

**Performance Audit of Environmental Code Enforcement
City of Boulder, Colorado**

AJW Consulting
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FOREWORD—BOULDER IS DIFFERENT

Boulder is different. In our recent meeting with the Citizen Advisory Group overseeing this study, we realized that we had discussed these differences many times, but that we had not explained how these differences have impacted this project.

ORGANIZATIONAL RESPONSIBILITIES AND ARMED ENFORCEMENT OFFICERS

Organizationally, the approach that Boulder has taken to code enforcement is not like that in most cities. We do not mean to imply that this approach is inappropriate. It is, however, quite unusual. Code enforcement responsibilities are generally assigned to three different departments in other cities (with other departments often having pieces of the enforcement activity):

1. In larger cities, code enforcement (also often known as code compliance) is generally found within a planning or community development department and often includes building code enforcement, as well as zoning code enforcement. In most cases, zoning code enforcement includes parts of what Boulder calls environmental enforcement, including trash and weeds, ice and snow. In addition zoning code enforcement usually includes other land use code enforcement and sign code enforcement; enforcement of noise-related ordinances is included in zoning enforcement if the noise is recurring, such as noise from a specific kind of business, or from a land use violation, such as a residential-based business which results in unacceptable noise.
2. On occasion, code enforcement is located in the fire department, based upon the assumption that most code enforcement is related to the need to improve safety within a jurisdiction.
3. In small cities, code enforcement is often located within the police department, and generally combined with animal control responsibilities.

In addition to these three common organizational schemes, there are many idiosyncratic structures, such as the combination of parking and code enforcement in East Lansing, Michigan.

We have found only one other city (there may be others, but this is a rare situation) where response to non-recurring noise is the responsibility of any department other than the police department—Portland, Oregon has a Noise Control Office. The Portland, Oregon Noise Control Office is backed by the Police Department. This Office was staffed by two individuals in 2001 and had been responsible for responding to both “neighbor-to-neighbor” noise and to those recurring noise problems normally included in zoning enforcement. A task force recommended in February of 2001 that the Police assume responsibility for the “neighbor-to-neighbor” noise response. We could not ascertain whether the Portland staff were armed. But, that is another difference between Boulder and other cities—the Environmental Code Enforcement staff are certified peace officers and they are armed.

Based upon our cursory review of police responses to noise, we discovered a specific reference to the problems posed by noise calls in college communities. This reference, detailed in the discussion of our guiding principles, indicates that police departments have had to become creative in their response to noise. It would appear that the assignment of armed code enforcement staff--who can supplement police noise responses during the “noise season” and who can also do other kinds of code enforcement during the rest of the year--was just such a creative response.

PREVALENCE OF NOISE AND RELATED CRIMINAL BEHAVIOR

There is a feeling among the members of the Community Advisory Group that Boulder's problems with noise and other related problems, such as arson and riots, are significantly worse than those in other college communities. We have no way to determine whether this is true, since we know of no data base where such information is maintained from other jurisdictions. In fact, in attempting to locate even the number of calls for noise, we found no police departments that published these data on their websites.

Other concerns, such as the fact that Boulder has a significant number of students residing off-campus, in what were formerly single family residences, seems to be a relatively common phenomenon. Again, we have no specific data to document the difference between Boulder and other college communities. We found many reports regarding college communities having problems with trash, noise, underage drinking, parties, and over-occupancy. Several cities identified the need to have occupancy limitations as stemming from the danger that student-related over-occupancy posed for changing the ultimate character of formerly family neighborhoods.

Ohio State University and the University of Wisconsin Madison have both had representatives working on task forces, along with citizens and city staff, to address many of the same issues which concern the University Hill neighbors. Several schools, including the University of Utah and Penn State, have reported "riotous" incidents. We have even noted reports from the United Kingdom, Canada, and Australia about large groups of partying students involved in brawls and couch burnings. Of course, we have no way to evaluate whether Boulder has had more of these incidents or whether Boulder's incidents were more severe. Thus, we have made no attempt to differentiate Boulder from others here. What has happened in Boulder is fact and can stand alone as a reason for considering whether alternative approaches to environmental and zoning code enforcement might have a positive impact—reducing the number of violations or limiting the severity of these violations.

HOUSING SUPPLY AND DEMAND

Boulder appears to be different from many other college communities in that it is following a general no-growth policy. No amount of code enforcement can resolve an apparent conflict between a City which has a no-growth policy and a University which seems to be following a growth-oriented plan. Given the current occupancy limits, admitting 1000 more students would require at least 300 additional dwelling units. If housing is not being built by the City or by the University, then over-occupancy—and the problems associated with that over-occupancy--can be expected to grow.

IN SUMMARY

In summary, we have attempted to consider the differences between Boulder's circumstances and those of others when developing our findings. Even if these differences are considered, some approaches taken in other cities, when adjusted to the specifics of Boulder's circumstances, may have merit. Similarly, it is important to consider all options so as to determine which enforcement approaches might have the greatest impact. Identifying those elements in the City's environment which can be controlled—as well as those elements where problems will be mitigated rather than controlled—can allow the City to focus its efforts and funding on activities which derive the greatest benefit.

EXECUTIVE SUMMARY

SCOPE OF THE STUDY

Given the work already completed by the University Hill Action Group, the University Hill Neighborhood Association, city staff, and other task forces, we have revised this study to focus on **how the City might improve its performance** in enforcing the environmental code and some related zoning issues. We have not attempted to directly address the City's housing code enforcement and growth management policies, even though these policies do have some relationship to the environmental and zoning code enforcement policies. Although we recommend changes in the way that the City relates to the University, we understand that the City does not have control over this relationship.

GENERAL APPROACH

We have attempted to focus on specific circumstances in Boulder. However, to complete a performance audit, we are generally comparing performance against either industry standards or against jurisdiction-specific performance standards. In the case of Boulder, we have neither. Therefore, we have attempted to bring in examples of standards from other jurisdictions, while keeping in mind Boulder's circumstances.

GUIDING PRINCIPLES

In order to provide an overall approach to the study of Boulder's environmental code enforcement, we have developed a strategic framework, based upon traditional public administration concepts related to code enforcement. This strategic framework includes several important "guiding principles," which have formed the basis for governmental code enforcement. We have also added, at the request of the Community Advisory Group, a principle which recognizes that responsibility for noise enforcement is also included in Boulder's code enforcement approach.

1. Code enforcement requires balancing the public good with individual rights.
2. The language of the codes [to be enforced] should clarify, not impede, code enforcement.
3. The object of code enforcement is compliance, not punishment.
4. It is not generally desirable to impose punishment after a violation has been abated.
5. Code enforcement should be prompt, consistent, predictable, and firm.
6. Police departments, when handling nuisance calls, need to be creative so as to provide an effective response and reduce the number of calls.

Although guiding principle number 6 refers specifically to the Police Department and its response to noise, it has been suggested that one could just as easily have that principle read: "Cities, when handling nuisance calls, need to be creative so as to provide an effective response and reduce the number of calls." We have made this principle specific to the Police Department because the Community Advisory Group was not certain that the first five principles were appropriate to Boulder's code enforcement efforts, which do include noise and extensive support from the Police Department in accomplishing that code enforcement effort.

In order to ensure a comprehensive coverage of the issues, we have organized our findings, observations, and recommendations around these guiding principles, with the addition of the issues identified in the earlier management review (see Appendix B). In each case, we will also identify specifics of the Boulder circumstances which may indicate the need to adjust any of the guiding principles.

SUMMARY OF RECOMMENDATIONS

We have attempted to respond to every one of the issues identified in the earlier management review, as well as to any issues identified based upon the guiding principles. In this summary of recommendations, however, we may not address each issue independently.

In summary, we have found that, based upon the recommendations of the University Hills Action Group, the City has changed its approach to code enforcement in the University Hill Neighborhood. In particular, Environmental Code Enforcement Officers are giving fewer warnings and writing more noise and trash summonses. In addition, there has been a move toward more stringent enforcement of the occupancy limits. No formal policies support these changes, and the changes have largely taken place in one neighborhood. We have found no published professional standards against which to comprehensively evaluate the performance of the City's environmental enforcement efforts. Published professional standards for environmental enforcement are lacking and are largely based upon specific standards established by each jurisdiction. The City of Boulder has no formal statement of goals for its environmental code enforcement efforts; however, the City has continued to revise and improve its approaches to code enforcement as this project has been underway. Given the fact that there are neither published standards, nor City-established standards for code enforcement performance, we have focused our long-term recommendations on establishing these standards. Short-term recommendations include specific and detailed opportunities for improvement in the operations of the Zoning and Environmental Code Enforcement Unit. In some instances we are recommending that the City experiment with administrative enforcement alternatives to determine whether these alternatives can speed up enforcement processes and/or impact overall compliance by reducing the number of violations.

LONG-TERM RECOMMENDATIONS

Long-term recommendations are all built around City Council adoption of a set of goals and the associated strategic framework for code enforcement. Thus, this recommendation, which includes the provision of a sample policy statement for the City Manager and his staff to revise and present to City Council, is actually the description of a continuing process for code enforcement. Obviously, the focus of the sample policy has to be areas within the City which appear to present the highest level of non-compliance. The process of constantly reviewing and updating violation and compliance data is intended to provide a method for focusing current and future efforts.

The City Manager should assist City Council in a review of the goals and strategic framework for enforcement of the environmental code and of the occupancy limits in the land use code; City Council should adopt a set of code enforcement policies

Our major recommendation is that City Council begin a complete and focused review of the goals and strategic framework for code enforcement. Based upon our latest discussions with the Community Advisory Group, we have provided a sample policy statement below:¹

¹ It should be noted that we are not and cannot be familiar with every other City policy related to the elements included in this sample policy document. We have provided this document to assist the City Council and City Manager in determining how to proceed in more clearly articulating goals and strategic approaches to code enforcement. Detailed analyses of many of the elements of the policy are included in our detailed findings and observations.

**RECOMMENDED POLICIES
ENVIRONMENTAL AND OCCUPANCY CODE ENFORCEMENT**

GENERAL STATEMENT OF POLICY PURPOSE

The purpose of this policy is to establish the basic goals and standards for enforcing Boulder's environmental codes and occupancy limits contained in the land use code.

GENERAL POLICY STATEMENT

The general policy of the City of Boulder regarding enforcement of environmental codes and occupancy limits contained in the land use code (see Appendix C for detailed references to the Boulder Revised Code for each code element) follows:

1. City Council believes that each citizen of Boulder has the right to live in a safe, peaceful, and attractive neighborhood.
2. City Council recognizes that rational people can have different opinions regarding the definition of neighborhood safety, peacefulness, and attractiveness.
3. City Council has determined that the enforcement of environmental and land use codes is a major element in ensuring neighborhood safety, peacefulness, and attractiveness.
4. City Council recognizes that the maintenance of the City's neighborhoods has an economic value, as well as the obvious values of having citizens feel safe and satisfied with their surroundings.
5. City Council has determined that the City has a responsibility to attempt to balance the public good and the rights of individuals when utilizing various approaches to the enforcement of environmental and land use codes.
6. City Council believes that the goal of code enforcement, in supporting neighborhood safety, peacefulness, and attractiveness, is to achieve compliance with all applicable codes and the implied standards attributable to each code.
7. City Council, through the passage of ordinances, has set specific policies on a number of code-related issues; it is the responsibility of City Council to support the enforcement of these ordinances or to attempt to change them.
8. City Council supports the City Manager in his role of determining specific enforcement protocols for implementing City Council policies on environmental and land use code enforcement, as established in city codes and in this policy statement.
9. City Council has determined, based upon input from the City Manager and his staff as well as from the citizens of Boulder, that the University Hill Neighborhood and other neighborhoods, such as Goss-Grove and Martin Acres, may have special enforcement needs, based upon the significant numbers of University of Colorado students living in these neighborhoods.
10. Because City Council recognizes these neighborhood-specific enforcement needs, we also recognize the need to have neighborhood-specific enforcement strategies.
11. City Council has determined that current approaches to enforcement of environmental and land use codes has not been totally effective in mitigating specific problems in the University Hill, Goss-Grove, and Martin Acres Neighborhoods.
12. City Council has determined that, until significant improvements have been made in compliance with environmental and land use codes in these neighborhoods, code enforcement efforts should focus on these neighborhoods.
13. City Council has determined that there are significant benefits to greater involvement of landlords and property managers in developing code enforcement approaches.

