



Office of the City Manager

ACTION CALENDAR  
September 20, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Peter Radu, Assistant to the City Manager

Subject: Audit Status Report Response: Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight

INTRODUCTION

On June 26th, 2018, the City Auditor submitted a Code Enforcement Unit (CEU) audit report<sup>1</sup>, with recommendations to improve operational efficiencies and implement a resource analysis process. The purpose of this report is to update City Council on the status of implementing the audit report's recommendations. This is the fourth status report regarding this audit.<sup>2</sup>

CURRENT SITUATION AND ITS EFFECTS

The audit report contains twelve recommendations. During the previous update presented to Council on February 25, 2020, five of the recommendations were implemented, five were partially implemented, and two not implemented. As of this report, there are two updates: two recommendations that had been partially implemented are now fully implemented, and one recommendation that had not been implemented is now partially implemented. Very shortly after the last staff report on implementation progress, the COVID-19 pandemic led the declaration of a local emergency, which had the effect of dramatically re-prioritizing staff resources and time. As a result of this (as well as ongoing staffing challenges and staff turnover), no additional audit recommendations have updates at this time. The attachment provides a detailed table of audit report recommendations, corrective action plans, and implementation progress updates.

The next status report to Council is expected to be presented in March of 2023.

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<sup>1</sup> Audit: Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight: [https://berkeleyca.gov/sites/default/files/2022-01/Code%20Enforcement%20Resources%20Significantly%20Constrained\\_Fiscal%20Year%202018.pdf](https://berkeleyca.gov/sites/default/files/2022-01/Code%20Enforcement%20Resources%20Significantly%20Constrained_Fiscal%20Year%202018.pdf)

<sup>2</sup> For the most recent status report to Council, please see: <https://records.cityofberkeley.info/PublicAccess/api/Document/Acyyy0z%C3%89f6BGxygYOKilwnT5xY%C3%81vvTsWjQcJOn8rLKhGzqxHKZqhnd6zucp3%C3%81MkrR3HB1Rs4ykdL%C3%815PMYmmf2iA%3D/>

## BACKGROUND

The Neighborhood Services Code Enforcement Unit's goal is to provide a clean and safe environment for all Berkeley residents, workers, and visitors. The CEU is responsible for the enforcement of administrative violations of the Berkeley Municipal Code and some provisions of California State codes related to building, zoning, and housing. The City Manager's Office oversees the CEU, which now consists of three full-time staff: one Code Enforcement Supervisor and two Code Enforcement Officer IIs. As of this writing, one of the two Code Enforcement Officer II positions is vacant and hiring is underway.

## ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

## POSSIBLE FUTURE ACTION

The City Manager's Office will continue to work with the Code Enforcement Unit to address the recommendations. This includes exploring third-party services for outsourcing administrative functions of the CEU (such as citations), which would create efficiencies and free up staff time to focus on field inspections, follow up with property owners, etc.

## CONTACT PERSON

Jeff Conner, Neighborhood Services Code Enforcement Supervisor, 510-981-2492.

## Attachments:

1: Audit Findings, Recommendations, and Management Response Summary Table

Audit Title: Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight								
Finding	Recommendation Number	Recommendation	Issue Date	Closed Date	Department	Last Period: Status	This Period: Status	This Period: Update
Code Enforcement Unit resources are insufficient to meet demand.	1.1	<p>Implement a resource analysis process by which proposed legislation is discussed with City management to evaluate the impact on current City resources and determine the feasibility of making the intended impact. The analysis should take place before the policy is presented to Council for adoption and include considerations of:</p> <ul style="list-style-type: none"> <li>• Staff time and other City resource needs, including the fiscal impact of those resource needs</li> <li>• Opportunity cost, i.e., consideration of other activities that will be deprioritized in order to meet new demands</li> </ul> <p>• Feasibility impact to determine how best to rollout out new legislation</p>	6/26/2018	6/30/2022	Mayor and Council	Partly Implemented	Implemented	Council continues to utilize the standing policy committees to consider the impact of select proposed legislation on City resources; City staff regularly attend the committee meetings and advise Council on the city staff time and opportunity cost implications of proposed policies. To the extent this process has now become a regular feature of Council policy development, we consider the recommendation fully implemented at this time.
Code Enforcement Unit resources are insufficient to meet demand.	1.2	<p>Require that the Agenda Committee ensure ordinances have undergone a resource analysis as described in Recommendation 1.1 when necessary and, if not, are returned to the appropriate City Council member for further assessment before being passed into local law.</p>	6/26/2018	1/29/2019	Mayor and Council	Implemented		
Code Enforcement Unit resources are insufficient to meet demand.	1.3	<p>Conduct a staffing analysis to determine the appropriate staffing level needed for the Code Enforcement Unit to effectively enforce City codes. In conducting the analysis, include an assessment of the workload impact created by the codes for which the CEU is solely responsible as well as those created by the codes for which CEU shares responsibility with other enforcement units.</p>	6/26/2018		City Manager	Not Started	Not Started	Due to continued significant staff turnover and the reprioritization of city resources and efforts during the COVID-19 pandemic, this work has not been completed. Ongoing vacancies in the unit have prevented commencement of this work. Staff plan to revisit the recommendation after vacant existing positions are backfilled.

