



City Auditor's Office

## CONSENT CALENDAR

June 26, 2018

To: Honorable Mayor and Members of the City Council  
From: Ann-Marie Hogan, City Auditor  
Subject: Audit Report: Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight *amb*

### RECOMMENDATION

We request that Council and the Agenda Committee agree to implement a resource analysis process and that Council request the City Manager report back by January 29, 2019, and annually thereafter, regarding the status of audit recommendations until reported fully implemented by the City Manager's Office Code Enforcement Unit (CEU).

### FISCAL IMPACT OF RECOMMENDATIONS

The CEU does not have the essential resources necessary to enforce the Berkeley municipal codes for which it is responsible. This could result in the loss of revenue generated from fines and enforcement fees. This also exposes the City to the risk of lengthy and expensive lawsuits brought on by those who find that the City failed to meet its enforcement obligations.

Investing in adequate resources and developing a streamlined case management system would provide the CEU the opportunity to increase revenue and spend more time in the field conducting investigations. It would also increase the CEU's ability to be more proactive in its enforcement activities. The cost of the much needed resources will depend on the outcome of a CEU conducted staffing analysis to determine optimum staffing levels, and the software and mobile technology solutions that the City Manager's Office determines are the most effective, reasonable, and economical for the CEU's needs.

### CURRENT SITUATION AND ITS EFFECTS

The Code Enforcement Unit does not have sufficient resources. Its unstable staffing and lack of modern technological solutions prevent enforcement officers from conducting work in an efficient, effective manner. In addition, the CEU has experienced an overall workload increase. Code violations captured via 311 are on the rise and workload expectations continue to expand as the City Council passes more ordinances requiring code enforcement activities. Despite these increases, the CEU has remained budgeted at four full-time equivalents with insufficient attention given to improving processes for more effective use of limited resources.

The CEU has been operating with duplicative and labor intensive case management processes lacking a clear code prioritization system and with outdated procedures. Under new leadership, the CEU is making changes to improve operations and address procedural weaknesses. The new CEU supervisor activated a priority-based enforcement system to help address significant code violations in a timelier manner, and issued new procedures with clearer guidelines regarding management expectations.

Some of the most pressing risks facing the unit include an unsustainable workload, inequitable or selective code enforcement, unintentional prioritization of Council issues, and prioritization of standard-priority cases over high-priority cases. With adequate staffing, technology upgrades, and implementation of adequate procedures, the CEU can become more efficient, free up staff time to respond to more complaints, and integrate a more proactive approach into its code enforcement activities.

#### BACKGROUND

The City of Berkeley's 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 consists of four full-time employees: one Code Enforcement Supervisor, two Code Enforcement Officer IIs, and one Assistant Planner.

#### ENVIRONMENTAL SUSTAINABILITY

The use of mobile technology and modern software would reduce the CEU's reliance on paper and ink. Our office manages and stores audit workpapers and other documents electronically to significantly reduce our own use of paper and ink.

#### RATIONALE FOR RECOMMENDATION

Implementing our recommendations will allow the Code Enforcement Unit to make the most of its limited resources; help the City ensure it addresses code violations in an equitable, efficient, and effective manner; and provide reasonable assurance that the City has the necessary resources to enforce new codes or make an informed decision to reprioritize its enforcement activities.

#### CONTACT PERSON

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Attachment:

1: Audit Report: Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight

# City of Berkeley Office of the City Auditor



## **Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight**

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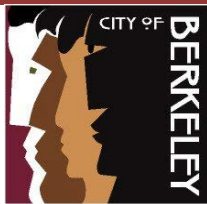
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Presented to Council June 26, 2018

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# City of Berkeley - Office of the City Auditor

## Code Enforcement Resources Significantly Constrained and Improvements Needed in Case Management and Oversight

June 26, 2018

### Purpose of the Audit

We asked whether the City Manager's Office Code Enforcement Unit has the resources it needs to enforce City codes and whether it has reliable processes for effective enforcement.

### Executive Summary

#### **Insufficient staffing and lack of modern technology to manage cases**

The Code Enforcement Unit does not have sufficient resources. Its unstable staffing and lack of modern technological solutions prevent enforcement officers from conducting work in an efficient, effective manner. In addition, the CEU has experienced an overall workload increase. Code violations captured via 311 are on the rise and workload expectations continue to expand as the City Council passes more ordinances requiring code enforcement activities. Despite these increases, the CEU has remained budgeted at four full-time equivalents with insufficient attention given to improving processes for more effective use of limited resources.

#### **Resource needs and staffing capacity not always considered before passing new City code**

New enforcement areas require significant resources. However, Council passes some ordinances without fully analyzing the resources needed for enforcement and without understanding current staffing capacity. In order to enforce new ordinances, the CEU must take time away from other enforcement areas. This increases the risk of significant health and safety code violations going unaddressed. It also leads to disgruntled community members who believe that the City is failing to meet its obligations. This does not suggest that the new ordinances are not of value and needed. Council passes policy to address community concerns. However, it does mean that the City Council routinely approves policy that may never result in the intended change or protections.

#### **Community expects enforcement action; resource constraints leave CEU unable to fully deliver**

The CEU continues to rely on paper-based processes that are not streamlined or uniform, creating a waste of staff time and an inability to monitor code enforcement activities. The CEU does not have access to a digital case management system, including Accela, which is already successfully used by the Environmental Health Unit for its code enforcement responsibilities. Nor has the CEU been given mobile computing technology to remove the need to create handwritten case documents. This technology is also already successfully used by the Environmental Health Unit.

#### **Other units given use of modern technology; CEU overlooked**

**Best practices could make most of limited resources and track performance**

The CEU has not been employing the use of best practices to make the most of its limited resources and to monitor its enforcement activities. The CEU has been operating with:

- Duplicative and labor intensive case management processes lacking a clear code prioritization system.
- Outdated procedures not even known to exist by CEU officers.
- Insufficient oversight for ensuring equitable treatment of code violations and complaints.
- No performance metrics to assess enforcement activities.

**New management has begun to make changes; more support and change is needed**

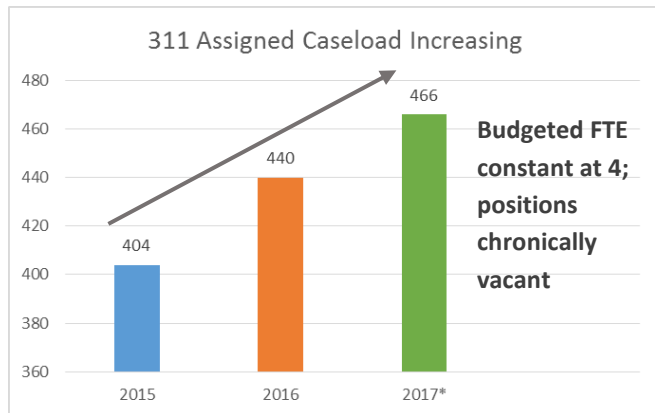
The CEU is under new leadership and is making changes to improve operations and address procedural weaknesses. Some areas remain unaddressed or are work in progress. Until the unit is given better resources and all changes are implemented, certain risks remain: selection of standard-priority cases over high-priority cases, unequitable or selective code enforcement activities, unintentional prioritization of Council referred complaints, and an unsustainable workload.

**Recommendations**

Our audit provides a roadmap for the City to improve Code Enforcement Unit operations. Some key changes necessary to make the most of limited resources include:

- Implementing and practicing a process of analyzing the impact of new ordinances on City resources and operations.
- Conducting a staffing analysis to determine the appropriate staffing level needed for the Code Enforcement Unit to effectively enforce City codes.
- Using case management software, mobile technologies, and best practices such as performance metrics to streamline processes and monitor activities.

**Case Volume Increasing – Budgeted FTE Unchanged**



\*Through November 2017

**New Ordinances = New Enforcement Areas**

New Enforcement Area	Staff Time Requirement**	Enforcement Frequency
Short-term rental registration	0.5 FTE employee	Ongoing
Mini-dorm registration	40 hours of staff time	Biannually
Homeless encampments	16 hours of Unit Supervisor time	Weekly

Time spent on new code enforcement areas is time taken from existing areas when the CEU receives no additional resources.