14. Because students appear to be at the center of many of the code enforcement issues identified in the University Hill, Goss-Grove, and Martin Acres Neighborhoods, and because students are usually temporary residents, City Council has determined that property owners and managers must also be the focus of the City's code enforcement efforts.
15. City Council has determined that current relationships with the University of Colorado need to be strengthened in order to allow a more comprehensive set of short-term and long-term alternatives to the problems with bringing the University Hill, Goss-Grove, and Martin Acres Neighborhoods into compliance with environmental and land use codes.
16. City Council has determined that the lack of housing for students adds to the problems in neighborhoods near the campus and that the City and University should work jointly to identify options for dealing with this lack of housing.
17. City Council is open to considering creative alternatives, such as excessive consumption fees which are being used in several Midwestern cities, as both enforcement and funding alternatives.
18. Therefore, City Council has determined that the City's general approach to code enforcement needs to be strengthened and upgraded and that the City Manager and his staff need further clarification on City Council's policies regarding code enforcement.

POLICY GUIDANCE FOR THE CITY MANAGER

Although City Council understands that the City Manager has responsibility for determining the specific operational approaches to be used in enforcing the environmental and land use codes, we are providing the following additional policy guidance to support operational planning and day-to-day management, particularly in enforcement efforts undertaken in the University Hill, Goss-Grove, and Martin Acres Neighborhoods:

1. We support a more proactive enforcement stance.
2. We recommend that the City Manager conduct the analysis needed to support focused proactive enforcement in the University Hill, Goss-Grove, and Martin Acres Neighborhoods and conduct that focused proactive enforcement through 2002.
3. We anticipate that information gleaned from such focused proactive enforcements can be used to assist us in developing a more comprehensive strategy for working with the University of Colorado to address student-related compliance with environmental and land use codes.
4. We recommend that the City Manager and his staff develop specific measures of performance which focus upon decreasing the number of code violations as well as on improving compliance with the environmental and land use codes, particularly for the University Hill, Goss-Grove, and Martin Acres Neighborhoods. We recommend that future data analysis focus even more on neighborhood-specific measures.
5. We recommend that the City Manager and his staff develop a consistent definition of neighborhood to be used in developing neighborhood specific measures.
6. We recommend that the City Manager establish a set of enforcement protocols clearly stating the general approaches to code enforcement, to serve as guidance for code enforcement officers.
7. We recommend that the City Manager and the City Attorney determine the long-term operational impacts of proactive enforcement and bring forth recommendations on staffing requirements, ordinance changes, and associated funding strategies.
8. We will take responsibility for contacting the Fort Collins City Council to determine whether there would be any benefit to jointly lobbying the State for additional funding of student housing.²
9. We will take responsibility for contacting the University to discuss their policy toward enrollment and how housing problems associated with this policy can be addressed.

² This is based upon survey information provided by Fort Collins which indicated a significant number of students living in non-University affiliated housing; survey respondents did not identify over-occupancy as a problem in Fort Collins.

CITY COUNCIL ACTION

By adopting this policy statement, City Council intends to lend support to the City Manager's attempts to address long-standing problems in three neighborhoods, as well as to provide a strategic framework for continuing evaluation and revision to the City's code enforcement approaches and protocols.

Most of our longer term recommendations are included in the sample policy outlined above. We have summarized the characteristics of our basic approach to improving enforcement below:

1. Emphasizes proactive enforcement, while continuing to respond as promptly as possible to complaints
2. Involves greater use of data to monitor repeat offenders and plan proactive focused enforcement for identified problem locations
3. Involves the development of neighborhood-specific performance standards and the means to monitor accomplishment of these performance standards
4. Requires a single method for defining neighborhoods
5. Requires continuation of the limited term position assigned to environmental code enforcement during 2002, to provide the staffing needed for a proactive approach
6. Requires the development of alternative enforcement tools and protocols, as well as improved educational approaches
7. Requires greater involvement of University administration, neighborhood associations, and neighborhood business owners in the development of educational efforts, operational planning, and enforcement protocols
8. Emphasizes enforcement and education focused on property owners and managers
9. Includes economic incentives to reduce violations, such as excessive consumption fees
10. Depends upon the University and the City working together to develop student housing alternatives

The following short-term recommendations are designed to support our long-term recommendations.

SHORT-TERM RECOMMENDATIONS

While the City Manager and City Council are considering the overall goals and performance standards for environmental and occupancy code enforcement, some additional actions can be taken by City staff to strengthen current enforcement protocols and to test new approaches to enforcement. It should be noted that even these short-term recommendations are based upon a sense that a more proactive approach is required to respond to the concerns voiced by stakeholders.

1. **Implement focused proactive enforcement in the University Hill, Goss-Grove, and Martin Acres Neighborhoods**
2. **Experiment with the use of alternative enforcement tools that do not appear to require ordinance changes; consider revising abatement approaches to improve efficiency**
3. **Adopt some simple procedural changes intended to support other recommendations**

4. **Publish current code enforcement statistics, by neighborhood, to focus continued community discussion on the appropriateness of current code enforcement strategies**
5. **Put greater emphasis on monitoring the percentage of dwellings reporting violations and the percentage of dwellings in compliance with codes, by neighborhood**
6. **Develop the definition of “neighborhoods” necessary to support neighborhood-specific measurement and focused enforcement, as well as related planning and work coordination**
7. **Focus more educational and enforcement effort on property owners and managers**
8. **Develop a system to promptly notify all concerned about complaints and their status**
9. **Continue to assign environmental enforcement officers to enforce noise ordinances—but focus on the University Hill Neighborhood during the noise season; continue to fund the limited term EEO position for another year**
10. **Use planning for the focused proactive enforcement to assess the quality of current data in Land Link, as well as other capabilities available to support operational planning and performance measurement**
11. **Make minor improvements in data handling including better quality control of data in the Land Link system and elimination of handwritten logs, if possible**

INTRODUCTION

BACKGROUND

Many of the issues addressed in this report may actually stem from systemic problems or long-standing policies. Although we may refer to these policies as we move through the report, it should be noted that our scope of services did not include an evaluation of each of these policies. The following issues, based either on current policies, or on current concerns about lack of consistent policies, have been identified in our stakeholder interviews, as well as reviews of the Citizen Survey, previous staff reports, City Council meeting minutes, etc.:

- ❑ A feeling on the part of some stakeholders that the City's long-standing growth management policies have contributed significantly to high rents and resulting over-occupancy which has occurred in the University Hill neighborhood.
- ❑ Lack of University funding of student housing and lack of forceful University action related to student violations of environmental codes has added to over-occupancy issues and to the resulting environmental code violations.
- ❑ General disagreement among City residents and among City policy-makers regarding the appropriate response to environmental code-related issues (e.g., the "couch" ordinance, occupancy limits, etc.).

These issues are being considered as a part of the environment within which environmental code enforcement takes place. We have not, however, analyzed all of these policies in any depth. For example, we have not analyzed long-term economic impacts of the growth management policy; nor have we done more than address University funding for housing in our interviews. We have spent more time on identifying and addressing differing opinions regarding the general policies. Our recommendations are focused on improving performance, given an environment that contains these sometimes conflicting policy elements.

REPORT ORGANIZATION

We have attempted to organize the report for easy reading. Background materials which are necessary for understanding the report are included as appendices. For example, in the next major section of the report, Observations, Findings, and Recommendations, we may refer to specific issues and then guide the reader to the appendix which contains the detailed analyses upon which the observation or finding is based. We have found that this approach eliminates the need to reiterate the same data analyses in several areas of the report.

Recommendations follow each finding and observation. We have utilized the strategic framework, based upon the guiding principles outlined in the foreword, to organize our recommendations.

SCOPE, APPROACH, AND METHODS

Appendix A describes the usual approach to management auditing, along with our notion of performance auditing. Our final work plan for this project has moved to a more performance-based review. We felt that many of the elements of the management audit would not be relevant, given that a previous management review had already identified a specific group of issues to be addressed in this study (see

Appendix B). Further, based upon the City's work with the University Hill Action Group, many of the recommendations we might have made were already being implemented. We found ourselves needing to look at the whole environment within which environmental code enforcement operates, in order to consider the impacts of City policies upon the ability of the Environmental Enforcement Officers to enforce the environmental code. In addition, a significant part of the project has focused on the search for interesting and innovative ideas which might be effective in improving the enforcement of the environmental codes.

The basic tasks we have completed in order to develop our recommendations include:

- ❑ *The normal detailed review of factual data relating to the management and operations of the City's environmental code enforcement activities.*--Appendix C details the information collected during this review. We believe the information to be accurate as of the point of time that data collection ended. During this review we attempted to focus as much as possible on collecting data related to issues identified in the previous management review.
- ❑ *Observation of the Environmental Enforcement Officers and the Zoning Inspector, as they performed their daily and nightly tasks.* This observation included ridealongs.
- ❑ *Review of a number of historical documents, reports, City Council meeting minutes and videos, etc.*
- ❑ *Interviews and/or surveys for a select group of stakeholders*—the time available for these interviews was limited, but each interview or survey (a few of the stakeholders preferred to complete a survey) was completed either face-to-face or on the telephone. There were no group interviews. Since we were working on a review of the performance of City activities, a majority of the interview time had to be devoted to those managers and employees involved in environmental code enforcement.
- ❑ *Research into methods used in other cities*—since the City had already made many changes to improve its operations, we felt that a significant portion of this study should be the search for interesting and innovative enforcement tools used in other cities. We have also attempted to collect benchmark data from other cities, but have been relatively unsuccessful at getting any response to surveys. We continue to follow-up on these surveys and will collect any additional information possible between now and the time scheduled for the City Council study session.
- ❑ *Analysis of information collected during the previous tasks in order to identify options for performance improvements*—this analysis has been focused around the strategic framework of guiding principles discussed previously, and the issues identified in the earlier management review.

OBSERVATIONS, FINDINGS, AND RECOMMENDATIONS

ORGANIZATION OF THIS SECTION OF THE REPORT

Our observations and findings have been organized around the “guiding principals” identified below. Generally, although the policy issues identified in a previous management review (see Appendix B for a listing of the issues identified in the previous management review, but reclassified for ease of discussion) would also fit into this strategic framework, we have addressed these very specific management audit-related issues separately below.

Findings are summarized under the basic headings; then, recommendations related to the findings are detailed following that finding. In the executive summary we have combined many related issues to shorten the summary.

GUIDING PRINCIPLES

In order to provide an overall approach to the study of Boulder’s environmental code enforcement, we have developed a strategic framework, based upon traditional public administration concepts and effective management strategies for handling police calls for service. This strategic framework includes several important “guiding principles,” which have formed the basis for governmental code enforcement. Since Boulder includes enforcement of nonrecurring noise as a responsibility of its code enforcement staff, this unusual organizational responsibility had to be built into the guiding principles

The following guiding principals were culled from three International City/County Management Association (ICMA) “green books”—compendia on the management of local public works, police, and planning:

1. Code enforcement requires balancing the public good with individual rights.
2. The language of the codes [to be enforced] should clarify, not impede, code enforcement.
3. The object of code enforcement is compliance, not punishment.
4. It is not generally desirable to impose punishment after a violation has been abated.
5. Code enforcement should be prompt, consistent, predictable, and firm.
6. Police departments, when handling nuisance calls, need to be creative so as to provide an effective response and reduce the number of calls.

The public works “green book” identifies the central political and ethical issue of code enforcement: maintaining the “delicate relationship” between the public good and the rights of the individual.³ The attempt to maintain this balance is at the heart of all code enforcement efforts. No City maintains a perfect balance, and the political process tends to send the balance toward one end of the spectrum or the other at different times.

Perhaps the most important policy issue identified in the ICMA “green book” is the fact that, although, “ultimately, code enforcement is law enforcement, ... the *object* of code enforcement is compliance with the code, not punishment.”⁴ The ICMA “green book” notes that court action should be a “last resort.” Further, the “green book” cautions that it is “usually...undesirable to impose punishment after a violation has been abated.”⁵ In Boulder’s case, given the fact that noise is grouped with other kinds of code

³ P. 352, Management of Local Public Works, International City/County Management Association, Washington DC, 1986.

⁴ p. 353, Ibid.

⁵ p. 353, Ibid.

enforcement, the Community Advisory Group is concerned that abatement without punishment will not prevent the reoccurrence of noise violations. We will address this concern in our findings.

Another important element in our guiding principles of code enforcement is the fact that the “detailed language of codes often impedes rather than clarifies routine code enforcement.”⁶ Boulder has been involved in significant reviews of its own ordinances, in an attempt to clarify code enforcement.

The ICMA compendium on planning states that “good enforcement [of a zoning code] must be prompt, consistent, predictable and firm.”⁷ We feel that these characteristics are the basics of good code enforcement, of any type.

According to the International City/County Management Association (ICMA) green book on police management, noise complaints are a common problem, particularly in college communities; the green book addresses the problem presented by noise complaints under call-handling techniques:

“The call for service workload also includes certain categories of nuisance incidents, such as noise complaints, which in many communities constitute a high percentage of calls received. Rarely have police departments examined such complaint categories to determine the most effective responses. But in some college communities, for instance, where noise complaints frequently concern parties at a small number of locations, police departments have found that notices placing the burden of resolution upon landlords are often more effective in reducing the problem than repetitive police visits.”⁸

Based upon this reference, and upon concerns voiced by the Community Advisory Committee, we added a guiding principle that police departments need to be creative in handling noise calls.