<p>Code Enforcement Unit resources are insufficient to meet demand.</p>	<p>Use the staffing analysis performed in response to Recommendation 1.3 to:</p> <ul style="list-style-type: none"> <li>Quantify the full burden cost of additional staff</li> <li>Determine if sufficient budgetary funding is available for additional staff</li> <li>Request additional staffing from Council during the annual appropriations process</li> </ul>	<p>1.4</p>	<p>6/26/2018</p>	<p>City Manager</p>	<p>Not Started</p>	<p>Partly Implemented</p>	<p>the analysis recommended in Recommendation 1.3, staff recognize the shortcomings of current staffing levels and the effects that this has had on NSCEU response times. NSCEU's goal for this metric is 10-day average to acquire cases created. As of June 2022, our YTD average days to acquire cases is 29 days. These averages are without being fully staffed (two Code Officers in the Unit) in May and June; prior to these last two months when we were fully staffed with two Code Officers, the average was as low as 15-day average. With this in mind, the City Manager has recommended to the Council, for inclusion in the FY23-24 Biennial Budget, one additional FTE Code Enforcement Officer I position, which will help the supervisor and existing Enforcement Officers reduce response times, increase their presence in the community, and implement Council policy</p>	
<p>Code Enforcement Unit resources are insufficient to meet demand.</p>	<p>If budgetary constraints prevent additional staffing or if Council does not approve the budget needed to fund additional staffing, report to Council the restrictions placed on the Code Enforcement Unit's ability to effectively enforce City codes. Include information explaining the hindrance this will cause for any new ordinances the City Council may want to pass in the future. Provide this information regularly, for example, annually as part of the budget process, to keep Council informed of the CEU's capacity restrictions. See also Recommendation 1.7.</p>	<p>1.5</p>	<p>6/26/2018</p>	<p>6/30/2022</p>	<p>City Manager</p>	<p>Partly Implemented</p>	<p>Implemented</p>	<p>We are marking this as implemented based on the 6/27/2022 status update and based on the inclusion of 1 Code Enforcement Officer in the 2023/24 budget book (pg. 399) to 'reduce response time to complaints.'</p>
<p>Code Enforcement Unit resources are insufficient to meet demand.</p>	<p>Assess Berkeley municipal codes to identify the codes for which the CEU is solely responsible and those for which the CEU has a shared role with other work units. Use the results of the assessment to:</p> <ul style="list-style-type: none"> <li>Create process workflows showing shared work unit responsibilities</li> <li>Create written guidance describing work unit responsibilities</li> </ul>	<p>1.6</p>	<p>6/26/2018</p>	<p>1/1/2018</p>	<p>City Manager</p>	<p>Implemented</p>		
<p>Code Enforcement Unit resources are insufficient to meet demand.</p>	<p>Implement code enforcement software that:</p> <ul style="list-style-type: none"> <li>Identifies case assignment to CEU officers and other work units</li> <li>Prioritizes cases, in particular high-risk cases posing health and safety risks</li> <li>Captures pertinent case dates, e.g., opened, notice of violation, citation issuance, and closed</li> <li>Tracks enforcement actions taken within the CEU and other work units</li> <li>Quantifies citations issued and collected</li> <li>Allows for readily identifying repeat offenders</li> <li>Includes performance measurement tools, e.g., turnaround times within defined specifications (see Recommendation 2.2)</li> <li>Allows for uploading information from mobile technologies (see Recommendation 1.8)</li> <li>Includes reporting tool to showcase workload trends and capacity restrictions</li> </ul>	<p>1.7</p>	<p>6/26/2018</p>	<p>City Manager</p>	<p>Partly Implemented</p>	<p>Partly Implemented</p>	<p>The vendor selection process for Planning Department software, originally initiated in July 2019, was put on pause by the COVID-19 pandemic's significant impacts on City finances and priorities. If and as that process restarts, NSCEU staff will continue to be included in the software selection process.</p>	