\*\*Approximates, per current CEU Supervisor

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## AUDIT OBJECTIVES

Does the CEU have the support it needs?

We asked whether the City Manager’s Office Code Enforcement Unit (CEU) has the resources needed to enforce City codes and whether the CEU has reliable processes for effective code enforcement. We specifically assessed staffing levels, the use of case management data systems, and policies and procedures that support the unit’s objectives and goals.

We identified workload capacity as an immediate threat to the City’s operations and strategic planning in our fiscal year [2018 Audit Plan](#).<sup>1</sup> We, therefore, included in our audit plan a series of audits that evaluate the City’s ability to provide expected and critical services to the Berkeley community.

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## BACKGROUND

Berkeley’s Code Enforcement Unit’s goal is to provide a clean and safe environment



The City of Berkeley’s Code Enforcement Unit’s (CEU) goal is to provide a clean and safe environment for all Berkeley residents, workers, and visitors. The CEU is responsible for the administrative enforcement of

violations of the [Berkeley Municipal Code \(BMC\)](#)<sup>2</sup> including zoning violations, graffiti, illegal businesses, blight, illegal units and accessory uses, signage, and illegal dumping. The CEU is also responsible for enforcing some provisions of California State codes related to building, zoning, and housing. According to the CEU, there are 182 Berkeley Municipal Code sections and 18 California State Code sections for which the Unit has a role in enforcement.

CEU has role in enforcing 200 sections of local and state codes

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<sup>1</sup> Berkeley City Auditor Fiscal Year 2018 Audit Plan: <http://bit.ly/2BwW6FS>

<sup>2</sup> Berkeley Municipal Code: <http://www.codepublishing.com/CA/Berkeley/>

BMC allows CEU to issue citations and penalties

Berkeley Municipal Code (BMC) Title 1 provides code enforcement officers the authority, with reasonable cause, to enter a building to perform an inspection for a suspected violation. The BMC also details the procedures for issuing citations, the penalties for violations, and the provisions for abating code violations when property owners are unresponsive. The specific BMC codes directly governing the CEU are:

- *1.16: Right of Entry for Inspection* – City official with proper credentials may enter premises if there is a known or suspected code violation.
- *1.20: General Penalty* – Code violations are deemed an infraction or a misdemeanor punishable by a fine of no more than \$1,000 or imprisonment of no more than six months.<sup>3</sup>
- *1.24: Abatement of Nuisances* – City officials may abate a public nuisance considered imminently dangerous and recover associated costs from property owners.
- *1.26: Violations Declared a Public Nuisance* – Violations of certain City ordinances are considered public nuisances subject to abatement by City officials.
- *1.28: Administrative Citations* – City officials responsible for code enforcement may issue administrative citations.

City Manager’s Office oversees CEU

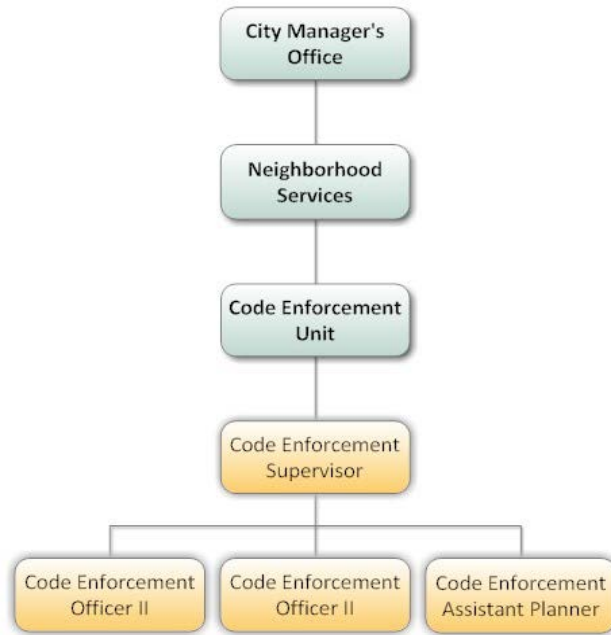
The City Manager’s Office oversees the CEU, which consists of four full-time employees: one Code Enforcement Supervisor, two Code Enforcement Officer IIs, and one Assistant Planner. The Code Enforcement Supervisor reports directly to the Assistant to the City Manager for Neighborhood Services. For simplicity, we refer to all CEU personnel as officers throughout this report unless it is necessary to differentiate the positions.

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<sup>3</sup>Ordinances that describe a different crime and/or punishment supersede the General Penalty provision of the Berkeley Municipal Code when enforcing code compliance.



### Code Enforcement Unit Organization Structure and Staffing



Other departments perform code enforcement activities and work with CEU when needed

The CEU is one of several City work units that perform code enforcement activities specific to their department’s mission. The work units coordinate their efforts as needed depending on the nature, complexity, and severity of a violation(s):



*Berkeley Police and Fire* – serious and urgent life and safety issues



*City Attorney’s Office* – legal advice to City staff and litigation services on the City’s behalf



*Environmental Health* – food handling, pest management, and noise complaints



*Housing* – rental housing safety



*Parks, Recreation, and Waterfront* – parks maintenance



*Planning Building and Safety* – construction inspections



*Public Works Streets Repair* – potholes and street maintenance

Icons made by Freepik, Becris, and Smashicons from [www.flaticon.com](http://www.flaticon.com).

Code violation complaints come in through numerous channels

The CEU’s process is complaint driven. Code enforcement officers respond to complaints initiated by community members who submit their cases using various channels: 311 Service Center, phone, email, and in-person. The CEU also responds to complaints referred through the City Council, City Manager, and other departments.

CEU officers issue Notices of Violation with timeline to correct: 10 days, 3 days, 30 days, or immediate

Officers respond to reported code violations by conducting an inspection and, if there is an infringement, issue a Notice of Violation. The type and severity of the violation determines how soon the correction must be made: ten days, three days, 30 days, or immediate. Ten days is the most common, while violations that pose a life and safety threat require immediate action. Officers may also issue an administrative citation at the time of inspection. This is generally reserved for repeat offenders and serious violations. Officers use their professional judgment to determine the timeframe in which the violator must make a correction and whether to issue a citation at time of inspection.

City may pursue court action against code violators

Code Enforcement Officers re-inspect properties upon the expiration of the Notice of Violation. If the violator corrected the issue, the officer closes the case. If a good faith effort was made to correct the violation, the officer may grant an extension so long as there is no risk to life and safety. If the offender remains noncompliant, the officer will force remediation through civil action and abatement. The Berkeley Police Department serves warrants for the Code Enforcement Unit. The City Attorney’s Office takes over the case to pursue legal action.

**Code Enforcement Unit Case Process General Overview**



Icons made by Freepik, Becris, and Smashicons from [www.flaticon.com](http://www.flaticon.com)

**Penalties**

*Infractions*

- 1<sup>st</sup> violation:  
\$100 max
- 2<sup>nd</sup> violation:  
\$200 max
- 3<sup>rd</sup> + violation:  
\$500 max

*Misdemeanors*

- \$1,000 max

Source: BMC 1.20.020

Positive changes made to practices in FY18

Administrative citations and fines provide the CEU a means by which to force action by code violators. Penalties apply to violations of the same ordinance within the same year. Unless the City Charter or specific ordinance identifies a different amount, the BMC limits penalties to \$1,000 for misdemeanors. Citing a violator with a misdemeanor is at the discretion of the City Attorney upon the fourth or subsequent infraction cited by a CEU officer. Officers use their professional judgment in determining whether to issue a citation and how much to penalize the violator for an infraction, within the authorized range. The City does not currently track penalties received as result of the CEU’s efforts in such a way that the data may be extracted from the City’s financial system for analysis.

The Neighborhood Services Division, which encompasses the CEU, is budgeted at \$1.2 million for both fiscal years 2018 and 2019. This is an increase of approximately \$220,000, per year, since fiscal year 2015. Under the current budget structure, the City Manager’s Office is unable to identify the budget expenditures specific to the Code Enforcement Unit.

Throughout this audit, the CEU demonstrated a strong commitment to enforcing City code and to making positive system changes in order to manage the workload. The new unit supervisor has taken steps to streamline and improve work processes and procedures. The supervisor has established stopgap measures to collect data and prioritize cases until a sufficient case management system is fully implemented.