In completing this project, we used these “guiding principles,” along with the issues identified in the earlier management review, as a strategic framework around which to organize our findings, observations, and recommendations. **In those cases where the Community Advisory Group has voiced concern about a guiding principle, I have addressed those concerns in the findings.**

BALANCING THE PUBLIC GOOD AND INDIVIDUAL RIGHTS

⁶ P. 352, *Ibid*.

⁷ p. 263, *Management of Local Government Planning*, International City/County Management Association, Washington, DC., 1999.

⁸ P. 74, *Management of Local Police Management*, International City/County Management Association, Washington, DC. 1991.

Finding #1: Boulder's current situation appears to be a classic example of the difficulty in balancing the public good and individual rights. This issue has several aspects:

- ❑ **The City's job is to monitor stakeholder concerns and to design services that maintain the balance between public good and individual rights, while responding to stakeholder concerns. This is not a simple task. Since there is no perfect balance, this process is a continuing responsibility of City government.**
- ❑ **Clearly, this performance audit will not be able to determine the perfect balance for Boulder, since that lies in the minds of stakeholders with many different views. We have, however, attempted to describe, in some detail, the situation in Boulder, as it has been described to us by stakeholders with many disparate views. In addition, we have attempted to relate Boulder's problems with code enforcement problems that are common nationwide. That means that the discord currently in evidence in Boulder is not peculiar to Boulder. Cities throughout the country are experiencing similar discord. On the other hand, the Boulder situation has unique characteristics which must be considered when developing recommendations.**
- ❑ **The City has found that focusing its educational and enforcement efforts on students has not been effective due to the fact that students are usually temporary residents.**
- ❑ **The City has not clearly articulated its overall approach to defining violinator/offender. During the last year, there has been an apparent movement toward holding landlords and property managers more responsible for violations actually committed by their renters; however, this apparent policy change has not been clearly articulated. Further, the change has become known to landlords and property managers not through educational efforts, but through actions such as the writing of summonses, with potentially heavy fines.**

In addition, concerns about environmental code enforcement, particularly for residents of the University Hill Neighborhood, have expanded to questions about the quality and quantity of other services, such as street sweeping. Thus, keeping discussion focused on the performance of the City's code enforcement efforts is difficult.

Observations on current stakeholder opinions regarding code enforcement

Based upon our discussions with City staff, citizens, landlords, and University staff, as well as upon a variety of staff reports, neighborhood group websites, citizen surveys, videos from City Council meetings, etc., we have summarized the current opinions regarding code enforcement below:

- ❑ After "years" of what has been viewed as lax code enforcement, particularly in the University Hill Neighborhood, permanent residents in that neighborhood have demanded more stringent code enforcement.
- ❑ Some members of the University Hill Neighborhood blame the Environmental Enforcement Officers for the unacceptable conditions on the Hill and want environmental code enforcement duties to be assumed by the Police Department, whom some see as being much more likely to give tickets.
- ❑ City departments have responded by improving ordinance language which had limited the ability to fix blame; by assigning additional Police Department staff to that neighborhood; by developing some proactive programs such as Aloha, Boulder; by writing more tickets for noise, trash and weed, and occupancy violations.

**Report on the Performance Audit of Environmental Code Enforcement
City of Boulder, Colorado**

- ❑ Some of the permanent residents of the neighborhood believe that the City's actions have provided measurable improvement; others are still extremely dissatisfied with the City's response.
- ❑ As enforcement has become more stringent (i.e., more tickets have been written, with higher potential fines), some permanent residents had assumed that they would see more punishment resulting from adjudication. In fact, to date adjudication has resulted in less stringent punishment than some permanent residents had hoped.
- ❑ As a result of ordinance changes, or proposed ordinance changes, as well as more stringent enforcement, landlords and students have also become concerned. Some landlords have received citations that, if upheld in court, could result in significant fines. The landlords also feel they are being held responsible for the actions of their tenants, but not being given the proper notice and time to abate any violations. Students feel harassed by permanent residents who seem to be watching their every move, waiting for them to make a mistake which could be reported and result in their being forced to move or to pay higher rent.
- ❑ The permanent Hill residents hold the University of Colorado somewhat responsible for the actions of the students who live off-campus. They feel the University should build more student housing, lessening the pressure on their neighborhood. They also want the University to consider much more stringent punishment for students with code enforcement violations.
- ❑ The University of Colorado expresses empathy for the Hill Neighbors, seems to feel that they have some role in informing students and their parents as to the rules which the students must follow when living off-campus, but does not view code enforcement violations as being as important as do the permanent Hill residents. Further, they seem to believe that the difficulty of getting City approval for building additional student housing has added to the problem of students crowding onto the Hill.
- ❑ Although City staff members believe that more stringent enforcement is required on the Hill, they also sometimes feel that the Hill Neighbors expect a level of service higher than that available to other neighborhoods in the City.
- ❑ There is some indication that, as University Hill problems are a higher priority than those in other neighborhoods, other neighborhoods are beginning to desire the higher levels of service that the University Hill Neighborhood appears to be receiving.
- ❑ Overall, there is a feeling that the City's approach to code enforcement may lack consistency and may now be designed around the concerns of a specific set of resident, rather than around a set of approved policies and designed approaches.
- ❑ Those residents of University Hill who do believe that the City's efforts have improved conditions "on the Hill," are concerned that if the pressure from the neighborhood decreases, lax code enforcement will return.
- ❑ Some residents of the University Hill neighborhood are also concerned that specific problems, such as continuing trash issues, have not actually been resolved. For example, in 2001, Hill Neighbors and participants in the Municipal Court's Restorative Justice Program cleaned approximately 12,000 gallons of trash and 4,000 gallons of recyclables from the Hill. There is concern that proactive focused enforcement will underestimate the level of the problem because volunteer efforts such as these may have reduced the level of apparent non-compliance with environmental codes.
- ❑ Hill Neighbors feel that they are actually providing services (such as trash removal) that the City, the University, and non-permanent residents have failed to provide. Obviously, community volunteers

cannot be expected to provide such a high level of trash removal service for an extended period of time without burning out.

- ❑ All stakeholders have invested a lot of time and effort in improving conditions on the Hill, but there is a sense that everyone is tired of studying the problem and wants more definitive action from the City.

Observations about nation-wide code enforcement concerns

Our research has shown that concerns about code enforcement are nation-wide and these concerns generally focus around the same themes. These themes will be familiar to Boulder's stakeholders:

- ❑ Citizens believe that code enforcement in their own neighborhoods has been too lax.
- ❑ Citizens have demanded management reviews and other studies to support their concerns about code enforcement.
- ❑ In jurisdictions with colleges and universities there are concerns about underage drinking, inappropriate behavior, trash, noise and over-occupancy.
- ❑ Landlords and students feel that ordinances and policies unfairly target students and potentially result in increased rents.

The fact that these issues are in evidence everywhere indicates that there are **probably no simple solutions to the problems** and that the problems may be endemic to our current political and social environments. This does not mean that improvements cannot be made; rather, it means that there is not likely to be one simple solution which will fully satisfy all of the stakeholders involved in these issues. It is important for all of us to keep this in mind when reviewing the recommendations in this report.

Observations regarding the impact of holding property owners and managers responsible for their renters' code violations

Our interviews with property owners and managers have focused on concerns about the recent changes to a general approach of more proactively searching out over-occupied properties. According to the landlords and property managers, past enforcement of the occupancy limitations was focused upon those properties which had continuing environmental code complaints. The presumption is that previous occupancy complaints about generally compliant properties had resulted in warnings.

Landlords and property managers state that code enforcement staff take an extended period (not defined, but there was a sense that such investigations might take up to a month) to investigate any potential over-occupancy, and then write summonses to the property owner or manager which date back to the original date that the over-occupancy was reported or discovered. A similar approach has apparently been taken for trash violations. This leaves the landlord/property manager potentially liable for large fines, sometimes for a situation which was remedied long before the summons was written. In addition, the landlords and property managers state that they have no opportunity to abate problems before the extensive investigation takes place and to avoid a summons and the related court appearance and associated legal costs.

Further, since the City has taken this more proactive approach, the focus of enforcement has changed from violators to the owners of managers of property where violations occur. This is not an unusual approach, as we noted that the ordinances of some comparable cities also focus on property owners and/or managers.

Observations regarding expansion of the discussion into other areas of City service

Questions have arisen in interviews, or in documents forwarded by residents of the University Hill Neighborhood, as to other services being provided by the City. Although these issues are well outside

the scope of this project, we have determined that some of the anger displayed toward the City's environmental code enforcement staff is actually anger about general service levels. Some of the issues that have been mentioned include infrequent street sweeping, lack of adequate street maintenance, and the need for planting in public areas. E-mails forwarded by long-term Hill residents indicate that in their travels to other cities, they have surveyed neighborhoods and have often found their own neighborhood lacking, when compared with the cleanliness and beauty of these neighborhoods. Obviously, code enforcement is not the only service related to improving the cleanliness and beauty of neighborhoods.

Unfortunately, these general feelings of dissatisfaction with the overall appearance of the Hill have driven a variety of actions which are not based on a systematic review of city service levels. Because of this dissatisfaction, however, even greater emphasis has been placed upon code enforcement, because the City has responded to complaints about code enforcement. We believe that this general level of dissatisfaction with city service levels is an important issue which needs to be addressed in a more appropriate forum, not in discussions about the performance of individual code enforcement officers. However, all of these issues have somehow become linked.

Recommendations Related to Finding #1

Given the diversity of opinion regarding the enforcement of environmental and occupancy codes one, simple solution is not possible. However, it is important that City Council formally adopt a policy which clearly addresses the following elements:

The City's philosophy of code enforcement

What are the basic goals of code enforcement? If the goal is to have a certain level of peacefulness and beauty in a neighborhood, those goals need to be as specifically articulated as possible. Then, Council needs to determine whether current enforcement approaches and ordinance standards actually support these basic goals. In addition, other City services, extending beyond code enforcement, may be involved. These other services are not addressed in our recommendations here, but it should be made clear that code enforcement is not the only City service focused on improving community livability.

Clear articulation of City Council's adopted policies

- Do the guiding principles used in this report provide the desired strategic approach to support the City's articulated code enforcement philosophy? What elements need to be modified to provide the strategic framework to support the philosophy?
- Does City Council wish to utilize a complaint-based approach to code enforcement? Should all elements of the land use and environmental codes be complaint-based, or should a more proactive approach be used for some elements of code enforcement?
- Does the City Council wish to continue to limit occupancy? If occupancy limits are in the law, should these occupancy limits be enforced? Should properties be grandfathered when downzonings occur in a neighborhood? How long will grandfathering continue? How will these issues be handled in the code and how are City staff charged with enforcement to handle the issues?
- Should the City's enforcement efforts focus on those who actually violate ordinances, or should landlords and/or property managers be held accountable for violations which occur on their property? Will the same philosophy apply to all elements of the land use and environmental codes? How are landlords and property managers expected to manage their renters to insure compliance?
- Should the standards for code enforcement be the same City-wide, or should there be acknowledged and planned variances based upon neighborhood desires? If there are to be variations, how will these variations be planned, controlled, and monitored?

- ❑ Does the City Council wish to continue to utilize the municipal court system; are alternatives to traditional adjudication allowable under the State Constitution?
- ❑ What performance measures and standards of performance are required to support articulated goals and approaches to code enforcement?

Direction to support the city manager's development of enforcement protocols and standards

- ❑ What changes in ordinances will be required to support the articulated philosophy and approach?
- ❑ What changes in staffing and organizational responsibility will be required to support the articulated philosophy and approach to code enforcement?
- ❑ What changes in performance measures and standards are required to monitor progress toward articulated goals, to insure adherence to articulated standards?
- ❑ What information needs to be monitored and reported to inform all stakeholders?

Long-Term Recommendations

Long-term recommendations are all built around City Council adoption of a set of goals and the associated strategic framework for code enforcement. Thus, this recommendation, which includes the provision of a sample policy statement for the City Manager and his staff to revise and present to City Council, is actually the description of a continuing process for code enforcement. Obviously, the focus of the sample policy has to be areas within the City which appear to present the highest level of non-compliance. The process of constantly reviewing and updating violation and compliance data is intended to provide a method for focusing current and future efforts.

The City Manager should assist City Council in a review of the goals and strategic framework for enforcement of the environmental code and of the occupancy limits in the land use code; City Council should adopt a set of code enforcement policies

Our major recommendation is that City Council begin a complete and focused review of the goals and strategic framework for code enforcement. Based upon our latest discussions with the Community Advisory Group, we have provided a sample policy statement below:⁹

⁹ It should be noted that we are not and cannot be familiar with every other City policy related to the elements included in this sample policy document. We have provided this document to assist the City Council and City Manager in determining how to proceed in more clearly articulating goals and strategic approaches to code enforcement. Detailed analyses of many of the elements of the policy are included in our detailed findings and observations.

