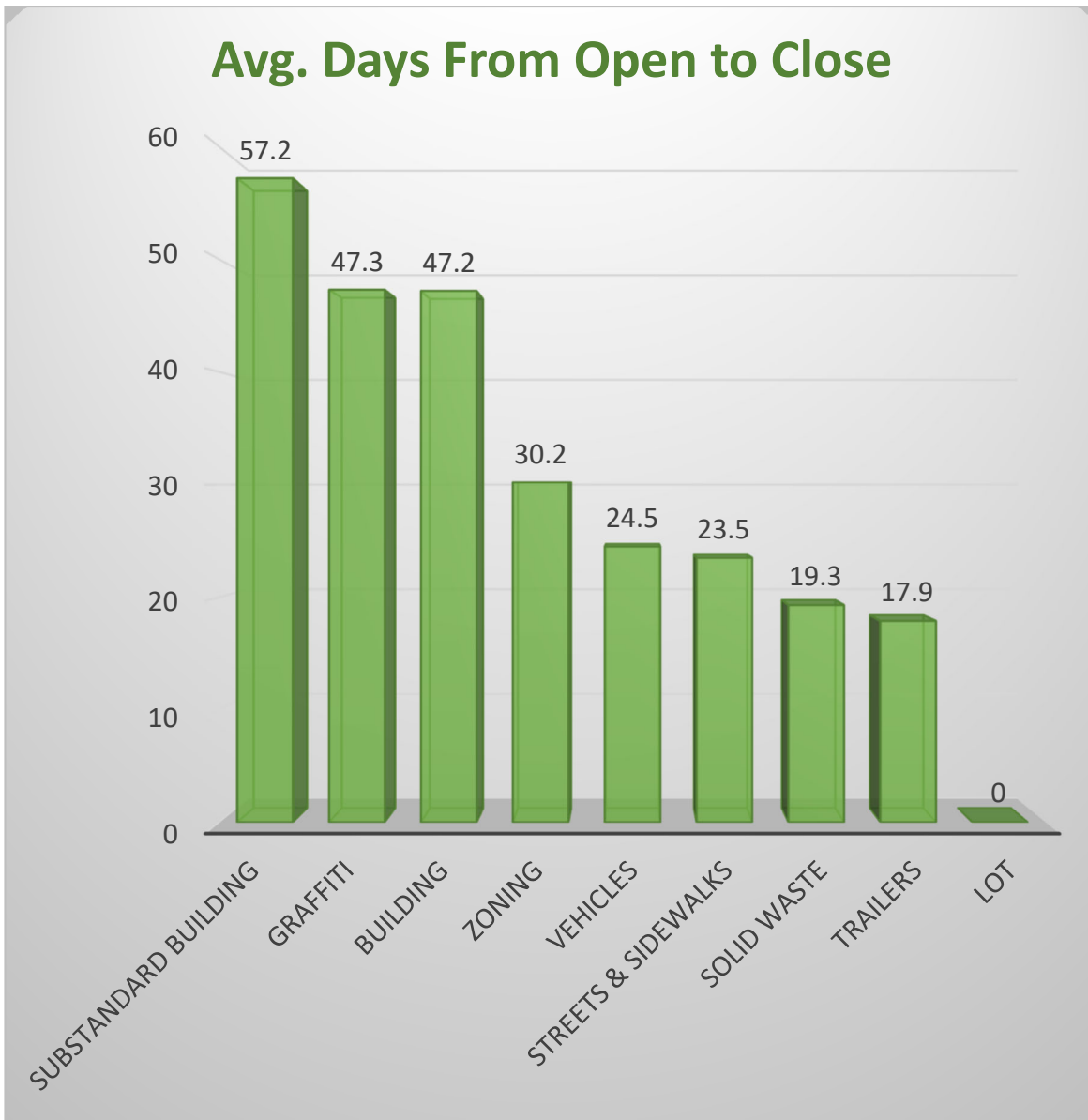
## **Violation Notice Data**

Violation	Chapter	Typical compliance time	Number of Cases with Violation Notices
Solid Waste	22	10 business days	5,397
Junk Vehicles	16	10 business days	537
Substandard Exterior conditions	14	60 days	529
Nuisance Vehicles	16	10 business days	494
Heavy truck parking violation on private	30	10 business days	472
Fence Maintenance	30	10 business days	249
Abandoned Vehicles	16	10 business days	247
Basketball Goals	24	14 days	213
No Building Permit	30	10 business days	202
No Fence/Shed Permit	30	10 business days	192
Heavy truck/trailer in ROW	30	10 business days	158
Substandard Interior	14	30 days	118
Zoning General Warning letter	30	10 business days	114
No Sign Permit	30	10 business days	107
Dangerous Building	14	60 day minimum (180 max by practice)	78
Sidewalk maintenance	24	10 business days	78
Trailers parked in ROW	27	10 business days	74
Sign Unspecified Temporary/portable	30	10 business days	68
Dumpster Screening	30	10 business days	67
Sign prohibited	30	10 business days	64
Sign in the Right of Way	30	10 business days	49
Sign Maintenance	30	15 days	45
72 hour emergency building	14	3 days	39
Graffiti	17	10 business days	35
Zoning prohibited uses	30	10 business days	32
Sign Discontinued	30	10 business days	29
Boarded Building registration	14	10 business days	26
Fence standards violation	30	10 business days	25
Temporary Storage Containers time	30	10 business days	25