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## FINDINGS AND RECOMMENDATIONS

### Finding 1: Code Enforcement Unit resources are insufficient to meet demand

The Code Enforcement Unit does not have essential resources to enforce City code. The CEU's unstable staffing and out-of-date technology prevent code enforcement officers from conducting work in an efficient and effective manner. Sufficient staffing and the use of modern technology solutions would enable the Code Enforcement Unit to better manage its growing caseload, conduct its work in a timely manner, and increase the amount of time spent in the field enforcing Berkeley Municipal Codes.

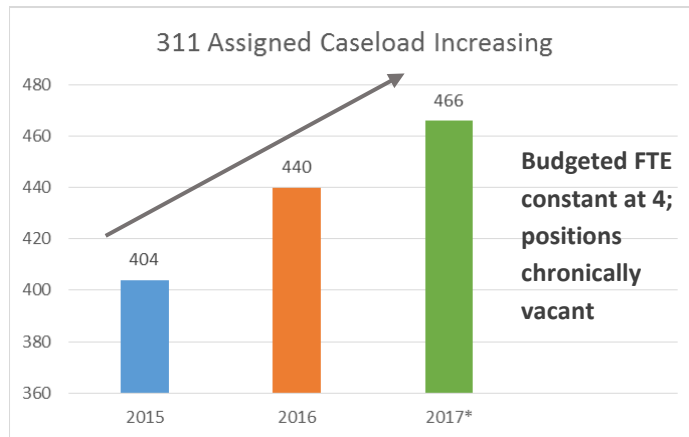
CEU chronically understaffed

#### Caseload Growing While Staffing Unstable

The CEU consistently fills fewer positions than budgeted for and is burdened with a growing caseload. At the start of our audit, only two of its four positions were filled, both with relatively new hires, including the unit supervisor, who had been with the City for less than a year. Of the five Code Enforcement II Officers the City had hired between 2008 and 2016, three resigned the position within a year and one within three years. At the time of this audit, the most seasoned officer had been in the CEU less than two years. One position, the Assistant Planner, is still vacant and the CEU has not yet established a timeline for filling it.

Trend shows cases assigned by 311 call center increasing

The City's 311 Call Center assigned 1,310 Lagan cases to the CEU between January 2015 and November 2017, the point in time at which we obtained the data. Lagan is the City's Community Relationship Management system, used to capture community calls and route issues to the appropriate work unit. Lagan data shows that the overall 311 CEU case volume is increasing. Based on Lagan trends, the CEU case volume for 2017 was likely over 500 by year end; an increase of 100 cases since 2015. Additionally, cases from other sources, including emails, phone calls, walk-ins, and referrals, are not always captured in historical Lagan data, meaning that caseloads are higher than reported. We discuss the need to address case management processes in Finding 2.



\*Through November 2017

Some comparable cities have much larger CEUs

No Uniform Staffing Standards; Many Factors to Consider

CEU budgeted staffing is significantly lower than some comparable cities while on par with others. With an estimated population of 121,240<sup>4</sup>, Berkeley’s CEU staff-to-population ratio is 0.03 (per 1,000 residents). California cities closest in size to Berkeley, based on Census Bureau estimates, have code enforcement units ranging from 3.48 to nine full-time employees. The staff-to-population ratios in those cities range from 0.03 to 0.07 (per 1,000).

Management must consider many factors in determining the best staff size

There are no uniform standards setting the appropriate CEU staffing size and there are many factors to consider in determining staffing levels. This includes, but is not limited to, the number and significance of municipal codes requiring enforcement and how different work units absorb some code enforcement responsibilities. For example, the currently vacant Assistant Planner position budgeted to the CEU is expected to perform work traditionally assigned to the Planning Department. If not considered as part of the CEU, the staff-to-population ratio drops to 0.02 (per 1,000 residents). Even when the position is filled, the Assistant Planner is expected to work on only zoning and building and safety issues. The individual will not be available, or will have a strictly limited availability, to enforce City codes handled by the CEU.

<sup>4</sup> U.S. Census Bureau: <https://www.census.gov/data/datasets/2016/demo/popest/total-cities-and-towns.html>

Comparable California Cities (by Population) - Code Enforcement FTEs in 2016						
	Fairfield	Berkeley	Vallejo	Victorville	Santa Clara	Concord
Total Code Enforcement FTEs*	3.48	4	8	4	9	7
Population <sup>5</sup>	114,756	121,240	121,299	122,265	125,948	128,726
Code enforcement staff, per 1,000 population	0.030	0.033	0.066	0.033	0.071	0.054
<p><i>Auditor analysis uses information from the each jurisdiction’s annual budget books. Available information varied and was limited, but sufficient enough to gain an understanding of factors to consider in establishing appropriate staffing levels. Placement of the code enforcement also varied: Concord, Fairfield, and Vallejo house code enforcement in the Police Department. This excludes zoning and building code enforcement. Santa Clara houses code enforcement in the Planning Department.</i></p> <p><i>*Count excludes Fire department personnel who perform certain fire safety inspections outside the typical scope of services of code enforcement units.</i></p>						

Many Berkeley City Municipal codes are enforced, in part, by other City departments. In the case of the City’s short-term rental ordinance<sup>6</sup>, the City has contracted with Host Compliance to handle initial complaints and follow-up, given the Finance Department responsibility for licensing and tax collection, requires the Planning Zoning and Land Use Division to handle zoning clearance, and assigned the Code Enforcement Unit the responsibility to enforce registration.

Responsibilities among enforcement units are not always clear

Not all code enforcement responsibilities are so clearly delineated. For example, medical and non-medical cannabis retail and use codes governing operating standards, signage, product safety, quality assurance, labeling, energy use, and records are areas still under development. Until all the work units have their areas of responsibility assigned, there is a risk that certain aspects will go unenforced, including environmental health issues.

<sup>5</sup> U.S. Census Bureau <https://www.census.gov/data/datasets/2016/demo/popest/total-cities-and-towns.html>

<sup>6</sup> Ordinance No. 7,521-N.S.; BMC Chapter 23C.22: <http://www.codepublishing.com/CA/Berkeley/>

Disconnect between management and staff

Interviews with the City Manager’s Office and enforcement units across the City indicated disconnect between management and staff. The City Manager’s Office believes that boundaries are clearly established in all areas, while enforcement staff said they remain unclear on boundaries between the units in some areas. It is important that management establish clear code enforcement responsibilities so that aspects of enforcement are not overlooked.

New code enforcement areas require significant resources

Not possible to proactively enforce all Berkeley codes  
In addition to being understaffed with an increasing caseload, the Code Enforcement Unit is also taking on new enforcement areas as Council rapidly passes new ordinances, a pattern that the City’s prior City Attorney identified as problematic:

*“We love to adopt ordinances that are good and are good policy,’ he said. ‘They sound good but they don’t execute themselves for the most part. It’s not quite a broken promise but it’s a responsibility when you have an ordinance to enforce it.”<sup>7</sup>*

- Zach Cowan, Former Berkeley City Attorney

Time spent on new codes is time not spent on pre-existing codes

New code enforcement areas require significant staff time and resources, taking away from the CEU’s ability to meet its other enforcement obligations. In other words, resources devoted to new code enforcement areas are taken away from existing areas. In all cases, there is an associated fiscal impact as the staff time needed to take enforcement action is a cost.

The Berkeley City Council passes approximately 70 ordinances annually. Most have no effect on the Code Enforcement Unit; however, the ones that do are increasing the CEU’s workload. For example, the CEU is now responsible for ensuring all short-term rental properties are registered with the City on a yearly basis and taking enforcement action against short-term rental owners who fail to pay the monthly 12% Transient

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<sup>7</sup> Berkeleyside, July 28, 2017: *Berkeley City Attorney Zach Cowan retires today after 24 years*. By Frances Dinkelspiel.

Occupancy Tax. They are also responsible for enforcing the 2% code enforcement fee but the City has yet to develop a process for collecting that fee. According to the CEU Supervisor, there are about 2,000 short-term rental properties identified within the City and only a small fraction have registered. The CEU is also responsible for enforcing the registration of all mini-dorms in the City and addressing any homeless encampment complaints. The enforcement of these new areas requires varying staff time and frequency of enforcement.