**RECOMMENDED POLICIES
ENVIRONMENTAL AND OCCUPANCY CODE ENFORCEMENT**

GENERAL STATEMENT OF POLICY PURPOSE

The purpose of this policy is to establish the basic goals and standards for enforcing Boulder's environmental codes and occupancy limits contained in the land use code.

GENERAL POLICY STATEMENT

The general policy of the City of Boulder regarding enforcement of environmental codes and occupancy limits contained in the land use code (see Appendix C for detailed references to the Boulder Revised Code for each code element) follows:

1. City Council believes that each citizen of Boulder has the right to live in a safe, peaceful, and attractive neighborhood.
2. City Council recognizes that rational people can have different opinions regarding the definition of neighborhood safety, peacefulness, and attractiveness.
3. City Council has determined that the enforcement of environmental and land use codes is a major element in ensuring neighborhood safety, peacefulness, and attractiveness.
4. City Council recognizes that the maintenance of the City's neighborhoods has an economic value, as well as the obvious values of having citizens feel safe and satisfied with their surroundings.
5. City Council has determined that the City has a responsibility to attempt to balance the public good and the rights of individuals when utilizing various approaches to the enforcement of environmental and land use codes.
6. City Council believes that the goal of code enforcement, in supporting neighborhood safety, peacefulness, and attractiveness, is to achieve compliance with all applicable codes and the implied standards attributable to each code.
7. City Council, through the passage of ordinances, has set specific policies on a number of code-related issues; it is the responsibility of City Council to support the enforcement of these ordinances or to attempt to change them.
8. City Council supports the City Manager in his role of determining specific enforcement protocols for implementing City Council policies on environmental and land use code enforcement, as established in city codes and in this policy statement.
9. City Council has determined, based upon input from the City Manager and his staff as well as from the citizens of Boulder, that the University Hill Neighborhood and other neighborhoods, such as Goss-Grove and Martin Acres, may have special enforcement needs, based upon the significant numbers of University of Colorado students living in these neighborhoods.
10. Because City Council recognizes these neighborhood-specific enforcement needs, we also recognize the need to have neighborhood-specific enforcement strategies.
11. City Council has determined that current approaches to enforcement of environmental and land use codes has not been totally effective in mitigating specific problems in the University Hill, Goss-Grove, and Martin Acres Neighborhoods.
12. City Council has determined that, until significant improvements have been made in compliance with environmental and land use codes in these neighborhoods, code enforcement efforts should focus on these neighborhoods.
13. City Council has determined that there are significant benefits to greater involvement of landlords and property managers in developing code enforcement approaches.

14. Because students appear to be at the center of many of the code enforcement issues identified in the University Hill, Goss-Grove, and Martin Acres Neighborhoods, and because students are usually temporary residents, City Council has determined that property owners and managers must also be the focus of the City's code enforcement efforts.
15. City Council has determined that current relationships with the University of Colorado need to be strengthened in order to allow a more comprehensive set of short-term and long-term alternatives to the problems with bringing the University Hill, Goss-Grove, and Martin Acres Neighborhoods into compliance with environmental and land use codes.
16. City Council has determined that the lack of housing for students adds to the problems in neighborhoods near the campus and that the City and University should work jointly to identify options for dealing with this lack of housing.
17. City Council is open to considering creative alternatives, such as excessive consumption fees which are being used in several Midwestern cities, as both enforcement and funding alternatives.
18. Therefore, City Council has determined that the City's general approach to code enforcement needs to be strengthened and upgraded and that the City Manager and his staff need further clarification on City Council's policies regarding code enforcement.

POLICY GUIDANCE FOR THE CITY MANAGER

Although City Council understands that the City Manager has responsibility for determining the specific operational approaches to be used in enforcing the environmental and land use codes, we are providing the following additional policy guidance to support operational planning and day-to-day management, particularly in enforcement efforts undertaken in the University Hill, Goss-Grove, and Martin Acres Neighborhoods:

1. We support a more proactive enforcement stance.
2. We recommend that the City Manager conduct the analysis needed to support focused proactive enforcement in the University Hill, Goss-Grove, and Martin Acres Neighborhoods and conduct that focused proactive enforcement through 2002.
3. We anticipate that information gleaned from such focused proactive enforcements can be used to assist us in developing a more comprehensive strategy for working with the University of Colorado to address student-related compliance with environmental and land use codes.
4. We recommend that the City Manager and his staff develop specific measures of performance which focus upon decreasing the number of code violations as well as on improving compliance with the environmental and land use codes, particularly for the University Hill, Goss-Grove, and Martin Acres Neighborhoods. We recommend that future data analysis focus even more on neighborhood-specific measures.
5. We recommend that the City Manager and his staff develop a consistent definition of neighborhood to be used in developing neighborhood specific measures.
6. We recommend that the City Manager establish a set of enforcement protocols clearly stating the general approaches to code enforcement, to serve as guidance for code enforcement officers.
7. We recommend that the City Manager and the City Attorney determine the long-term operational impacts of proactive enforcement and bring forth recommendations on staffing requirements, ordinance changes, and associated funding strategies.
8. We will take responsibility for contacting the Fort Collins City Council to determine whether there would be any benefit to jointly lobbying the State for additional funding of student housing.¹⁰
9. We will take responsibility for contacting the University to discuss their policy toward enrollment and how housing problems associated with this policy can be addressed.

¹⁰ This is based upon survey information provided by Fort Collins which indicated a significant number of students living in non-University affiliated housing; survey respondents did not identify over-occupancy as a problem in Fort Collins.

CITY COUNCIL ACTION

By adopting this policy statement, City Council intends to lend support to the City Manager's attempts to address long-standing problems in three neighborhoods, as well as to provide a strategic framework for continuing evaluation and revision to the City's code enforcement approaches and protocols.

Most of our longer term recommendations are included in the sample policy outlined above. We have summarized the characteristics of our basic approach to improving enforcement below:

1. Emphasizes proactive enforcement, while continuing to respond as promptly as possible to complaints
2. Involves greater use of data to monitor repeat offenders and plan proactive focused enforcement for identified problem locations
3. Involves the development of neighborhood-specific performance standards and the means to monitor accomplishment of these performance standards
4. Requires a single method for defining neighborhoods
5. Requires continuation of the limited term position assigned to environmental code enforcement during 2002, to provide the staffing needed for a proactive approach
6. Requires the development of alternative enforcement tools and protocols, as well as improved educational approaches
7. Requires greater involvement of University administration, neighborhood associations, and neighborhood business owners in the development of educational efforts, operational planning, and enforcement protocols
8. Emphasizes enforcement and education focused on property owners and managers
9. Includes economic incentives to reduce violations, such as excessive consumption fees
10. Depends upon the University and the City working together to develop student housing alternatives

Short-Term Recommendation: as an interim measure, implement a focused proactive enforcement in neighborhoods with high levels of violation or lack of compliance

In the interim, while the longer term review is being completed, we recommend that the City consider implementing a focused proactive enforcement of the University Hill, Goss-Grove, and Martin Acres Neighborhoods. This focused enforcement would include:

1. Utilizing information detailed by address within neighborhood to identify locations with past violations
2. Sending information to the property owners, managers, and occupants regarding past violations, along with brochures to assist in avoiding future violations
3. Including property owners and managers, as well as the neighborhood associations and neighborhood business owners in planning for this focused enforcement
4. Involving all departments with responsibilities for code enforcement business processes in coordinated, proactive contacts in the neighborhoods (including staff from the Police Department, Environmental Enforcement Officers University Police, and Fire Department and Parking Enforcement staff, whenever appropriate)
5. Making the effort partly education—an attempt to work with properties which have experienced violations in the past so as to avoid future complaints
6. Identifying any obvious violations and dealing with these as swiftly as possible.

Such proactive enforcement should, if it is effective, eventually reduce the number of complaints--partly because anyone amenable to education will respond by eliminating the behavior which might result in violations. In addition, the City will be able to better identify those properties with violations and focus continuing efforts at bringing these properties into compliance.

Short-term Recommendation: as a part of the focused proactive enforcement, test more clearly defined protocols for dealing with violations

The normal procedures identified in Appendix C illustrate the general protocols in use. We suggest a few specific changes including:

1. Change noise procedures to require that a summons be issued for any locations that have had a noise warning within 90 days; also notify property owner and manager, occupants, and neighborhood associations of any complaints, warnings, or summonses for that location.
2. Change occupancy procedures to require immediate notification of property owner and manager, occupants, and neighborhood associations of any complaints, warnings, or summonses for that location. Consider the use of written compliance agreements for properties with occupancy violations, especially first time violations.
3. Change trash and weed procedures to include notifying the neighborhood association about any complaints/violations within their neighborhood.

CODE-RELATED ISSUES

Finding #2: Boulder codes do not appear to impede code enforcement; however, to make use of the full range of potential enforcement tools, major changes would have to be made. The use of some enforcement tools, based upon redefining environmental code violations as civil violations, appears to be limited by the State Constitution.

Until City Council has adopted clear policy directions for code enforcement, it will be difficult to determine any detailed required changes in the code needed to support this policy direction. However, we have made recommendations for utilizing enforcement alternatives which do not appear to require immediate ordinance changes.

Observations regarding alternative enforcement tools not currently routinely in use in boulder

The City has spent a significant amount of time on ordinance revisions intended to simplify code enforcement. For example, a couch ordinance has been drafted; the party noise ordinance has been adopted. However, these changes did not go to the basic question of whether code enforcement violations should be in the civil or criminal codes. The State Constitution may be an impediment in some cases. Implementing a full range of enforcement tools might require considering the following alternatives to the traditional “educate, warn, ticket, and adjudicate” process currently in place:

- More frequent use of direct payment of fines, without any adjudication process
- Implementation of an administrative adjudication process, including:
 - Informal hearings before a hearing officer, at the discretion of a code enforcement official—either environmental or zoning—to impress upon potential or suspected violators the importance of code violations
 - Formal hearing before a hearing officer, where fines could be assessed, as well as a fee based on the full costs of the hearing officer and/or board
 - Appeals to the municipal court, with the ability to order fines, community service, restorative justice, and court costs

- Use of administrative citations, nuisance abatement liens, small claims court, etc.
- ❑ Implementation of community code enforcement boards—another type of administrative adjudication process
- ❑ Implementation of excessive consumption fees—an approach which charges those property-owners whose properties are the subject of “excessive” visits
- ❑ Use of mediation to achieve compliance

Another alternative is the use of abatement. The EEO’s have used abatement infrequently because they feel it is cumbersome, time consuming, and costly. During 2000, abatement was used about 8 times and those 8 cases of having a contractor clear snow consumed \$1,200. Currently, abatement costs are paid from the Zoning and Environmental Code Enforcement Unit’s budget. The process includes charging owners, although the City initially pays any contractors; owners can appeal abatements. 50% of the owners appealed abatements last year. If owners do not pay, the charges are certified to the county, to be added to the next tax bill. Only when the tax bill is paid will the City finally be reimbursed. The EEO’s estimated that they have used abatement about 4 times during 2001. They prefer to save abatement for major violations, after other alternatives have been pursued. On the other hand, using abatement may quickly eliminate unsafe and unattractive accumulations of snow and ice, weeds, and/or trash. Citizens do seem to be looking for these quicker solutions.

In general, in other cities these alternatives have been planned to provide quicker response and to reduce the costs of a traditional court process. However, designing alternative processes so that they include as many steps and appeals as court-adjudicated cases significantly reduces their usefulness. Many of the alternative processes used by others cities, including abatement, are very time-consuming.

Other alternatives, such as the excessive consumption fee alternative, are philosophically attractive. The excessive consumption fee provides an economic incentive to avoid too many visits from code enforcement or police staff by charging those who do have too many visits. Any alternative which actually charges a violator for the costs of his violations is attractive. In addition, as it is used in Saint Paul, the fee is obviously intended to be an instrument of shame—violators’ names are published on the City’s website. In the end, however, there is no way to determine whether these alternatives would actually result in more prompt and complete compliance than the traditional methods in use in Boulder.

Observations about defining code enforcement violations as civil or criminal infractions

Implementing many of the alternative enforcement tools outlined above, would require moving code enforcement issues from the criminal to the civil code. Although the Colorado constitution appears to limit the City’s ability to redefine some environmental code violations as civil offenses, doing so might have some advantages:

- ❑ Philosophically, it may be difficult to get court officers, the University, and even violators to take seriously violations which seem so much less serious than other elements of the criminal code.
- ❑ The evidence required to prove a civil violation may not be as difficult to gather, as it does not have to meet the “beyond a reasonable doubt” test.
- ❑ Using administrative adjudication processes (such as a hearing officer process) generally results in speedier resolution and less costly processing. In particular, Boulder’s prosecutors, who now spend 15-30% of their time on environmental code enforcement violations, would be freed to work on more serious issues.