Sign Flashing	30	10 business days	17
Sign Snipe	30	10 business days	17
Home occupation violations	30	10 business days	14
Driveway/parking lot maintenance	30	10 business days	13
Sign Feather Flag	30	10 business days	13
Sign Motion	30	10 business days	12
NO COA	30	10 business days	10
No Outdoor Dining/Use Permit	24	10 business days	7
Sign on Vehicle near ROW	30	10 business days	7
Sign Glare	30	10 business days	5
Blighted Building	14	60 day minimum (180 max by practice)	4
Temporary Storage Containers Parking/Loading	30	10 business days	4
Sign Off premises	30	10 business days	2
Hotel/Motel extended stay	30	10 business days	1
No swimming pool fence	30	10 business days	1
Boarded Building Expired Registration	14	60 days	0
Blocking right of way	24	10 business days	0
Sign Above roof line	30	10 business days	0
Sign attached to items for sale	30	10 business days	0
Sign Novelty	30	10 business days	0
Sign Obscene	30	10 business days	0
Sign Obstructing motorists	30	10 business days	0
Sign obstruction light, air, egress	30	10 business days	0
Sign Painted wall	30	10 business days	0
Sign Roof	30	10 business days	0
Sign Simulating public safety	30	10 business days	0

Sign standards violation	30	10 business days	0
Sign Temp real estate	30	10 business days	0
Sign Temporary Special Advertising	30	10 business days	0
Sign Vehicle	30	10 business days	0
Temporary Storage Containers Driveway	30	10 business days	0
Temporary Storage Containers Size	30	10 business days	0
			9,890