New Enforcement Area	Staff Time Requirement*	Enforcement Frequency
<i>Short-term rental registration</i>	0.5 full-time equivalent employee	Ongoing
<i>Mini-dorm registration</i>	40 hours of staff time	Biannually
<i>Homeless encampments</i>	16 hours of Unit Supervisor time	Weekly

\*Approximates, per current CEU Supervisor

Risk exposure: health and safety risks, lawsuits, and public backlash

The continuously understaffed CEU’s growing workload is increasing the risk of unaddressed health and safety violations or forcing the Unit into a position of selectively choosing codes that it has the capacity to enforce, resulting in inequitable or unsafe conditions across Berkeley. This could expose the City to lawsuits and public backlash.

New ordinances not always vetted for enforcement capacity

Not all ordinances properly assessed before passed

Council passes new ordinances without always fully analyzing resource needs. At times, Council states that there is minimal fiscal impact yet any use of staff time has an associated, often significant, cost. Council also does not always consider current staffing capacity. For example, Council passed a ban on the sale of fur in 2017<sup>8</sup> but did not assess the resources necessary to enforce the code or take into consideration what it would take to roll out the new ordinance.

<sup>8</sup> Berkeley Municipal Code Chapter 9.22; Sale of Fur Products: <http://www.codepublishing.com/CA/Berkeley/>



Council actions address a community need

Council's actions are intended to address community concerns, but the CEU is now trying to determine how it can take action with its limited resources and unclear City policy. For example, the fur ban ordinance does not identify a grace period allowing businesses time to react. Meanwhile, community members are expecting immediate action and calling in complaints to which the CEU is unable to respond. This is unfair to CEU staff who have not been given the necessary resources to take action and unfair to those in Berkeley who rightly expect action.

Community expects action but CEU lacks resources to make an impact

While the enforcement needs of the fur ban have not yet been determined, other new ordinances have included a consideration of resource needs, for example, mini-dorm registration<sup>9</sup>. The resolution to adopt additional operating standards for mini-dorms mentions that the changes to the ordinance may increase the demand on enforcement staff and associated resources. However, there was no formal analysis done to determine if the CEU has the current capacity to fulfill its new enforcement requirements.

Process to assess impact of new ordinances would help ensure codes make the intended impact

Many municipalities and the State of California have mechanisms in place to evaluate proposed new policy. This includes discussions with management to determine the impact of the new policy on current resources and how the proposed legislation can be implemented to make the intended impact. While Berkeley has an Agenda Committee with the power to review and approve items before they go before full City Council, the Committee does not use its ability to recommend that an item go back to the author for additional analysis. A process for determining the overall impact of new ordinances proposed by Council would help ensure the feasibility of implementing the new policy before it is passed into law. The Agenda Committee could provide that service.

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<sup>9</sup> Berkeley City Council, January 26, 2016, Amending BMC Chapter 13.42 to Adopt Additional Operating Standards for Mini-Dorms and Group Living Accommodations: <http://www.codepublishing.com/CA/Berkeley/>

CEU relies on paper-based process requiring manual data entry to various systems

Current process duplicative and time consuming

Technology improvements needed

The CEU lacks adequate technology to conduct inspections and manage their caseload. The Unit relies on a paper-based process and does not have access to a digital case management system or mobile technology connected to City databases. Officers conduct their work in the field using paper printouts and forms. Back in the office, they create electronic files and folders and then manually type in their notes into standalone spreadsheets and Lagan, and email themselves photos taken in the field to save to the electronic case folder. All case information is also stored in a paper folder system. When a case is closed, officers update Lagan, spreadsheets, electronic files, and hard copy files. These processes are duplicative, open to error, and require officers spend more time in the office manually entering case data than in the field performing inspections.

**More Time in Field = More Action on Code Violations**



Over growth is both blight and a safety hazard as it creates an increased fire risk. CEU officers routinely take action to provide for a clean and safe Berkeley.

The CEU’s decentralized system removes the ability to easily and seamlessly share data and information among other divisions with related code enforcement responsibilities. Overall, the CEU’s manual processes significantly hinder performance and eliminate process effectiveness within other City work units that are using modern technology to manage code enforcement cases.

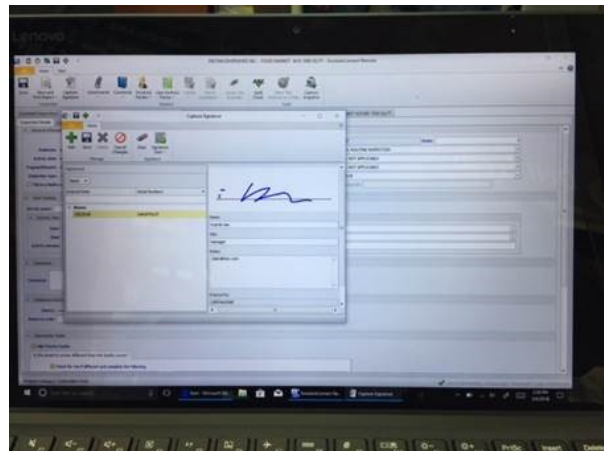
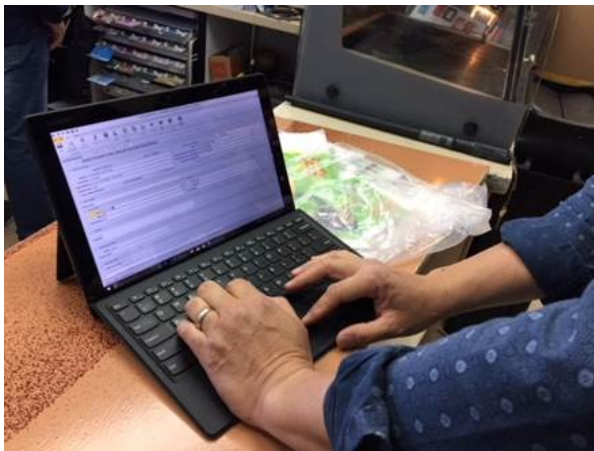
Digital databases and mobile technology are an industry best practice

Code enforcement units from the five comparable California municipalities mentioned above use digital databases and other technological tools to track and manage code enforcement cases in the field. This includes providing field inspectors with cell phones, cameras, mobile computers, and mobile printers so that officers may spend as much time as possible in the community. The ability to conduct operations remotely eliminates system inefficiencies and increases code enforcement effectiveness.

Other units have access to updated technology and mobile devices

Berkeley’s Environmental Health Unit uses Accela to record, track, and manage their cases, some of which overlap with the CEU. Accela is a software platform with modules specifically designed to address government data needs, including code enforcement. The Environmental Health Supervisor reported that the unit has reduced the amount of time spent on data entry and increased field time by providing staff with mobile computers equipped with an Accela interface.

### Mobile Technologies More Efficient and Increase Time in Field



Environmental Health code enforcement officers capture information in the field, including electronic signatures, which they can easily upload to Accela.

Prior CEU personnel opted to not to pursue implementing technological solutions. This led to ongoing inefficiencies in the CEU and a lack of inclusion of the CEU’s needs in the citywide technology improvement needs analysis. Current City management is looking to address this deficiency but is working to first address some issues with Accela, which has not fully

met its contractual obligations to the City. As such, there is no immediate date planned to implement technological solutions for the Code Enforcement Unit.

Without case management system improvements, the CEU cannot adequately report on its effectiveness, including progress with and impact of newly adopted ordinances. Nor can the CEU quantify and properly track issued citations, identify repeat offenders, readily identify high-risk cases, or effectively manage its staff time. The lack of adequate technology solutions continues to hinder code enforcement capacity.

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## Recommendations

### The City Council should:

- 1.1 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:
  - Staff time and other City resource needs, including the fiscal impact of those resource needs
  - Opportunity cost, i.e., consideration of other activities that will be deprioritized in order to meet new demands
  - Feasibility impact to determine how best to rollout out new legislation
- 1.2 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.

### The City Manager's Office should:

Conduct staffing analysis; determine staffing level needs

- 1.3 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.

Determine cost of additional staffing needs

- 1.4 Use the staffing analysis performed in response to Recommendation 1.3 to:
- Quantify the full-burden cost of additional staff
  - Determine if sufficient budgetary funding is available for additional staff
  - Request additional staffing from Council during the annual appropriations process

Report CEU constraints to City Council

- 1.5 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 CEU'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.