On the other hand, we have had recent discussions with code enforcement staff from the City of Eugene, Oregon who do not have the ability to write criminal citations. There is a view in Eugene that having that ability could greatly strengthen their enforcement capability.

Some cities in Georgia and Florida use a volunteer code enforcement board. In fact, in some cities such a board operates in each formally recognized district or neighborhood within the city. Although this alternative is attractive, as it allows neighborhoods to develop individualized standards for enforcement, we noted that just as many cities seemed to be opting out of these arrangements as were implementing them. Again, the issue was stakeholder feelings that the code enforcement boards were too lenient and that a court might be less so. This is just another indication that the balance between public good and individual rights is difficult to maintain and that stakeholders everywhere are searching for the perfect solution.

Using an administrative process could ultimately result in a real savings for the City Attorney's Office and for the Municipal Court. Prosecutors now spend an estimated 15-30% of their time on environmental and zoning code enforcement; Municipal Court staff could not easily provide a similar time estimate, but noted that they, too, spend a significant amount of time on environmental code enforcement issues. Occupancy cases are particularly time-consuming. In addition, EEO and Zoning Inspector time could be freed from doing the extensive investigation required under a criminal code.

From our cursory review of the Colorado Revised Statutes, it appears that noise and trash violations could not be moved from the criminal and civil codes, as the Statutes already list these violations as criminal violations. We do not have the legal expertise to determine whether other environmental and land use violations could be handled as civil violations.

Recommendations Related to Finding #2

Building upon the City Council adoption of goals and strategic framework, a review of ordinance changes needed to implement any desirable enforcement alternatives should be conducted. However, for the interim, until the detailed review is conducted, the City should consider the following alternatives which do not appear to require ordinance changes:

- ❑ *Experimenting with the use of written, voluntary compliance agreements for those violators who have occupancy-related violations.* These agreements should identify clearly the bases for determining there is a violation, the timing for compliance, and the standards by which compliance will be judged. The agreements would include holding fines in abeyance, as property owners attempt to bring occupancy into compliance. Examples of the standards by which compliance could be judged :
 - No trash or weed violations for the next 12 months.
 - No complaints regarding excessive noise or vehicles for the next 24 months.
 - All future leases specifically identifying the legal number of occupants.
 - Signed notices obtained by enforcement officers that all occupants had been made aware of the legal number of occupants.

- ❑ *Considering the use of direct fine payments for simple violations where the violator is willing to accept responsibility, rather than taking the time of the Municipal Court and the City Attorney's Office.* This alternative might be particularly useful for trash and weed and snow and ice violations. This might allow Municipal Court and City Attorney time could to be focused on more serious violations. In addition, if the City's policies allow, a portion of these fines should be set aside to assist in paying abatement costs.

- ❑ *Studying the use of excessive consumption fees for code enforcement and police services.* This alternative is based upon fees assessed by the Cities of Milwaukee, Wisconsin and Saint Paul,

Minnesota to recover the costs of code enforcement and/or police services from those landlords whose properties require what are considered excessive services. In Milwaukee and Saint Paul the number of allowable visits before the fee is assessed is three.

- ❑ *Considering revisions in the abatement process might make it a more attractive tool.* The City could determine whether it could provide the abatement services more economically itself, rather than using contractors. In addition, some cities take unpaid claims to small claims court, rather than adding these costs to a tax bill. Based upon the experiments with direct fine payments, as described above, the City might be able to establish a small abatement fund which would become self-funding from direct fine payments and then from reimbursements from abatements.

CODE COMPLIANCE, ABATEMENT, and PUNISHMENT

Finding #3: The City's approach to code enforcement has always emphasized the use of education. Recently, there has been a move to write summonses, even for some first offenses where the code enforcement staff find the violation "egregious." This more stringent approach to enforcement has not been implemented based upon a clear set of policies and strategies formally adopted by the City Council.

Abatement (defined as remediation of a situation which is considered to violate a code requirement) can be performed by violators, in which case the guiding principles state that additional punishment is generally not assessed. In those cases where a City takes responsibility for abatement, because a violator does not abate the situation in a reasonable time, fees may be assessed to cover the entire costs of such abatement. These fees are not considered punishment. Once abatement occurs and fees have been paid, additional punishment may not be required. In some cases, additional fines and community services may be reasonable additional penalties aimed at preventing future violations. Such remedies are more appropriate for recurring violations than for first time violations.

There is an indication that some stakeholders, particularly permanent residents of the University Hill Neighborhood, believe that punishment should be the goal of environmental code enforcement, perhaps because they have not found the desired improvement in code compliance resulting from the educational approach.

Observations regarding education and compliance

The City of Madison, Wisconsin states on their website that the goal of their code enforcement is education. Enforcement comes, but only if necessary. For Boulder, a similar philosophy had been in place. However, many of the stakeholders, even some City managers and employees, now speak somewhat disparagingly of the educational approach. That may be due to the fact the current methods of education—particularly related to noise, trash, and over-occupancy--appear to have been relatively ineffective. There is no way to determine whether individuals for whom the EEO's provide education actually change their behavior due to these attempts at education. This determination is made more difficult because of the turnover in students, who are assumed to be the worst violators. This issue is also related to the discussion of whether to focus enforcement on the actual violators, or on property owners or managers and has been addressed in our detailed review of the questions to be considered in developing goals and a strategic framework for code enforcement (see appendix J), as well as our sample policy statement.

Observations regarding punishment

During the discussion and development of the goals and strategic framework for code enforcement, this basic issue--whether additional punishment should be used, even when a violator has abated a situation, or has paid the City for such abatement-- should be carefully considered. One element of this discussion should be definition of when abatement has been considered to have been accomplished. For example, if there has been noise, does stopping the noise constitute abatement—or does stopping the immediate noise and keeping a property free from noise violations for a specified time constitute abatement?

Based upon our interviews and other historical documents we reviewed, we have assumed that some of the permanent residents believe that punishment should come much earlier in the enforcement process. In particular, recent notions of punishment have focused on landlords and/or property managers, since the students who are violators tend to be temporary residents. This issue has been addressed in the sample policy.

Recommendations Related to Finding #3

Our recommended sample policy clearly indicates that we support effective code enforcement—that is we support approaches which actually result in improving compliance with the codes, or in reducing the number of violations. Current methods of education have not been as effective as anyone would wish. Thus we recommend that:

- As a part of the City's participation in the focused proactive enforcement, specific documents be developed that clearly state the City's approach to enforcement, including the decision to focus enforcement on property managers and landlords
- The City contact the University regarding having EEO's and Police Officers provide written material to be sent to the parents of students who are at the end of their freshman year; this information should focus on the City's code enforcement approaches
- EEO's and Police Officers be afforded the opportunity to meet with students at any appropriate orientation sessions to discuss the City's more stringent enforcement approaches
- The zoning inspector work closely with property owners and managers to review leases to verify that all leases clearly state the appropriate occupancy limitations
- EEO's and Police Officers notify all appropriate stakeholders of complaints and violations at any property in which they have interest
- Property owners and managers be informed that they are being held liable for the behavior of their tenants, but that they will also be involved in the planning and development of enforcement approaches and will be informed of complaints and violations in a timely fashion
- Abatement be redefined for purposes of enforcing the noise ordinances to be not only stopping noise, but continuing without additional noise violations for at least a six month period

GOOD CODE ENFORCEMENT IS PROMPT, CONSISTENT, PREDICTABLE, and FIRM

Finding #4: Environmental code enforcement is not as prompt or consistent as some of the stakeholders would wish; however, enforcement does appear to have become more predictable and firm.

Communications with stakeholders regarding enforcement actions is lacking or delayed.

Since 1998, code enforcement appears to be more predictable and firm, if one defines predictable and firm as writing more summonses; however, some permanent residents of the Hill have not yet acknowledged this more stringent enforcement. Further, it has not yet been determined that writing additional summonses, with higher fines, is producing the desired improvements.

Observations regarding this general guiding principle

Consistent, firm, predictable, and prompt enforcement of the environmental code is a worthy goal. The problem is that, without fairly specific measurements which define acceptable standards for achieving these goals, there is a lot of room for disagreement about whether Environmental Enforcement Officers are achieving the goals established based upon available resources. For example, if the City had 100 EEO's, then complete proactive enforcement might be possible, with an EEO on each noisy corner, moving promptly to stop any party which became too noisy. The problem is that the City does not have the budget to hire 100 EEO's and probably would not want to hire them, even if they did have the budget, since other services might be considered of higher priority. Thus, in establishing standards for determining whether services are appropriate, not only must there be stakeholder input, but the available resources must be considered.

Observations regarding promptness

Our review of data from the Land Link system indicates that, given the resources available (i.e., 2 permanent, full-time environmental code enforcement officers) response to noise is as prompt as possible. Response to trash and weed complaints during the April to October "noise season" is undoubtedly slower than anyone would wish, but staff are assigned to work on noise during that time of the year. Occupancy issues are sometimes considered to take too long because the research takes a good deal of time. Both trash and occupancy violations can be retroactive to the point a violation becomes known to the Zoning Inspector or EEO; however, a landlord may not know about the violation until it has been investigated.

Determining an appropriate promptness standard varies according to the type of violation. Obviously, responding within 3 days to a noise violation is useless, because those violations are ephemeral. Thus, a very prompt response standard is required for noise. On the other hand, a three day response to a weed problem would seem appropriate.

We did calculate response times based upon detailed information gathered on approximately 50% of all cases/complaints investigated from June of 1999 through August of 2001. There were some fairly significant data issues encountered during this effort, which we have carefully detailed in Appendix E. Basically, in order to conduct the analysis, we ignored cases for which the start dates were earlier than the complaint dates. Obviously, this means that there are questions about the data. Since we had to gather this data manually, we were not able, due to time constraints, to update this data through October. Our findings regarding response times follow:

It should be noted that we did include 18 months of data, but that if there were any major changes made during September and October of 2001, our response time calculations may not be totally accurate.

Noise Complaint Response Times

The Environmental Enforcement unit responds to roughly a quarter of all noise complaints within four minutes and 90 percent of all complaints within about half an hour.¹¹ The following table summarizes response times.

Response time	Percent at this level	Cumulative percent at this level
Under 4 minutes	25.9%	25.9%
4 to 8 minutes	25.3%	51.2%
8 to 16 minutes	20.9%	72.0%
16 to 32 minutes	18.3%	90.3%
More than 32 minutes	9.7%	100.0%

Trash and Weed Complaint Response Times

- Between June 1999 and August 2001, the median response time for trash related complaints was one day. 83 percent of all complaints were investigated within one week.¹²
- Between June 1999 and August 2001, the median response time for a weed related complaint was one day. 87 percent of all complaints were investigated within one week.

Response Time for Occupancy Complaints

Between June 1999 and August 2001, the median time between an occupancy complaint being registered and case being investigated was 6 days. 32% of all cases were investigated within 2 days. 44% of all cases were investigated within 1 week, and 73% of all cases were investigated within 2 weeks.¹³

Observations regarding consistency of enforcement

Consistency of enforcement can be analyzed in several ways, including:

- Do City policies indicate a consistent philosophy toward the enforcement of environmental codes?
- Has enforcement been consistent over time?
- Do all of the departments involved in code enforcement approach enforcement consistently?
- Is code enforcement applied consistently across the City?
- Has there been consistency in the firmness, predictability, and promptness of enforcement?

In general, based upon the reviews of City documents and our interviews, we have found that the City has not had much consistency in its approach to environmental code enforcement. In some cases, the lack of long-term consistency can be traced to varying public opinions regarding the appropriateness of the firmness of response. This sort of "inconsistency" is acceptable and expected. As public opinion and desires change, the stringency of enforcement probably should change.

¹¹ These percentages were developed based on a review of a sample of roughly half of all responses to noise complaints in 2000. Response time was calculated as the difference between the time the call was dispatched by the police department and the time recorded in office records for arrival on scene.

¹² Approximately 10 percent of all observations could not be used due to questionable start dates for investigations (see Appendix E).

¹³ Approximately 10% of occupancy-related cases could not be used due to questionable start dates (see Appendix E)

Recently, however, a feeling has grown among city staff stakeholders that the level of code enforcement service expected by the University Hill Neighborhood exceeds that provided to the City in general. For example, Police Department response to noise on the Hill is significantly higher than the response to similar issues in other parts of the City. Similarly, the Environmental Code Enforcement staff also attempt to provide a higher level of customer service to this Neighborhood—probably because the Neighborhood demands this higher level of service. On the other hand, given the severity of the potential results of not providing this higher level of service to this neighborhood (e.g., riots, fires), a higher level of service may be totally appropriate.