Code Enforcement Unit resources are insufficient to meet demand.	<p>Implement mobile computers and printers to allow Code Enforcement Officers to complete more work in the field, thus improving their time spent in the community and reducing time in the office. Mobile computers should have the capacity to interface with the code enforcement case management software</p> <p>1.8 implemented in response to Recommendation 1.7.</p>	6/26/2018	City Manager	Partly Implemented		
Process modifications and increased oversight needed to ensure equity, efficiency, and effectiveness	<p>Develop and issue written procedures for code enforcement operations that:</p> <ul style="list-style-type: none"> <li>• Reflect current practices and management expectations.</li> <li>• Describe the tiered prioritization system giving attention to cases based on risk levels of high, moderate, and standard. Require adherence to a uniform technology policy, which includes:                             <ul style="list-style-type: none"> <li>o Assigning unique numbers to cases.</li> <li>o Recording all pertinent case data timely, e.g., within two business days of receipt.</li> <li>o Using a single, centralized system to record, manage, and monitor case information.</li> <li>o Using case file management standards so that pertinent data are captured uniformly.</li> </ul> </li> <li>• Inform staff that preferential treatment should not be given to complaints made or referred by City Council members, Council staff, and City management. Those complaints should be prioritized based on established objectives and channeled through the appropriate supervisor.</li> <li>• Describe processes for issuing citations in a consistent and equitable manner.</li> <li>• Include beat assignments once feasible to do so, i.e., after the CEU addresses the backlog and receives adequate software tools.</li> </ul> <p>2.1</p>	6/26/2018	6/26/2019	City Manager	Implemented	
Process modifications and increased oversight needed to ensure equity, efficiency, and effectiveness	<p>Implement performance metrics and goals to:</p> <ul style="list-style-type: none"> <li>• Assess the effectiveness of code enforcement operations and goal achievement</li> <li>• Identify constraints preventing goal attainability.</li> <li>• Submit regular reports, e.g., biannually, to City management on performance.</li> </ul> <p>Include a metric to provide at least some proactive code enforcement activities. Develop this metric after implementing the process and system improvement recommendations made in this report.</p> <p>2.2</p>	6/26/2018	City Manager	Partly Implemented	Partly Implemented	<p>NSCEU has resumed use of performance measures. The most recent annual performance measures were reported to the Council in the FY23-24 Budget Book, and staff used the performance measures (specifically, the discrepancy between the Unit's goal response time of 10 days to acquire new cases, against the CY21 measure of 53 days), in part to justify the City Manager's recommendation that the Council include one additional FTE Code Enforcement Officer I position in the Unit as part of the FY23-24 Biennial Budget adoption.</p>
Process modifications and increased oversight needed to ensure equity, efficiency, and effectiveness	<p>Assess the feasibility of using complaint thresholds and self certifying techniques for standard priority violations. For example, wait to receive at least two complaints about a standard level violation before performing an investigation, and allow a code violator to self-report on a standard level violation to remove the need for reinspection. If feasible, implement the techniques to give code enforcement officers more time on field inspections of high risk cases.</p> <p>2.3</p>	6/26/2018	6/26/2018	City Manager	Implemented	

<p>Process modifications and increased oversight needed to ensure equity, efficiency, and effectiveness</p>	<p>Develop procedures for monitoring staffs' work and addressing weaknesses that may prevent goal achievement, such as conflicts of interest. For example:</p> <ul style="list-style-type: none"> <li>• Review Form 700s to identify property owned by CEU personnel before assigning cases to officers.</li> <li>• Randomly select case records to look for:               <ul style="list-style-type: none"> <li>o Indicators that case action did not progress as required or expected suggesting favoritism or kickbacks.</li> <li>o Properties with closed cases that continue to receive complaints for the same issue. This could indicate a repeat offender as well as a failure to take appropriate actions against a code violator.</li> </ul> </li> </ul>	<p>The Assistant to the City Manager for Neighborhood Services should perform this oversight of the Code Enforcement Unit Supervisor, and the Code Enforcement Supervisor should perform this oversight of Code Enforcement</p>	<p>2.4 Officers and the Assistant Planner.</p>	<p>6/26/2018</p>	<p>6/26/2018</p>	<p>City Manager</p>	<p>Implemented</p>
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