Identify workloads solely within CEU and those shared with other units

- 1.6 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:
- Create process workflows showing shared work unit responsibilities
  - Create written guidance describing work unit responsibilities

Implement code enforcement software

- 1.7 Implement code enforcement software that:
- Identifies case assignment to CEU officers and other work units
  - Prioritizes cases, in particular high-risk cases posing health and safety risks
  - Captures pertinent case dates, e.g., opened, notice of violation, citation issuance, and closed

- Tracks enforcement actions taken within the CEU and other work units
- Quantifies citations issued and collected
- Allows for readily identifying repeat offenders
- Includes performance measurement tools, e.g., turnaround times within defined specifications (see Recommendation 2.2)
- Allows for uploading information from mobile technologies (see Recommendation 1.8)
- Includes reporting tool to showcase workload trends and capacity restrictions (i.e., backlogs)

Implement mobile technology solutions

1.8 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 implemented in response to Recommendation 1.7.

***City Manager's Response***

The City Manager agrees with the finding and recommendations. See full response at Appendix B.

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**Finding 2: Process modifications and increased oversight needed to ensure equity, efficiency, and effectiveness**

The Code Enforcement Unit did not have adequate processes in place to enforce City codes and ensure the timely investigation of complaints. The CEU's case management process lacked practices to ensure optimal performance with given resources. Some of the most pressing risks facing the unit included inequitable or selective code enforcement, prioritization of standard-priority cases over high-priority cases, unintentional prioritization of Council issues, and an unsustainable workload.

The policies and procedures we evaluated during our audit were based on practices designed and supported by CEU personnel who are no longer with the City. The new CEU supervisor has taken preliminary action to address many procedural and process weaknesses. The following discussion is meant to help the CEU supervisor further improve procedures,

Some improvements already made by new CEU supervisor

processes, and oversight. We recognize that some of the areas may have already been addressed since the completion of our audit work.

Best Practices Identify CEU Standards

There are no uniform industry standards outlining how code enforcement units should manage cases and workloads. Code enforcement responsibilities and challenges to enforcement activities are unique to each jurisdiction. However, there are best practices applicable to any code enforcement unit:

Best practices in code enforcement provide benchmarks for achieving success

- Policies and procedures should reflect current practices and management expectations.
- Scarce resources should be directed toward abating high priority code violations, particularly when scarce resources and limited capacity prevent proactive code enforcement activities.
- Code enforcement units should develop performance measures and case management processes that support their goals and increase code compliance.
- Staff should adhere to a uniform technology policy, including case recording and file management standards.

Policies and procedures not reflective of current practices

*Procedural Deficiencies*

The CEU had out-of-date written procedures that did not fully reflect current practices and weren't known to exist by the staff expected to adhere to them. In practice, officers were following some of the written procedures, for example, documenting inspections. Other procedures were not being followed. For example, the out dated procedures state that officers must schedule and complete inspections of all complaints within two days of the initial complaint. This was not happening in practice and, due to an existing case backlog and limited staff and resource capacity, was impossible to achieve.

Procedures should describe immediate health & safety risks as high priority

Further, the procedural guidance did not sufficiently describe management expectations such as ensuring the prioritization of code violations posing immediate health and safety risks. The new CEU supervisor and the single CEU officer working for the



unit at the start of this audit understood the need to address those issues. However, the lack of sufficient procedures increases the risk of staff not recognizing and prioritizing high-risk code violations. This is more likely to occur given the continuous staff turnover taking place within the CEU.

Procedures should describe consistent practices for issuing citations

Also missing from the existing procedures were sufficient protocols for issuing citations and directives to not give City management and Council referred complaints preferential treatment. Both could lead to inequity. CEU personnel are left to use their professional judgment when issuing citations. This could lead to one community member receiving an extension of time to become code compliant while another community member with a similar violation and circumstances may receive a fine. As for City management and Council referred

All complaints should be treated equitably



complaints, staff may believe that they should address these issues first without fully comprehending the associated ethical issues. Complaints should be treated equitably and not given priority based on who made the complaint.

Procedures provide legal support for citations challenged in court

Written procedures are an invaluable tool in managing and controlling operations. The guidance enables new and existing employees to understand their responsibilities, which saves time and resources. Clearly written procedures with sufficient detail also provide legal protection. They give the City better legal footing if challenged in court.

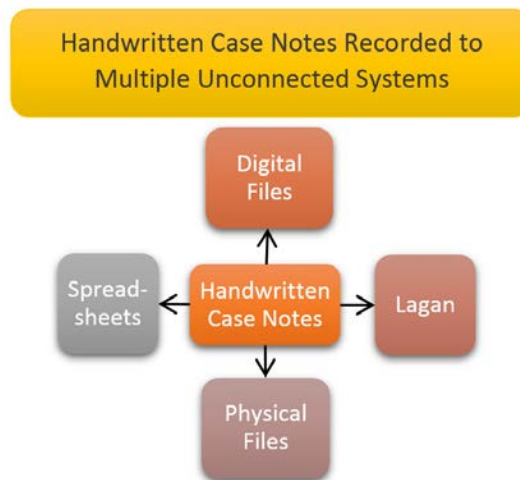
Manual, duplicative, labor-intensive processes for case management

*Case Management Process Weaknesses*

CEU case management processes are duplicative, disorganized, and labor-intensive. Case information is stored in multiple places – Lagan, digital case files, physical case files, individual spreadsheets, and handwritten notes from the field – and there is no mechanism for ensuring uniformity across these systems.



Officers are expected to make multiple updates to the many systems without a clear case identifier. They use addresses to track cases, which creates a problem when one address may have multiple violations associated with it over time. Using only the address removes the ability to readily track case information and progress. The CEU also has a history of not always updating Lagan with new case information such as inspection dates, actions taken, and case closed dates. This removes the ability to effectively evaluate code enforcement activities and ensure timely and appropriate action for code violations, including follow up and receipt of fines.



New supervisor took first step to streamline process

Under the direction of the new CEU supervisor, officers have been instructed to manually enter case data into Lagan to capture all complaints handled by the unit to serve as a stop-gap measure until code enforcement case management software is provided. This is a good step towards centralizing case information but still labor intensive.

*Tiered Case Prioritization*

Past case assignment based on officer expertise, not code priority

The CEU had not followed a tiered system to prioritize complaints that pose health and safety risks. Officers self-assign cases and, in the past, chose cases based on preferences or expertise, rather than choosing the most urgent cases first. This was due to a lack of direction from those in charge at the time and insufficient staffing. The new CEU supervisor recently implemented a new tiered priority system for code violation complaints:

High-risk areas posing threats to life and safety receive priority

- High priority: life and safety hazards
- Moderate priority: permitting programs
- Standard priority: all other violations

CEU officers continue to use a system of self-assigning cases; however, they must address high-priority cases first while also determining the age of the reported complaint. I.e., they address older complaints before newer complaints of the same priority level.

New ordinances create shifts in priorities; lessens code enforcement effectiveness

The CEU is often assigned new enforcement areas when Council passes new ordinances such as the short-term rental ordinance discussed earlier in this report. Every new area creates a priority shift. This makes it a continuous challenge to be more effective in code enforcement and meet Berkeley community and stakeholder expectations regarding code enforcement activities.

Existing processes limit CEU to complaint driven activities

Regardless of priority level, code enforcement is complaint driven. CEU officers do not have the capacity to perform regular planned inspections using their existing processes. This leaves some codes unaddressed and some property owners unaccountable for code violations. More time in the field, as discussed in Finding 1, would allow CEU officers to be at least somewhat proactive in their efforts.