The problem is that the Neighborhood's complaints, and the City's response to these complaints, have constituted an **informal** change in policy. This change has not been based upon any strategic approach, with detailed analysis and review of the needs of all of Boulder's residents. Rather, it has been a response to complaints which has become almost an institutionalized response. City management had assumed that the service demands from the University Hill Neighborhood would be temporary, that reinforcing enforcement would result in improvements which would resolve many of the complaints from the permanent residents. Unfortunately, the Hill Neighborhood wants the current more stringent enforcement to continue, even though the City has not made a commitment to continue this approach into the future. Many issues need to be considered:

- ❑ City Council has not adopted a clear philosophy and approach, with supporting standards, for environmental code enforcement.
- ❑ No analysis has been made of the impacts on the City's ability to provide services to the rest of the City, with current staff, if this higher level of service for the University Hill Neighborhood continues.
- ❑ University Hill Neighbors would like to have some commitment that the improvements that have been made will continue, but have no way of knowing that this is the case.

Observations about predictability and firmness of enforcement

In general, environmental code enforcement has been characterized as being “too lax” by most of the stakeholders interviewed. Since there are no written policies or standards established related to the appropriate level of enforcement-- either by City policy-makers or by City management--the appropriate level of firmness of enforcement had never been established. There are strong indications, however, that enforcement has been strengthened:

- ❑ Data collected on trash and weed complaints show that the stringency of enforcement appears to be increasing. In 1998, Environmental Enforcement wrote 2 summonses for trash and weed problems. The number of such summonses written rose to 7 in 1999 and to 20 in 2000. For the first six months of 2001, 26 summonses were written. This is a twelve-fold increase over the full year total for 1998.
- ❑ Data collected on occupancy complaints shows that the percentage of summonses resulting from complaints had risen from 2.7% in 1998 to 16.8% through October 15th of 2001
- ❑ The enforcement of noise-related codes by the EEO's has become more stringent during 2001. In fact, as of October 15th, the EEO's had issued more noise tickets than had the Police Department:
 - In 2000, EEO's issued 25 noise summonses; through October 15 of 2001, they have issued 75 summonses—an increase of 200%.
 - In addition, from June 1 to October 15 of 2001, EEO's have issued 16 nuisance party summonses.
 - In 2001, through October 15th, the Police Department had written 65 noise summonses and 9 nuisance party summonses.

Recommendations Related to Finding #4

While awaiting the City Council adoption of code enforcement policies, it is important that the City develop and publish appropriate neighborhood-specific statistics to illustrate both the level of code compliance and the impact of its strengthened enforcement efforts. These statistics can then be discussed with the neighborhood associations. They can also be provided to City Council, as it is undertaking its review of code enforcement. We have included a variety of performance measures which could be used to supplement the City's current measures. These measures are outlined in Appendix H.

While issues of consistency must await Council's review policy adoption, the Environmental Enforcement Officers and Zoning Inspector could provide a better sense of the promptness of response and allow landlords/property managers an earlier warning about potential violations by sending a post card or e-mail message to all involved parties to indicate that a complaint had been reported...or that a potential violation had been identified. If neighborhood associations can also be notified at the same time, one of the annoyances reported by stakeholders--not knowing where a particular complaint is in the process--might be reduced. Ultimately, all complaints and their status could be listed within the City's website.

CREATIVE HANDLING OF NOISE CALLS

Finding #5: The guiding principle that indicates that police departments should consider creative approaches to handling nuisance calls, such as noise, has already been addressed by utilizing the EEO's during noise season.

Observations

We reviewed several cities' websites to see whether we could find any particular references to noise calls. In some instances, such as with the City of Dayton, Ohio, it is clear that these calls are considered of a lower priority. Dayton has a non-emergency number for these calls. Other cities direct the calls to their police dispatcher, but are very open in identifying these calls as having a lower priority. In Boulder, at least recently, there has been a concerted effort to give all noise calls, but especially those from the University Hill Neighborhood, a higher priority.

Recommendations regarding Finding #5

We recommend that EEO's continue to provide first response for noise complaints during the noise season. Some consideration should be given to determining whether they should only respond to noise on the Hill during the noise season, having even more focus on this area of heavy noise concentration.

PLANNING

Finding #6: Planning related to noise issues has improved significantly. The ability to plan operations and long-term strategic approaches is limited by the fact that the City has no adopted code enforcement policy. It is not clear, for example, whether the City has determined that it wishes to continue its current complaint driven system or to undertake a more proactive approach.

Observations

Day-to-day planning on noise issues has improved significantly; for example, the Police Department notifies EEO's of any locations for which they have noted noise problems and the EEO's will visit these

locations to explain the City's ordinances relating to noise. In addition, planning for special events, such as the beginning of the school year, seems to be working well.

Recommendation Related to Finding #6

Once the City Council has adopted specific code enforcement policies, it will be important that all departments involved in code enforcement business processes jointly develop strategic code enforcement plans. For the interim, see our recommendations under Finding #1 related to planning proactive focused enforcement and other recommendations related to work coordination.

ORGANIZATION AND STAFFING

Finding #7: Organization of work efforts appears appropriate; however the City is not making the best use of all of its resources, including other staff in departments with related responsibilities, in developing integrated approaches to enforcement.

Observations regarding the organization of work efforts

There do not appear to be any problems with the overall organization of work efforts. Work is rationally divided among the involved departments. There is a clear division of labor, but no coordinated strategy for approaching code enforcement. Again, each individual department involved seems to have a clear and cogent plan for approaching code enforcement work; however, these plans are not coordinated and not necessarily supportive of each others efforts. In addition, the individual departmental approaches are not supported by any general philosophy of code enforcement. And, there has been no agreement among the stakeholders as to the role of the University in supporting the City's environmental code enforcement efforts.

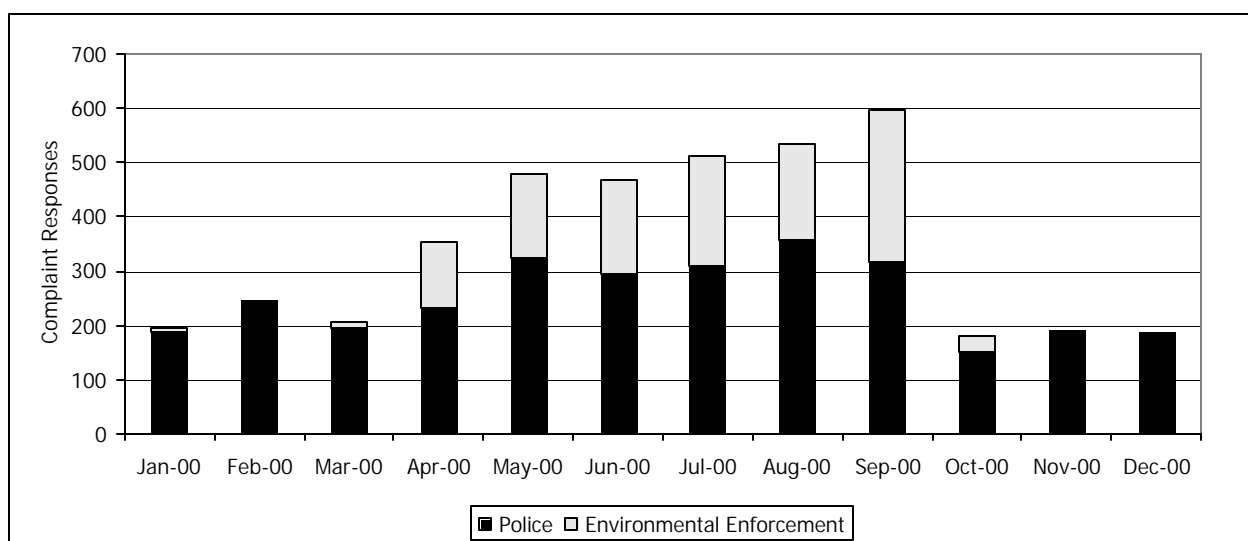
Because there is no consistent and focused cross-departmental coordination, the efforts of the EEO's, the Zoning Inspector, the Police Department (as well as related efforts of the Fire Department and Parking Enforcement) have not been used to consistently support each other. Thus, the City is not achieving the greatest benefit from these usually isolated efforts.

Our review indicates that the problems with the City's environmental enforcement efforts are not specifically with the City's organization. The organization is certainly unusual—we could find only one other city which has a noise office—Portland, Oregon. Although Boulder does take an unusual approach to staffing for noise violations, the approach does seem to work, in spite of the lack of support for this approach from some members of the University Hill Neighborhood Association. The City is able to have the equivalent of additional police officers during the times when noise is particularly heavy, especially around the University. In addition, these staff members are available during other times of the year to pursue trash, weed, occupancy, and other violations. If the Police Department were to have to assume full enforcement of the noise ordinances, we estimate it would take at least an additional 2 FTE. And, these FTE's will be more costly by way of salaries and fringes than the EEO FTE's.

Many University Hill Neighbors have been adamant that appropriate noise enforcement can only be provided by the Police Department. They have advised us that the best organizational arrangement is for the Police Department to assume responsibility for enforcing the environmental codes. Recent information shows that, as of October 15, 2001, the Police Department has actually written fewer summonses for noise and nuisance parties during 2001 than have the EEO's. The following general statistics illustrate that the Police are not necessarily enforcing noise ordinances more firmly than are the Environmental Enforcement Officers:

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- ❑ In 2000 the City received 4,154 noise complaints. Approximately 72 percent of all noise calls were handled by the Police Department. 28 percent were handled by the Environmental Enforcement unit.¹⁴
- ❑ In the first six months of this year, noise complaints rose 8 percent over the same period in the prior year. In the first six months of 2000, the Police Department responded to 76 percent of noise calls, while in the first six months of this year they responded to 78 percent of noise calls.¹⁵
- ❑ The Police Department handles noise related calls year-round. The Environmental Enforcement unit redeploys its staff to handle noise calls during the peak problem periods: April through September. However, there are only two full-time EEO's and there are many more police officers. The following chart shows the number of noise complaints handled by EEO's and those handled by the Police Department.



The Police Department has been very open about their lack of interest in using their officers who have been trained for other work to perform code enforcement. Although the issues covered by code enforcement are important quality of life issues, they are generally less violent and less in need of the special approach and training required for police officers. It is assumed that the concerns about noise experienced in other college towns also illustrates the fact that noise does not go away because police officers are handling the calls, since the Police Department covers noise calls in most cities .

If assigning noise violations and other code enforcement issues to the Police Department were the answer, then other cities that have this organizational arrangement would be expected to have fewer problems with code enforcement. Based upon our experience, that does not appear to be the fact.

Environmental and Zoning Code Enforcement staffing appears to be somewhat thin. For example, the City of Fort Collins has 4 full-time code enforcement staff assigned to handle weed, trash, and snow and ice enforcement. Since these issues are only 25% complaint-driven, there are many more cases than in

¹⁴ The Environmental Enforcement unit makes additional calls that are pro-active and not routed through the City's dispatch system.

¹⁵ It is important to keep in mind that the Environmental Enforcement unit assumes a greater percentage of the calls in the months of July, August and September, so the response rate for the first half of the year may not be an indicator of the distribution of calls for the full year.

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Boulder. Another 2.75 staff handle occupancy, sign code, and other zoning code violations. Noise is handled by the Police Department. There is some indication that the work performed in Boulder, if it were to become any more proactive, might require more than 2 full-time environmental enforcement staff and 1 full-time zoning inspector.

Recommendations Regarding Finding #7

There appear to be several alternatives for staffing to provide environmental and zoning code enforcement. In Appendix G we have noted some of the “interesting” variations in staffing and organizing for code enforcement that we found in our research. We are not recommending these alternatives, but we did want to identify them for the readers of this report, if they should wish to widen their search for ways to organize. In fact, the best methods for staffing and organizing to provide enforcement of the zoning and environmental codes is dependent, as are many other issues, upon the strategic approach that City Council chooses to pursue. However, we have attempted to detail the advantages and disadvantages of the two most obvious alternatives: keeping the current organizational responsibilities and moving that responsibility to the Police Department.

Department Responsible for Environmental Code Enforcement	Advantages:	Disadvantages
Zoning and Environmental Code Enforcement Unit	<ol style="list-style-type: none"> 1. Staff are focused only on environmental code enforcement and are rarely assigned to any duties outside of their areas of expertise 2. EEO’s may be able to work in situations where that police authority is not an advantage 3. EEO’s have lower total compensation 	<ol style="list-style-type: none"> 1. Small office leaves no room for staff to move among duties, to reduce the burnout associated with being assigned to the same duties all of the time 2. EEO’s do not have the same aura of authority as police officers
Police Department	<ol style="list-style-type: none"> 1. Other duties with a higher public safety priority may result in a lower level of code enforcement 2. Police Officers have more authority than do EEO’s 3. More opportunities for staff to move within the department to avoid burnout 	<ol style="list-style-type: none"> 1. Total compensation is higher 2. Staff would likely be pulled off to work on more serious criminal violations. 3. In those cases when another level of authority is required, that highest level has already been used earlier in the process

In spite of the strong feelings of some permanent University Hill residents, we believe that the advantages of continuing to use the Environmental Enforcement Officers outweigh the disadvantages. EEO’s have actually written more noise tickets recently than have Police Officers. We believe this shows that EEO’s are also committed to providing the more stringent enforcement which seems to be desired. And, there is no indication that moving these responsibilities to the Police Department will improve the situation—other college communities have noise problems, even though their police are nearly always responsible for noise code enforcement.