## Avg. Days From Open to Close



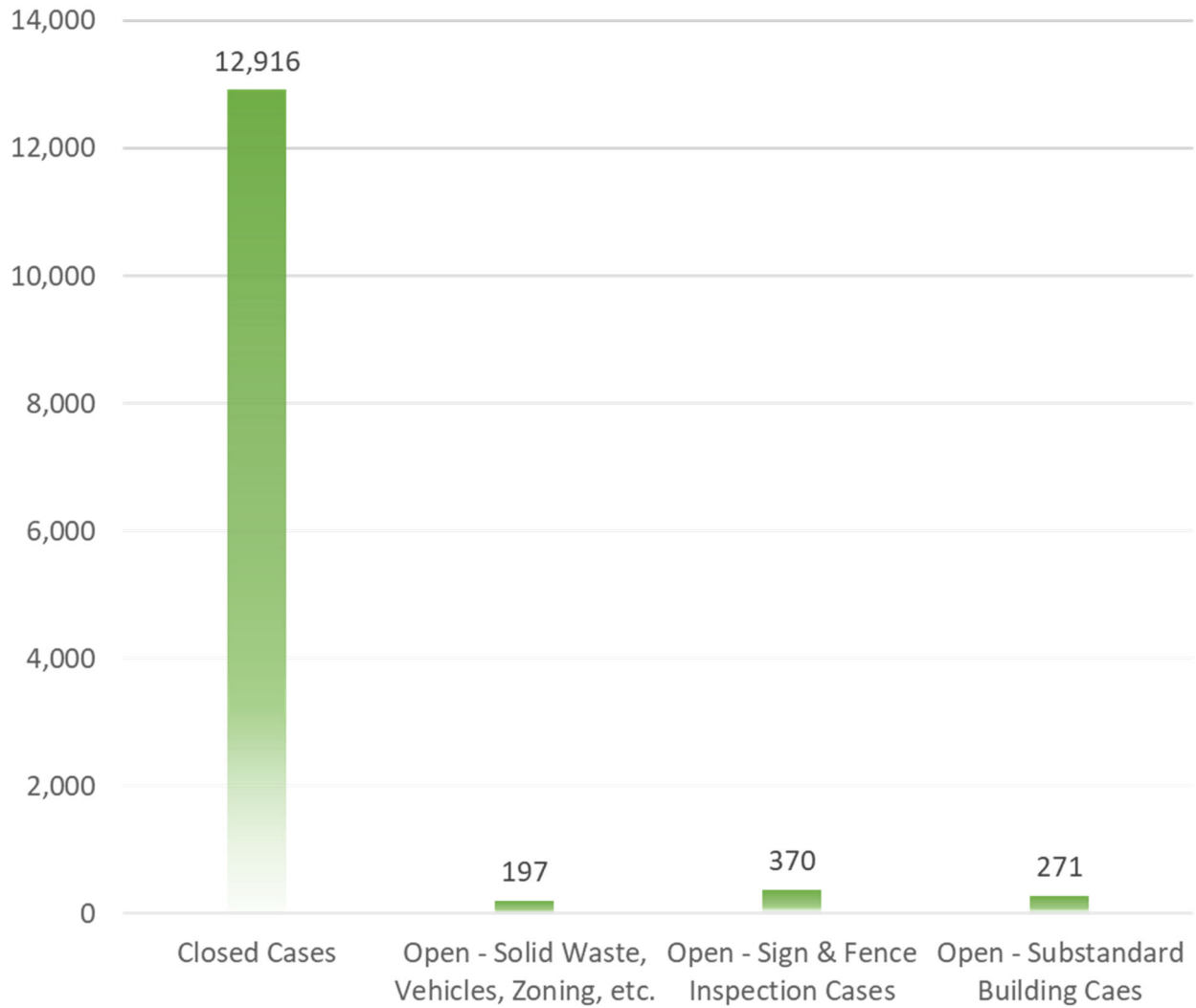
Average Open to Close – Closed Cases 31.2

Average Open to present – Open Cases 169.2  
(sign inspections, fence inspections and substandard building cases have compliance times of 60 to 180 days)

One in seven cases investigated is **NOT** a City Ordinance **Violation** (1,978 Cases, 14.4%, About 1.8 FTEs)

By comparison, the City of Wilmington, NC had an average Open to Close on closed cases of 54.12 days.

## CASES CLOSED / OPEN



### 94% of FY23 cases Closed

By comparison, Wilmington, NC only closed 85% of cases from FY23

## **Solutions**

Staff met to discuss possible ways to reduce compliance times below ten days. Some of the possible solutions are below.

**Solution 1-** Pursue an ordinance change for compliance from ten business days to ten calendar days. This would remove approximately four days from the compliance period. This would give the property owner approximately five calendar days to cut their grass before a citation is issued or the violation is abated by the city. Code Enforcement estimates this would increase the number of citations issued by 20%-30%. This increase in processing citations would require more staff time thus increasing the need for more staff in Code Enforcement, both field and administrative. It is also estimated that appeals of citations and lot cut assessments would increase by the same percentages.