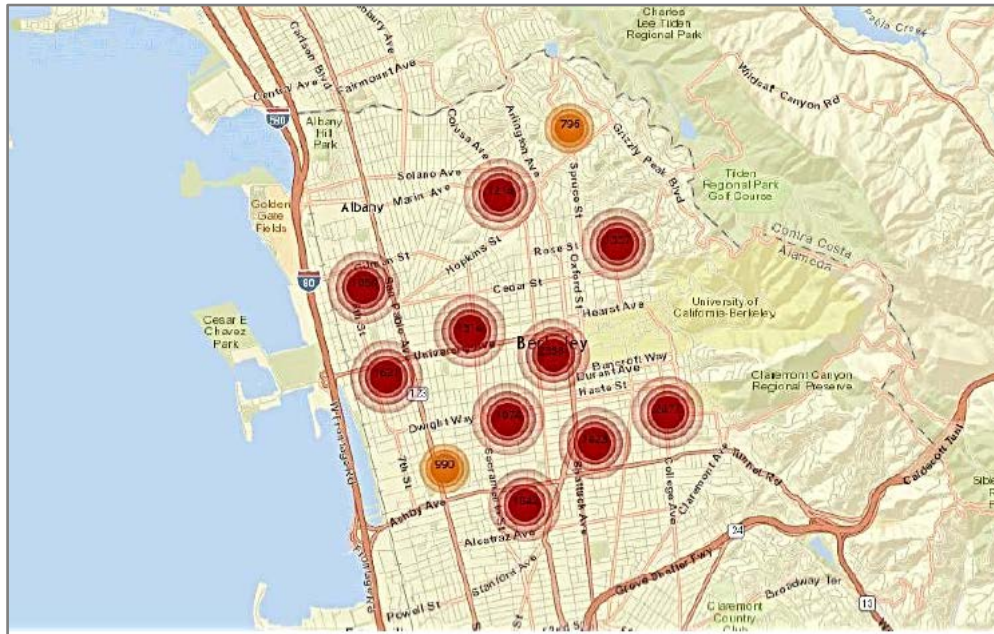
Self-reported corrections for standard-level complaints is one method to manage limited resources

To manage resource restrictions, some jurisdictions use a threshold system for standard-priority complaints. Rather than send an officer to a standard-level violation after the first complaint, they wait to receive multiple complaints, e.g., two, before dispatching an officer. Other municipalities allow property owners to self-certify they have corrected a standard-level violation rather than performing a reinspection. Both methods allow code enforcement units to use their limited time and resources on higher priority cases and perform planned inspections of high-priority areas.

CEU service beats are a best practice

To improve code enforcement activities, the new CEU supervisor would like to establish beat assignments. In September 2017, the new supervisor used Lagan to create a heat map visualizing request for service areas. The graphic showed that north and south of University Avenue would work as a suitable boundary for two distinct service beats. This best practice is a means of providing equitable service and broadening code enforcement coverage. The CEU supervisor recognizes that setting these beats would require staff training so that both officers can perform the same type of inspections.

Heat Map Showing Distribution of Service Calls



CEU prevented from moving forward with implementing beats

Despite the new supervisor’s desire to implement beat assignments, the CEU’s current case backlog and lack of sufficient case management software prevent moving forward with the plan.

*Performance Metrics*

The CEU has not developed reasonable performance metrics to guide turnaround times and track outcomes, and the City Manager’s Office has not requested performance data from the unit. As discussed above, the outdated procedures require turnaround times of two days. This applied to all complaints

regardless of associated code violation risk levels. Further, the metric was likely not achievable given the case backlog, staffing constraints, and use of manual, duplicative, labor-intensive processes. Without achievable and measurable performance metrics, the City is unable to assess the effectiveness of its code enforcement activities. Additionally, the use of performance measures provides management with a tool to better report on constraints preventing goal attainability as well as set goals for proactive code enforcement. The CEU could, for example, use its new case priority system to set the following goals:

<b><u>Performance Metric</u></b>	<b><u>Performance Goal</u></b>
Proactive enforcement	25% of the time in field
High-priority code violations	CEU response: two business days
Moderate-priority code violations	CEU response: six business days
Standard-priority code violations	CEU response: 15 business days
Compliance rate: high priority	90% within 15 calendar days
Compliance rate: moderate priority	90% within 30 calendar days
Compliance rate: standard priority	90% within 60 calendar days; self-certified

Performance metrics demonstrate effective use of tax dollars

By implementing performance metrics, the CEU will have a measureable means by which to assess how it is functioning, identify process improvement needs, and recognize hindrances to goal achievement. The measurements will also help inform Council, who will need to understand the CEU’s ability to take on additional enforcement activities. Further, accurately reported performance metrics are an important tool for providing public information on the efficient and effective use of taxpayer dollars.

*Conflicts of Interest*

The Code Enforcement Unit does not have monitoring processes in place to ensure fair and equitable service. This includes checking for conflicts of interest so that officers do not investigate property that they own or that belongs to someone with whom they have a relationship, and looking for indicators that suggest officers did not take appropriate action. The CEU

CEU relies on the staff self-reporting conflicts of interest

relies on the honor system of self-reporting conflicts of interest and does not believe such conflicts would preclude officers from carrying out their duties.

The CEU also relies on the California Political Reform Act,<sup>10</sup> which requires many employees to file public, personal financial disclosure reports known as *Statements of Economic Interests - Form 700*. The CEU supervisor and officers are among the employees required to file. Filing does not mean the supervisor and officers have attested to avoiding conflicts of interest in their daily work. It is simply a means of the disclosing potential financial conflicts.

Conflicts of interest could lead to inequitable service and favoritism

There are risk factors to consider when conflicts of interest are present. Officers have the ability to not issue a notice of violation or citation to themselves, a friend, or family member; and property owners could promise favors or offer kickbacks to officers so that they look the other way. This area is not easy to control as an officer could have any number of friends and family members with property in Berkeley, and any code violator could offer a kickback. However, an honor system is not enough and Form 700s do not identify properties owned by friends, family, and associates of CEU officers.

Without an adequate case management system, the CEU could not readily provide data that would allow us to determine whether staff investigated properties in which a conflict of interest was present. Nothing came to our attention causing us to believe there were acts of impropriety

CEU can take some steps to monitor staff; not feasible or cost effective to monitor all cases

Given the small size of the CEU and an already overwhelming workload and case backlog, assessing every case for potential inequity is not feasible or cost effective. Management can, however, take some steps:

- Review Form 700s to identify property owned by CEU personnel before assigning cases to officers.
- Randomly select case records to look for:

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<sup>10</sup> Government Code Sections 81000-91014: <http://bit.ly/2EnqvHN>

- Indicators that case action did not progress as required or expected, suggesting favoritism or kickbacks.
- Properties with closed cases that continue to receive complaints for the same issue. This could be representative of a repeat offender as well as indicator of a failure to take appropriate actions against a code violator.

Monitoring is essential component of ensuring achievement of objectives

Most important is that those in charge understand the importance of monitoring the work of those who have substantial powers within their individual purview. The Government Accountability Office’s Standards for Internal Control in the Federal Government, aka the Greenbook, provides the framework for setting oversight controls at any level of government.<sup>11</sup> The Greenbook requires the establishment of policies and procedures to ensure achievement of objectives. This includes supervisors monitoring their staffs’ work and addressing weaknesses that may prevent goals achievement, such as conflicts of interest.

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## Recommendations

Develop and issue written procedures

### The City Manager’s Office should:

- 2.1 Develop and issue written procedures for code enforcement operations that:
- Reflect current practices and management expectations.
  - 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:
    - Assigning unique numbers to cases.
    - Recording all pertinent case data timely, e.g., within two business days of receipt.

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<sup>11</sup> GAO Standards for Internal Control in the Federal Government: <https://www.gao.gov/greenbook/overview>

- Using a single, centralized system to record, manage, and monitor case information.
- Using case file management standards so that pertinent data are captured uniformly.
- 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.
- Describe processes for issuing citations in a consistent and equitable manner.
- Include beat assignments once feasible to do so, i.e., after the CEU addresses the backlog and receives adequate software tools.

Implement performance metrics and goals

2.2 Implement performance metrics and goals to:

- Assess the effectiveness of code enforcement operations and goal achievement
- Identify constraints preventing goal attainability.
- Submit regular reports, e.g., biannually, to City management on performance.

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.

Assess the use of complaint thresholds and self-certifying techniques

2.3 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.

- 2.4 Develop procedures for monitoring staffs' work and addressing weaknesses that may prevent goal achievement, such as conflicts of interest. For example:
- Review Form 700s to identify property owned by CEU personnel before assigning cases to officers.
  - Randomly select case records to look for:
    - Indicators that case action did not progress as required or expected suggesting favoritism or kickbacks.
    - 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.