In addition, we recommend the continuation of the limited term position for another year, to allow the staff needed to provide more proactive enforcement and the strengthened enforcement which some residents seem to prefer.

Finally, in order to achieve the greatest use of all of the resources, we are recommending the use of a proactive focused enforcement in neighborhoods with a high number of violations, including the EEO's, the Zoning Inspector, the Police Department, the University Police and the Fire Department and Parking Enforcement, whenever appropriate.

INFORMATION SHARING

Finding #8: Information sharing has improved during the last year, particularly related to the enforcement of noise violations; however, additional improvements need to be made, including determining the best ways to use the technology already available to support operational and strategic planning. Specifically, improvements need to be made in determining who has been warned for noise violations during the last 90 days. There are problems in getting the Police Department systems and the Land Link systems to share this information.

In Appendix E we have outlined a variety of data problems which need to be rectified before the information currently collected can be effectively shared and used for operational planning.

Information requirements, and any related improvements in technology, are dependent upon the approach to environmental code enforcement adopted by City Council.

Observations regarding information sharing

Information sharing is made difficult due to the various systems in use among the involved departments. Information systems are fragmented and do not appear to provide the information needed for any integrated approach to planning and operations. The Land Link System appears to have greater capacity to provide management information than is currently in use. All participants do share ideas; however, since there is no overall sense of specific, coordinated, and shared objectives, there is no framework for sharing ideas. The unit of analysis and action is still the individual department/division. In particular, the Police Department and Environmental Enforcement Offices are not doing as well at sharing information regarding who has been warned for noise violations during the last 90 days. For this reason, some violators may escape punishment. On the other hand, at least partly due to this problem of sharing warning information, there has been a move to give fewer warnings and move directly to writing summonses.

Observations regarding data problems and technology improvements

There are enough problems with quality control in the Land Link data that it would not be totally effective for operational planning. These problems need to be resolved through improved quality control.

If the decision is to use a more proactive approach for code enforcement, then it would be important to develop a method for selecting the areas for this proactive enforcement. Selecting these areas would require regular neighborhood-specific data reporting, and the associated ability to develop and put to use specific neighborhood definitions.

Recommendations Related to Finding #8

While awaiting the City Council adoption of a code enforcement policy, the Acting Inspection and Enforcement Supervisor should work with the City's information technology staff to determine how to improve the quality of the data in the Land Link system. In addition, he should work with the technology staff to determine whether the full capabilities of the system are being used, in preparation for any potential changes in the data needed for operational planning. He could use the planning for focused enforcement to determine whether the data is readily available to support such a planning effort. He needs to put into place a plan for improving the quality control of data entered into the Land Link system.

WORK COORDINATION

Finding #9: Coordination among the organizational units responsible for various activities within the code enforcement business practices has improved during the last year; however, defining specific additional improvements in coordination is dependent upon articulating the goals and standards of code enforcement around which coordination can appropriately be built.

Observations

Recent responses to the problems identified by the University Hill Action Group, as well as continued pressure from the University Hill Neighborhood, have certainly led to improved coordination of work between the EEO's and the Police Department on noise issues. The City Attorney's Office and the EEO's, as well as the Zoning Inspector, have been working in a more coordinated fashion to address noise, trash, and occupancy issues.

However, before additional coordination is planned and undertaken, there must be an articulated philosophy for approaching code enforcement, with the associated standards for performance. With this framework in hand, City managers can determine the most efficient and effective methods for approaching coordination.

Recommendations Related to Finding #9

Until City Council has adopted a code enforcement policy, an interim step in work coordination would be to have related departments work jointly to plan and implement focused proactive enforcement, including determining the data available to support this effort.

MONITORING MECHANISMS, PERFORMANCE MEASURES, and REPORTING SYSTEMS

Finding #10: No formal mechanisms are in place for monitoring problem locations.

Current performance measures are not related to any articulated philosophy.

There is no uniform definition of neighborhood to support monitoring and reporting measures.

Current performance measures and reporting systems are not adequate to provide the information required to monitor performance and to provide the information needed to report to stakeholders.

Observations regarding monitoring problem locations

There appear to be no formal mechanisms in place for monitoring problem locations and for following up on repeat offenders. Institutional knowledge of the staff members, who are familiar with continuing problems at specific locations, has been the basis for reviewing repeat offenders. When we requested information on the most egregious repeat offenders, we found that information was not readily available. Thus, we actually developed the information ourselves. The City's technology staff were most helpful in assisting us in mapping these addresses. The information we developed on 100 most frequently visited addresses is detailed in Appendix D. Information on enforcement related to the 16 top repeat offenders is detailed in Appendix C.

Observations regarding performance measures

The performance targets included in the 2001 budget do not provide the information on performance needed to report to stakeholders or to manage short-term operations. Neither do they provide the

information required for long-range planning. Of course, these performance measures would need to be based upon a defined set of goals and objectives, which the City has not yet approved. Thus, no reporting system could be developed to monitor achievement of these goals and objectives.

Issues relating to establishing goals and related measures have been covered in some detail in previous recommendations regarding the development of goals and a strategic framework for code enforcement. In addition, it is important to note that, in Appendix I—Performance Measures—we have identified the fact that many entities focus on the percentage of dwellings in compliance with codes in developing their performance measures. We strongly recommend that Boulder do the same, since we assume that City Council will ultimately approve a policy statement which includes code compliance as a goal. Changing to this measurement indicates that the City has acknowledged that most dwellings are in compliance and that enforcement is focused on those dwellings that are out of compliance. Thus, operational planning will focus on those who are not in compliance. This means that code enforcement officers would actually focus their non-noise season efforts more specifically. Similarly, it would mean that the City would determine the data required reporting on compliance and that any technology-related training and changes developed during the interim would focus on determining the percentage of dwellings in compliance.

It should be noted that the Community Advisory Committee felt that measuring compliance might allow the City to claim that since the vast majority of dwellings were in compliance, that there was no need to improve code enforcement efforts in neighborhoods with lower compliance levels. For this reason, we also recommend that these data be neighborhood-specific. In that way, operational goals can be established to set a City-wide standard; neighborhood compliance rates should also be established. Then, goals should be established of bringing neighborhoods with lower than standard compliance rates closer to the City-wide compliance rate. However, we agree that measuring the number of dwellings with violations and reducing that number, as is desired by the Community Advisory Committee, is a similarly useful tool.

The data required to calculate percentage of compliance could also, hopefully, illustrate those dwellings which are often not in compliance. This information would be needed to plan the focused enforcement of the University Hill Neighborhood, as well as to determine other areas in the City with a high percentage of non-compliance.

In a related issue, the City should also consider publishing more widely its latest statistics on complaints and summonses written. These statistics can then be discussed with the neighborhood associations. They can also be provided to City Council, as it is undertaking its review of code enforcement. The focus of data analysis will be to determine, ultimately, whether writing additional summonses actually impacts the percentage of dwellings in compliance with codes...or the number of dwellings with violations. Again, all data would be more useful if arrayed by neighborhood.

Observations regarding the definition of neighborhoods

Terry Westover, the City's Evaluation Coordinator, has identified an obvious problem with developing neighborhood-specific performance information and monitoring systems: the City does not have a uniform definition of neighborhoods. Several systems are currently in use:

- The Assessor's definitions, based on legal property boundaries
- The neighborhood map recently released by Mary Huron
- The subcommunities designation developed and used by Planning

Terry also suggested an alternative which might include collecting point data, much like the Police Department's crime maps. The problem with this approach is that accumulating data by area, for comparison purposes, is difficult.

We cannot determine the best method for this use; however, it is obvious that this is a technical problem which must be solved before neighborhood-specific data can be developed.

Recommendations Related to Findings #10

All of these issues are dependent upon the City Council adoption of code enforcement policies. For example, it is not necessary to monitor problem locations if your system is to be complaint-driven. Monitoring implies the intent to do something about the data gathered in monitoring. That decision, of course, has not been made. However, if the City Council determines that a more proactive system is appropriate, such monitoring is required for the development of a rational operating plan.

If neighborhood-specific data are to be used, then the City must develop a neighborhood designation which is useful for code enforcement purposes. Data must be collected from all involved departments for analysis, planning, performance measurement, and monitoring.

The specific performance measures selected will be dependent upon the ultimate goals articulated for code enforcement. In Appendix H we have provided examples of performance measures which could be used to support these goals and strategies. In addition, our recommendations related to shared information and work coordination are directly linked to these issues.

DISCONNECT BETWEEN PUBLIC EXPECTATIONS AND CITY PRACTICES

Finding #11: There does appear to be a disconnect between the expectations of some members of the public and city practices. The lack of any formal discourse on these issues limits our ability to determine the full extent of this disconnect. However, based upon our discussions with staff we believe we have a reasonably accurate assessment of the nature of the disconnect.

Observations

Based upon our interviews of stakeholders, as well as upon our review of the results of the latest Citizen Survey, we believe that there has been a disconnect between public expectations and City environmental code enforcement practices. However, it is not clear that there is a single set of public expectations. For example, some members of the University Hill Neighborhood Group feel very strongly that the Police should continue what is perceived as much more stringent enforcement of noise ordinances. Some students residing on the Hill agree, while others think the current crackdown is excessive. Similarly, landlords who rent properties on the Hill may have different expectations about enforcement of the occupancy limits than do some of the permanent Hill residents. Some residents from other neighborhoods are beginning to add to the sense of public disconnect, because they feel the Hill has priority over their neighborhood.

There are alternatives for handling such a disconnect between public expectations and city practices, and Boulder appears to have tried several alternatives. The general approval for the Hill Police team seems to stem from a feeling that the team is responding to the specific concerns of the Hill neighborhood. Thus, this approach appears to have worked. The Hill team has been so successful at making the Hill's permanent residents feel that they are supported that these residents no longer want to work with anyone else within the Police Department, and they certainly do not want to work with the Environmental Code

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Enforcement Officers. This has become a dilemma with no obvious answer for City management. Once a high level of service has been provided, it is almost impossible to reduce that level of service.

Recommendations related to Finding #11

There are alternatives for dealing with this dilemma. Below, we have outlined the general advantages and disadvantages of each of these alternatives, as well as our recommended alternative.

Alternative	Advantages	Disadvantages
Continue with the current system of having a special level of proactive service for the Hill Neighborhood only	No real changes are required, so all can continue to operate as they have done for the last year or so	<ol style="list-style-type: none"> 1. Staff within the Police Department and within the Zoning and Environmental Code Enforcement Unit are spending much of their time on Hill problems; other issues or neighborhoods may be receiving less time than is appropriate 2. City management staff find themselves continuing to spend a great deal of time on the Hill, but this time may not be effectively deployed
Conduct a focused proactive enforcement in neighborhoods with a high number of violations	<ol style="list-style-type: none"> 1. Allows more coordinated and far-reaching proactive approach, providing a higher level of service to the Hill, as some residents desire 2. Allows City to test the use of such a strategy, while attempting to gain more control over the issues creating problems on the Hill 	<ol style="list-style-type: none"> 1. Further exacerbates the problems of giving the Hill the greatest level of service and priority, at least temporarily; however, it also holds out the possibility that new methods may also be expanded to other neighborhoods 2. May alienate other neighborhoods who would also like to have this increased level of service, at least temporarily 3. May require additional resources, but may bring a higher compliance percentage and reduce costs in City Attorney's Office and Municipal Court
Return to the old system, relying almost entirely upon complaints, with less priority of service given to the Hill	<ol style="list-style-type: none"> 1. Approach is familiar 2. Less costly than the more proactive system currently in place 	<ol style="list-style-type: none"> 1. Not likely to be acceptable to the Hill neighborhood 2. Results in losing any improvements in customer service and community goodwill achieved in the last year
Develop a much more proactive enforcement approach on a permanent basis	<ol style="list-style-type: none"> 1. Allows City to assume more control in the planning of its activities 2. Will probably be more acceptable to the Hill Neighbors 3. Is a method for addressing problems the City has been 	<ol style="list-style-type: none"> 1. Requires significant increase in resources immediately 2. Requires a fairly consistent application, or the system promises more than it provides—poor public policy 3. Requires an overall rethinking

	<p>involved in defining, rather than depending solely or mostly upon complainants</p> <p>4. Can more easily be developed so as to involve all stakeholders</p> <p>5. Might eventually reduce some workload on other participants in the business process, such as the Court and the City Attorney's Office</p>	<p>of every aspect of the City's current approach</p>
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In general, we consider it good practice to be more proactive. For example, Fort Collins estimates that 75% of their enforcement is proactive for trash, weeds, and ice and snow. For occupancy, however, they are basically 100% complaint driven, since they feel the occupancy issue is too difficult to prove in court. The policy we have recommended includes an overall focused proactive approach.