**Solution 2 –** Pursue an ordinance change to require compliance time from ten business days to eight business days. This would give the property owner approximately ten days to cut their grass before a citation is issued or the violation is abated by the city. Similar impacts and results as in Solution 1.

**Solution 3-** Pursue an ordinance change to allow city the option to go straight to abatement and bill/lien property using powers granted to the city in the General Statute. This option would be used on any undeveloped lots and developed lots where no legal occupant can be established or located. This option would likely result in an increase of the number of assessment appeals.

§ 160A-193. Abatement of public health nuisances. (a) A city shall have authority to summarily remove, abate, or remedy everything in the city limits, or within one mile thereof, that is dangerous or prejudicial to the public health or public safety. Pursuant to this section, the governing board of a city may order the removal of a swimming pool and its appurtenances upon a finding that the swimming pool or its appurtenances is dangerous or prejudicial to public health or safety. The expense of the action shall be paid by the person in default. If the expense is not paid, it is a lien on the land or premises where the nuisance occurred. A lien established pursuant to this subsection shall have the same priority and be collected as unpaid ad valorem taxes. (b) The expense of the action is also a lien on any other real property owned by the person in default within the city limits or within one mile of the city limits, except for the person's primary residence. A lien established pursuant to this subsection is inferior to all prior liens and shall be collected as a money judgment. This subsection shall not apply if the person in default can show that the nuisance was created solely by the actions of another. (c) The authority granted by this section does not authorize the application of a city ordinance banning or otherwise limiting outdoor burning to persons living within one mile of the city, unless the city provides those persons with either (i) trash and yard waste collection services or (ii) access to solid waste dropoff sites on the same basis as city residents. (1917, c. 136, subch. 7, s. 4; C.S., s. 2800; 1971, c. 698, s. 1; 1979, 2nd Sess., c. 1247, s. 20; 2001-448, s. 1; 2002-116, s. 3; 2014-120, s. 24(h).)

**Solution 4-** Pursue an ordinance change to allow city the option to issue citations for verified violations without prior issuance of a NOV. This option would result in significant decreases in case volume per inspector due to the added processing required on each case and the large amounts of time spent participating in appeal hearings. The change would require additional legal, administrative and collections staffing and associated budget to handle the massive increase in citations. The additional certified mailings postage would add tens of thousands of dollars annually. It is foreseeable that citation appeals would increase from a couple dozen a year to thousands. A shift this large would require the development of new processes and software to handle the billing and tracking of citations.

**Solution 5-** Utilize provision in current city code to assess the Administrative Fee of \$200 on all Chapter 22 (Solid Waste) violation cases that are not in compliance by the compliance date. Current practice is to charge this fee only if the city abates the violation. The fee is in addition to the rate paid to the city's lot cut contractor. Use of the fee on all properties would likely result in appeals. Processing of the fee would require additional staff and budget in order to maintain current levels of service.

Sec. 22-17. Notice to Abate Unlawful Conditions; Abatement by City.

A. If any person shall violate the provisions of this Chapter, it shall be the duty of the City Manager or designee to give notice to the owner or to any person in possession of the subject property, in accordance with section 22-18 of this Chapter, as follows:

2. That if the property owner does not abate the unlawful condition within 10 business days:
  - a. The property owner will be charged an administrative fee in accordance with the Fee Schedule as approved by City Council regardless of who abates the unlawful condition; and

Solution 6- Remove some or all extensions in compliance times that are not required or because of the city's need to send new notice. It is common for cases to be extended upon the request of the owner/violator.

## **Dangerous Building Demolition Strategies**

At the March 6, 2023 City Council work session, Code Enforcement presented the Dangerous Building Demolition process. The presentation shared that an average of 140 new cases are generated each year and that 150 to 170 remain open at any one time. There are currently 130 cases open. The core of the presentation was coverage of the 47 steps typically needed to conduct a Dangerous Building Demolition. A list of six opportunities that could shorten the process were shared. City Council received the presentation and had no further direction to staff.