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 Officers and the Assistant Planner.

***City Manager's Response***

The City Manager agrees with the finding and recommendations. See full response at Appendix B.

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**FISCAL IMPACT**

Management unable to quantify CEU specific expenditures and revenues

The Code Enforcement Unit is within the City Manager's Office Neighborhood Services Division. The entire Division is budgeted at \$1.2 million for both fiscal years 2018 and 2019. This is an increase of approximately \$220,000, per year, since fiscal year 2015. However, the City Manager's Office cannot identify how much of the increase was for the CEU as there are no unit specific budget codes to track expenses and revenue associated with CEU operations. This removes management's ability to quantify costs and revenue received from citations and enforcement activities.



Better resources could help the CEU generate more revenue and protect the City from lawsuits

The CEU does not have the essential resources necessary to enforce the Berkeley municipal codes for which it is responsible. This could result in the loss of revenue generated from fines and enforcement fees. This also exposes the City to the risk of lengthy and expensive lawsuits brought by the public who find that the City failed to meet enforcement obligations.

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## CONCLUSION

Code violation complaints increasing while FTE levels remain constant

The Code Enforcement Unit lacks the capacity and resources necessary to efficiently and effectively enforce City codes. Code violation complaints made via the City's 311 Call Center show an upward trend, yet the CEU is consistently budgeted at only four full-time equivalents. Further, new enforcement areas require significant resources and create an additional burden on the CEU. Council passes some ordinances without fully analyzing the resources needed for enforcement and without understanding current staffing capacity. This increases the risk of significant health and safety code violations going unaddressed and the City failing to meet its obligations. This does not suggest that the new ordinances are not of value and needed. Council passes policy in order to address community concerns.

New enforcement areas create workload burdens; leave the CEU unable to meet community expectations

Investment in the CEU has been largely overlooked. There has not been consideration of staffing needs and technology improvements. Additionally, process improvements, adequate written procedures, and performance metrics have not been used to help make the most of the CEU's limited resources.

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**We appreciate and thank staff and management for taking time to assist with our audit**

We would like to thank Code Enforcement Unit management and staff for their continued cooperation during this audit. We appreciate their receptiveness to our findings and recommendations, and their willingness to make improvements despite the challenges ahead. We would also like to thank the City Manager and Deputy City Manager for their continued commitment to supporting and improving City services.

## **APPENDIX A:**

### **Scope and Methodology**

We audited the City Manager's Office Code Enforcement Unit's (CEU) fiscal year 2018 staffing levels and the resources available to conduct and manage code enforcement activities. We performed a risk assessment of code enforcement practices and procedures to identify potential internal controls weaknesses, including fraud risks, within the context of our audit objectives. To gain an understanding of CEU operations and threats to performance, and to achieve our audit objectives, we:

- Met with the Deputy City Manager and Code Enforcement Unit personnel to gain an understanding of code enforcement policies, procedures, and practices and their concerns about the unit's ability to achieve objectives.
- Met with personnel from the Berkeley Fire Department; Planning Building and Safety; and Health, Housing, and Community Services Environmental Health to identify possible best practices for the CEU, including adequate staffing levels and technology solutions.
- Met with Information Technology personnel to understand if the City plans to improve the operational effectiveness and efficiency of the CEU by implementing a data system to help track, manage, and quantify code enforcement cases.
- Performed a ride along with a CEU officer to observe practices and procedures.
- Obtained Lagan data to get a contextual understanding of the volume and variety of code violation complaints that come in through the City's 311 Service Center.
- Obtained copies of the forms and letters the CEU uses to conduct inspections, and issue violation notices, citations, and orders to vacate properties; and copies of written procedures and core values.
- Obtained personnel information from the Human Resources Department to identify CEU staffing levels, vacancies, and turnover from June 2003 to September 2017.
- Reviewed the Code Enforcement Supervisor, Code Enforcement Officer II, and Assistant Planner job classifications to understand the positions' expected duties.
- Reviewed Berkeley Municipal Code chapters 1.16, 1.20, 1.24, 1.26, and 1.28 to understand the CEU's general administrative rights and procedures.
- Reviewed audits, analyses, and case studies performed by other local jurisdictions to understand common code enforcement practices and procedures, and identify possible staffing requirements and technology solutions.
- Reviewed Berkeleyside articles pertaining to code violations and enforcement activities.

- Reviewed sections of the City’s Fiscal Year 2018-2019 Proposed Biennial Budget to understand historical budgeted staffing levels, CEU services, and organizational structure.
- Identified the volume of Berkeley Municipal Code and California State Code sections that the Code Enforcement Unit is expected to enforce.
- Evaluated the following ordinances passed by the City Council to identify the potential work impact on the CEU and the consideration taken to evaluate impacts when proposing the ordinance: short-term rentals; mini-dorm registration; cannabis collectives and dispensaries; and homeless encampments.
- Reviewed ordinances passed fiscal years 2015, 2016, and 2017 to identify the number passed within that timeframe, and those impacting code enforcement activities.
- Opted not to assess creating new budget codes to track CEU specific revenue and expenditures due the current status of the City replacing its aged financial system.

*Data Reliability*

We did not rely on computer processed data to materially support our findings, conclusions, or recommendations. We used data from the City’s Customer Relationship Management system and from the Personnel Module to provide context on code enforcement case volume increases over time as compared to staffing levels. We performed a limited assessment by reviewing the data for reasonableness and completeness. We also used data from the U.S. Census Bureau, a known reliable source, to provide population to full-time equivalent ratios.

*Standards Compliance Statement*

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## APPENDIX B

### Audit Findings, Recommendations, and Management Response Summary

Audit Title: Code Enforcement: Resources Significantly Constrained and Improvements Needed in Case Management and Oversight					
Findings and Recommendations	Lead Dept.	Agree, Partially Agree, or Do Not Agree	Expected or Actual Implementation Date	Status of Audit Recommendations, Corrective Action Plan, and Progress Summary	
<b>Finding 1: Code Enforcement Unit resources are insufficient to meet demand</b>					
1.1	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: <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>	City Council	City Manager Agrees	TBD	Dependent on acceptance by City Council

Audit Title: Code Enforcement: Resources Significantly Constrained and Improvements Needed in Case Management and Oversight					
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Expected or Actual Implementation Date	Status of Audit Recommendations, Corrective Action Plan, and Progress Summary
	<ul style="list-style-type: none"> <li>Feasibility impact to determine how best to rollout out new legislation</li> </ul>				
1.2	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.	City Council	City Manager Agrees	TBD	Dependent on acceptance by City Council
1.3	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.	City Manager (CEU)	Agree	November 2019	<p><u>Status: Not Implemented</u></p> <p>Due to the seasonal nature of the unit's work, staff anticipates that a full year of analysis will be most effective in capturing the unit's workload.</p>

<b>Audit Title: Code Enforcement: Resources Significantly Constrained and Improvements Needed in Case Management and Oversight</b>					
<b>Findings and Recommendations</b>		<b>Lead Dept.</b>	<b>Agree, Partially Agree, or Do Not Agree</b>	<b>Expected or Actual Implementation Date</b>	<b>Status of Audit Recommendations, Corrective Action Plan, and Progress Summary</b>
1.4	<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>	City Manager (CEU)	Agree	June 2020	<p><u>Status: Not Implemented</u></p> <p>Following the completion of Recommendation 1.3, the next annual appropriations process is tentatively scheduled to take place in May 2020.</p>
1.5	<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 CEU'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</p>	City Manager (CEU)	Agree	July 2020	<p><u>Status: Not Implemented</u></p> <p>At this time, it has not been determined how best to provide this information. CEU is currently recording various monthly statistics meant to capture performance metrics, trends, and other measures which can be made available to Council on a regular basis, to be determined by management.</p>

