

From: [GM K](#)
To: Council@cityofgreen.org
Subject: Proposed Property Maintenance law
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Members of council:

While there is no doubt that something needs to be done about the horrible condition of some of the homes in Green and that the rules proposed for property maintenance of homes seem reasonable, my concern is with the enforcement clauses. With three attorneys on Council I would have expected that the rules would reflect cognizance of legal ramifications. The new law provides: "the Code Inspector is authorized to enter upon, examine, and survey during regular weekly business hours all residential, commercial, and industrial property in the City of Green." The Constitution (4th Amendment) protects from warrantless searches of private property. The U.S. Supreme Court has found laws that allow a right of entry in zoning or building code cases without a warrant process (review by an independent magistrate) which uses criminal penalties for enforcement purposes violates the 4th Amendment. *Camara v. Mun. Court of the City and County of San Francisco*, 387 U.S. 523, 87 S.Ct. 1727, 18 L.Ed.2d 930 (1967) The new law states that "the Director of Planning" who is not elected and answers directly to the Mayor "shall oversee and assign the duties of enforcing this Code to the Code Inspector" rather than the Law Director, who is elected by the people.

The new law also provides that each zoning violation is a separate criminal violation which is incurred for every day during which the violation goes unabated and becomes a class III misdemeanor (60 days in jail) in addition to fines and liens. It similarly makes the Code Inspector to be in charge of obtaining a warrant, if one is needed, rather than Law Director, but does not specify when a warrant should be obtained. To my mind these are MAJOR FLAWS that should send this back to the drawing board and be revised to reflect the role of the LAW DIRECTOR and the RULE OF LAW vis a vis enforcement.

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