Current strategy is to push all cases that have passed the compliance date in the Hearing Order for an ordinance unless repairs are ongoing and progress is being demonstrated.

Waivers can be offered as an option to property owners that do not have the funds to complete repairs or demolitions. In these cases, the cost of the demolition would be an assessment on the real property without the need for an ordinance. The owners are giving up any further due process in order to speed up the demolition.

### **Defensive Operations Only**

Fire will continue to placard commercial properties as hazardous for defensive operations only for the safety of the Fire Fighters and other EMS staff. There are currently nine buildings in the city with these placards. A link for the mapping is below.

<https://faync.maps.arcgis.com/apps/instant/exhibit/index.html?appid=124c07d171d849e5b6b6874b6975d41a>

### **Current Status of Cases**

The chart below shows the number of cases and where they are in the Dangerous Building case process.

Category	Number
1-Ordinance passed City demo pending	8
2-Ordinance passed ECD demo pending	7
3-Ordinance passed demo delayed due to extension/hold	6
4-Pending council approval September	5
5-Pending council approval October	6
6-No compliance available to take to council	7
7-Hearing order compliance past, repairs being conducted	6
8-Hearing order compliance pending	0
9- Hearing Notice pending	17
10-Correction Notice compliance pending	1
11-Pending title search request, return, Notice mailing	41
12-Owner Demo Pending	7
13-Under repair no hearing	19
Total	130

## FY24 Demolition Projections (Code Enforcement Budget - \$160,000)

Ordinance recorded	528 Person	\$ 60,000.00	actual commercial building
Ordinance recorded	540 Deep Creek	\$ 6,400.00	actual
Ordinance recorded	803 Asheboro	\$ 12,000.00	est two structures
Ordinance recorded	1808 Armstrong	\$ 7,500.00	est
Aug Council passed	834 Rembrandt	\$ 17,000.00	est three structures (indoor pool)
Aug Council passed	7352 Pebble Brook	\$ 7,500.00	est newer wood framed
Aug Council passed	420 Alfalfa	\$ 10,000.00	est
Aug Council passed	401 Johnson	\$ 21,000.00	est seven small structures
Aug Council passed	1805 Ramsey	\$ 20,000.00	est old commercial building
Sept Council pending	4900 Schmidt	\$ 7,500.00	est
Sept Council pending	833 Deep Creek	\$ 3,000.00	est mobile home
Sept Council pending	527 Orange St	\$ 12,000.00	est large old house
Sept Council pending	533 Orange St	\$ 7,500.00	est
Sept Council pending	306 Currie	\$ 7,500.00	est
October Council planned	6 planned	\$ 45,000.00	est
	total needed thru 12-31	\$ 243,900.00	
ECD balance of funds for demos \$46,000	Estimated contribution	\$ 30,000.00	ECD funded demos 3-4
Current Available Budget*	As of 9.14.23	\$ 139,700.00	DS GF
		\$ 74,200.00	Amount needed to continue Demos through December 2023
November	6 Est	\$ 50,000.00	est
January	6 Est	\$ 50,000.00	est
February	4 Est	\$ 35,000.00	est
March	6 Est	\$ 50,000.00	est
April	6 Est	\$ 50,000.00	est
May	6 Est	\$ 50,000.00	est
		\$ 285,000.00	Amount needed after December in FY 24 to fund demo actions
		\$ 359,200.00	Total for demo actions remaining FY24

### \* Completed Demos as of 9.14.23

Coley

Newark

Orange

\$20,300

As indicated by the chart, continued aggressive enforcement and actions will far exceed currently available General Fund budget as well as ECD grant funding for FY23.

Code Enforcement will continue to work with owners on repairs, owner funded demos and changes of ownership that may be able to fund repairs or demolitions much like the 113 and 115 Jasper demolitions.