Audit Title: Code Enforcement: Resources Significantly Constrained and Improvements Needed in Case Management and Oversight					
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Expected or Actual Implementation Date	Status of Audit Recommendations, Corrective Action Plan, and Progress Summary
	informed of the CEU's capacity restrictions. See also Recommendation 1.7.				
1.6	<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>	City Manager (CEU)	Agree	January 1, 2018	<p><u>Status: Implemented</u></p> <p>In January 2018, CEU Supervisor drafted and implemented a complaint matrix that identifies the most common complaint types, the subject matter department or division experts, the process workflow, and enforcement authority.</p> <p>The matrix is updated quarterly and disseminated to all departments via the senior executive team.</p>
1.7	<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> </ul>	City Manager (CEU)	Agree	<p>January 1, 2018: Temporary alternative implemented</p> <p>Full implementation: To be determined based on funding availability and</p>	<p><u>Status: Partially Implemented</u></p> <p>Effective January 1, 2018, all cases or customer complaints received by CEU have been entered into Lagan, which is serving as single point of entry into the code enforcement queue. Lagan provides the ability to allocate cases to individual CEU staff, and re-allocate cases already in the code enforcement queue. It allows cases to be assigned one of the three priorities (high,</p>

<b>Audit Title: Code Enforcement: Resources Significantly Constrained and Improvements Needed in Case Management and Oversight</b>				
<b>Findings and Recommendations</b>	<b>Lead Dept.</b>	<b>Agree, Partially Agree, or Do Not Agree</b>	<b>Expected or Actual Implementation Date</b>	<b>Status of Audit Recommendations, Corrective Action Plan, and Progress Summary</b>
<ul style="list-style-type: none"> <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 (i.e., backlogs)</li> </ul>			assessment of code enforcement software options	<p>medium=moderate, low=standard) based on the complaint type.</p> <p>Lagan captures the date a case is created, and when it is closed. Additional inspection dates and results, as well as photos, notices, citations, and other documentation, are captured in the software as “case notes”. Because Lagan assigns a specific case number, cross referenced with a property address, CEU staff can readily determine repeat offenders by searching for an address.</p> <p>Lagan’s current configuration is not code enforcement oriented. Although it provides the ability to extrapolate data which is used for performance metrics and workload trends, it does not provide reporting templates or quantified citations (issued or collected), nor does it currently allow for staff use on mobile devices to input data from the field. CEU will continue to explore enforcement software options which include the aforementioned additional capabilities.</p>



<b>Audit Title: Code Enforcement: Resources Significantly Constrained and Improvements Needed in Case Management and Oversight</b>					
<b>Findings and Recommendations</b>		<b>Lead Dept.</b>	<b>Agree, Partially Agree, or Do Not Agree</b>	<b>Expected or Actual Implementation Date</b>	<b>Status of Audit Recommendations, Corrective Action Plan, and Progress Summary</b>
1.8	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 implemented in response to Recommendation 1.7.	City Manager (CEU)	Agree	September 1, 2017: Partially implemented  Full implementation: To be determined based on funding availability and assessment of code enforcement software option selected in response to Recommendation 1.7	<u>Status: Partially Implemented</u>  CEU staff are issued Apple smartphones, which provide the ability to take photos, capture notes, and mark GPS locations which can be uploaded to City e-mail. Most code enforcement software available on the market provide IOS function and support which would make mobile application integration fairly seamless.  At this time, CEU's software does not support printing documentation in the field. Manual notices will continue to serve this function until such time as the enforcement software described in Recommendation 1.7 is implemented, and can support printing documents in the field.
<b>Finding 2: Process modifications and increased oversight needed to ensure equity, efficiency, and effectiveness</b>					
2.5	Develop and issue written procedures for code enforcement operations that:	City Manager (CEU)	Agree	April 1, 2018 / Ongoing	<u>Status: Implemented</u>  The CEU supervisor issued new procedures which included the recommended. Meetings were held with CEU staff to review the new procedures,

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<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.</li> <li>• Require adherence to a uniform technology policy, which includes:                             <ul style="list-style-type: none"> <li>○ Assigning unique numbers to cases.</li> <li>○ Recording all pertinent case data timely, e.g., within two business days of receipt.</li> <li>○ Using a single, centralized system to record, manage, and monitor case information.</li> <li>○ 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</li> </ul>				solicit input, and to ensure their understanding of the new guidance.

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<p>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.</p> <ul style="list-style-type: none"> <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>2.6 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> </ul>	City Manager (CEU)	Agree	February 1, 2018 / Ongoing	<p><u>Status: Partially Implemented</u></p> <p>Data extrapolated from Lagan provides metrics on code enforcement operations, including the number of cases opened and closed by month, the average amount of time to close cases, the number of citations issued and the total amount of fines assessed, and additional information regarding non-enforcement related time such as</p>

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<ul style="list-style-type: none"> <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>taxi inspections, sidewalk vendor permitting, homeless encampment contacts and resolution, and public record request activities.</p> <p>Effective February 2018, CEU provides a monthly report to City management on the unit’s performance, which notes constraints to goal attainability and includes a breakdown of proactive code enforcement activities conducted in the preceding month.</p> <p>Future metrics to be determined based the reporting capabilities of the code enforcement software from Recommendation 1.7.</p>
2.7	<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</p>	City Manager (CEU)	Agree	January 1, 2018	<p><u>Status: Implemented</u></p> <p>We assessed the feasibility of using complaint thresholds and opted not to use them at this time due, in part, to the following considerations.</p> <p>Pursuant to BMC Chapter 1.22.010, the City of Berkeley shall “promote higher standards of living, full employment, and conditions of economic and social progress and development.” Complaint</p>

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<p>techniques to give code enforcement officers more time on field inspections of high-risk cases.</p>				<p>thresholds, which include requiring multiple complaints, not accepting anonymous complaints, and others, restrict CEUs ability to meet those requirements.</p> <p>Furthermore, The American Association of Code Enforcement states in their Importance of Code Enforcement hand-out, “The professionalism and approach of the Code Enforcement Officer has the potential to shape community notion of local government and municipal experience. Building relationships and knowledge of the community is so integral to a proactive and professional code enforcement approach,” which could also be adversely effected by implementing complaint thresholds.</p> <p>Berkeley’s CEU regularly receives anonymous complaints from reporting parties who fear retribution. By conducting site inspections on all reports, CEU staff promote a higher standard of living, a better customer service experience, and provide more equitable, effective enforcement of</p>

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				<p>City codes, while spending more time in the field on all levels of enforcement. Occasionally, low-level inspections become higher level priorities based on what the officer has documented during the initial site inspection.</p> <p>Self-certifying techniques, although common in proactive rental housing inspection programs, are not known to be used in other aspects of code enforcement since officer compliance verification is typically required for case closures or escalation of enforcement. An exception considered could be when a complainant or reporting party certifies a violation has been abated, the closure of which would be at the discretion of the enforcing officer.</p>	
2.8	Develop procedures for monitoring staffs' work and addressing weaknesses that may prevent goal achievement, such as conflicts of interest. For example: <ul style="list-style-type: none"> <li>Review Form 700s to identify property owned by CEU personnel before assigning cases to officers.</li> </ul>	City Manager (CEU)	Agree	May 1, 2018	<p><u>Status: Implemented</u></p> <p>The CEU procedures manual includes procedures for identifying and addressing conflicts of interest. The CEU supervisor randomly spot checks complex code enforcement cases, to determine investigations are proceeding with consistency</p>

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<ul style="list-style-type: none"> <li>• Randomly select case records to look for:                             <ul style="list-style-type: none"> <li>○ Indicators that case action did not progress as required or expected suggesting favoritism or kickbacks.</li> <li>○ 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 Officers and the Assistant Planner.</p>				<p>and equity, and that investigators are handling cases fairly and ethically.</p> <p>Effective October 2017, the Assistant to the City Manager for Neighborhood Services and the CEU supervisor meet twice monthly to review unit performance and to discuss outstanding issues related to ongoing investigations, which include potential or perceived conflicts of interest.</p> <p>At the May 2018 City Council Aide / City Staff Roundtable Discussion, the Assistant to the City Manager reiterated Code Enforcement’s commitment to equitable investigate of complaints received, regardless of their source.</p> <p>Effective May 2018, CEU shall include the following phrase when requests for states on individual cases are received: “The City of Berkeley’s Code Enforcement Unit is committed to enforcing the Berkeley Municipal Code in a fair and equitable fashion. Please allow three to five business days to respond to your request.”</p>

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				Effective May 2018, the Assistant to the City Manager and the Code Enforcement Supervisor annually review the Form 700s submitted by their respective direct reporting parties, and discuss potential conflicted of interest.