ENFORCMENT RELATED TO REPEAT OFFENDERS

Finding #12: Repeat offenders have not been the target of particular enforcement efforts in the past, since these offenders have not always been specific groups or individuals, but addresses. In recent ordinance changes, the Police Department and Environmental Enforcement Officers have been given the ability to ticket for noise violations at the same address, even if the individuals involved in the violations are not the same. However, of the 16 addresses with greatest number of complaints, many are large apartment units. This may partially explain any differing treatment of repeat offenders for noise violations.

The analysis of repeat offenders might also offer some insight into the relationship between over-occupancy and other code violations, particularly in the University Hill, Goss-Grove, and Martin Acres Neighborhoods.

Observations

We have reviewed the top offenders and find that many of the major offenders are large apartment complexes, often with a swimming pool, which may explain much about the frequency of service calls to these locations and the supposed lighter treatment by officers. Large apartment complexes are always the source of high numbers of noise complaints if for no other reason than that there are a larger number of residents. Apartments with swimming pools are yet another source of potential outdoor noise about which neighbors or residents of the apartment can and will complain. Since an apartment complex has many times the number of residents than a single family or duplex unit, it is completely understandable why so many more service calls go to these locations. On a family unit by family unit basis, they actually may generate no more workload than a single family residence.

For the 18 months ended June 30, 2001, the City responded to 6,262 noise complaints. These complaints were registered at 2,488 separate addresses. Several locations accounted for a disproportionate amount of the noise complaints. The most frequent 100 addresses visited generate roughly 30 percent of all workload.¹⁶ The following table summarizes the relevant call data for this period. The top 100 addresses used in this analysis, along with maps of those addresses which were the source of complaints, are in Appendix D.

¹⁶ 15 of the top 16 offenders are large apartment units.

Number of complaints	Locations	Complaints at these addresses	These calls as percent of total	Cumulative percentage
>60	1	67	1.1%	1.1%
50-59	3	156	2.5%	3.6%
40-49	2	88	1.4%	5.0%
30-39	9	298	4.8%	9.7%
20-29	10	233	3.7%	13.4%
10-19	67	881	14.1%	27.5%
5-9	207	1300	20.8%	48.3%
2-4	655	1705	27.2%	75.5%
1	1534	1534	24.5%	100.0%
Total	2488	6262	100.0%	

It is too early to ascertain whether the ordinance change which allows ticketing at a location with repeated noise offenses (instead of trying to locate the individuals previously warned or ticketed) will result in more severe punishments for these locations. However, it will be important to monitor repeat offenders. Reviewing and monitoring repeat offenders for all types of violations will be important for several reasons:

- Determining whether educational efforts are effective—how many offenders change their behavior based upon educational and other compliance efforts?
- Determining whether more stringent fines and other punishment are effective—how many offenders change their behavior based upon more stringent fines and punishment?
- Determining where to focus any proactive efforts—would it not be logical to focus proactive efforts on repeat offenders?
- Determining the relationship between conversions from single-family residences and noise and other violations—how should City policies related to these conversions be changed?

Recommendations Related to Finding #12

Again, the approach taken to monitoring repeat offenders is dependent upon the goals ultimately adopted by City Council. However, since we generally recommend a more proactive approach, we also believe that monitoring repeat offenders is an important strategy to support this approach. Such monitoring assists the City in determining the effectiveness of various enforcement strategies and in assessing the impacts of previous policies (e.g., policies on the conversion of single-family residences) on code violations. In particular, we would like to see some monitoring as a part of the focused proactive enforcement strategy.

CLEARLY DEFINED OUTCOMES

Finding #13: Clearly defined and desired outcomes have not been determined.

Observations

Since, as we have identified in previous findings, City Council has not adopted a code enforcement policy, desired outcomes of code enforcement have not been defined. Our recommendations for Finding #1 indicate that we believe that any policy must include a clear set of desired outcomes, including at least reductions in the number of violations and improvements in the rate of compliance.

PROACTIVE PROGRAMS

Finding #14: Proactive programs have not been evaluated for their effectiveness; however, it is generally considered good practice to move away from complaint-driven systems to more proactive enforcement. We have recommended focused proactive enforcement earlier in this report.

Observations

Recent strategies developed due to the concerns of the University Hill Neighborhood have moved the City toward a more proactive approach. Aloha, Boulder is a program developed in support of this proactive approach. Such programs must be judged based upon their ability to impact the desired outcomes, such as the desire to have a more attractive neighborhood. If Aloha, Boulder does that, and is cost effective, then it should be continued. As far as we know there is no formal system to evaluate these programs, but developing a customer survey which can be administered quickly—perhaps by sending along a few questions in another mail-out—could support our approach to performance measurement.

CONSISTENT PERFORMANCE DEMANDS

Finding #15: Based upon the limited information we could derive from the citizen survey, reviews of past reports, and our own interviews, there does not appear to be a consistent notion of the appropriate level of code enforcement City-wide.

Observations

Again, this is an issue to be addressed in the City Council adoptions of a code enforcement policy. We believe we have clearly articulated the need to directly address the issue of City-wide versus neighborhood service goals and demands. In addition, we believe that neighborhood specific performance measurements are desirable.

Yes, performance demands are inconsistent—most of the City appears to require less enforcement than does University Hill. However, until City Council decides that this approach is inappropriate, the City seems to have made a de facto decision to assume that this inconsistency is appropriate.

NON-USEFUL PROCEDURES

Finding #16: Non-Useful Procedures do not appear to be a major problem.

Observations

Data entry procedures need to be revised. The appropriateness of current procedures will be reviewed based upon the ultimate goal and strategy definition. We have, however, recommended some minor

procedural changes to support the focused proactive enforcement strategy. These recommendations are outlined earlier in this report.

Procedures generally make sense for the current system. Minor changes, such as improving the input of data into the Land Link system and eliminating the use of handwritten logs, should result in greater efficiency for collecting data and improve the usefulness of that data. Eliminating the manual log books and using the Palm Pilots will require that EEO's have time between calls to enter data into their Palm Pilots and an illumination system that allows the Palm Pilots to be used at night during the noise season.

INFRASTRUCTURE SUPPORT

Finding #17: Infrastructure support appears to be appropriate to the current mission of Zoning and Environmental Code Enforcement.

Observations

Current infrastructure support is based on having a largely complaint-driven system, with some proactive enforcement in the University Hill Neighborhood. If City Council adopts a policy which outlines a different set of priorities, then staffing, budget, and technology support will all have to be reviewed.

Recommendations Related to Findings #14, #15, #16, and #17

Until City Council adopts a code enforcement policy, infrastructure requirements cannot be assessed.

TRAINING

Finding #18: Training for staff involved in the environmental code enforcement business process has included customer service training. The City Attorney has also worked with the Environmental Enforcement Officers on evidence gathering and report writing. EEO's have not received training in developing and maintaining the information needed to monitor performance.

Observations

Environmental Enforcement Officers (EEO's) have received customer service training. The City Attorney's Office has provided training on improving evidence gathering and report writing. The Prosecutors, based upon our interviews, had not noticed any specific problems with recent reports.

There are problems with the accuracy of data entered into the Land Link system, as Appendix E indicates. Since no specific performance reporting has been required, the City has not developed an overall approach to the data required to coordinate planning and work efforts among the departments involved in the code enforcement business processes.

Recommendations Related to Finding #18

Once the City Council has adopted a code enforcement policy, the EEO's should work with the City's information technology staff to determine what information will be required to meet any reporting requirements. At that time, if any specialized training is needed, the EEO's should take that training.

IMPLEMENTATION PLAN

Activity	Suggesting Timing	Responsible Parties
Implement a system for promptly notifying all about complaints and their status	March 2002	Zoning and Environmental Code Enforcement Unit
Continue to assign enforcement of noise ordinances to Environmental Code Enforcement Officers as support for Police Department; continue to fund the limited term EEO for one year	Next noise season	City Manager
Implement a focused proactive enforcement in University Hill Neighborhood; use as a pilot for other neighborhoods, if supported by City Council policies	2002	-City Manager -Director of Public Works for Development and Support Services -Zoning and Environmental Code Enforcement Unit -Police Department -Parking Enforcement
Experiment with alternative enforcement tools, including voluntary compliance agreements and direct fines	2002	-City Manager -City Attorney -Zoning and Environmental Code Enforcement Unit
Work to develop a policy on code enforcement which will be adopted by City Council	February-June 2002	-City Council -City Manager
Develop operational impacts, required code revisions	May-July 2002	-City Manager -City Attorney

APPENDICES

Appendix A: Performance Audit Methods

Appendix B: Issues Identified in the Previous Management Review

Appendix C: Operational Profile

Appendix D: Geographic Distribution of Noise Calls

Appendix E: Data Problems

Appendix F: Relevant Information from Citizen Survey

Appendix G: Ideas From Other Cities

Appendix H: Performance Measures

Appendix I: Research on Occupancy

Appendix J: Questions for Code Enforcement Policy Analysis

Appendix K: Bibliography

APPENDIX A: PERFORMANCE AUDIT METHODS

INTRODUCTION

The purpose of this appendix is to provide a general understanding of the methods used to complete this project. It is important to note that only a part of the project is actually based upon normal management or performance audit methods (we will discuss these terms in the next section) as the City required extensive review of current regulations and policies and their impacts upon environmental code enforcement. As a result, we have moved a bit beyond the normal audit methodology into policy analysis. Since a previous management review had already identified a set of issues to be addressed, we did not waste time reiterating these analyses, but we did attempt to provide answers to many of the issues he had identified. See Appendix B for a summary of the issues identified in the previous management audit.

BACKGROUND AND TERMINOLOGY

Initially, the concept of a *management audit* was developed out of concerns that the financial audit, while disclosing important facts about an organization's financial condition, might not provide sufficient information as to whether the management of the organization was capable of sustaining a certain level of performance. Just as the financial audit was concerned with whether financial transactions and record-keeping were completed in accordance with generally accepted accounting principles, the management audit attempted to ascertain whether management had put in place and was using those methods and techniques which management theory and practice had shown to be characteristic of successful organizations. In addition, in our own approach to management audits, we would generally conduct this review of compliance with generally accepted management theories and practices and identify a set of issues indicating any lack of compliance. In essence, we believe the previous management review has already provided the general review and identification of a set of issues. Therefore, we have performed a performance audit, building upon rather than replicating, the work of the previous management audit.

Over time, the definition of *management audit* has blended somewhat with other evaluation procedures such as *performance audit*. The U.S. General Accounting Office (GAO) defines a *performance audit* as "an objective and systematic examination of evidence for the purpose of providing an independent assessment of the performance of a government organization, program, activity, or function in order to provide information to improve public accountability and facilitate decision-making by parties with responsibility to oversee or initiate corrective action."¹⁷ We have conducted this project as a performance audit, focusing on performance and ways to initiate corrective action.

The GAO distinguishes between two types of performance audits: (1) *the economy and efficiency audit* and (2) *the program audit*. *The economy and efficiency audit* is concerned with determining whether the activities are acquiring and using resources economically and efficiently, identifying the causes for inefficient usage, and assessing compliance with laws and regulations governing the use of resources. *Economy* refers to avoidance of waste or unnecessary expenditures. For example, a street can be patrolled with a \$30,000 police car, but can probably be patrolled as effectively with a \$20,000 police car. *Efficiency* refers to the relative number of units of output produced per unit of input employed, regardless of the unit cost of those inputs. If each of our hypothetical police cars patrols the same number of miles/hours, they are used with equal efficiency. The *economy and efficiency audit*, in the final analysis, is evaluating the relative number of units of output produced per dollar of input consumed. In the police

¹⁷ U.S. General Accounting Office, *Government Auditing Standards*, 1994 Revisions, Washington, D.D., June 1994, pg. 14.

example, the dollar cost per mile patrolled for one vehicle would be greater than for the other, and the explanation would be uneconomical purchasing practices (i.e., purchasing a \$30,000 police car, instead of a \$20,000 police car) rather than inefficient deployment.¹⁸

The *program audit* is concerned with determining the extent to which the activities are achieving the desired result or benefits and complying with laws and regulations related to performance. The *program audit* is necessarily focused because it is concerned with specific results rather than standard practices. A substantial body of literature, often classified under the heading of program evaluation, describes a variety of specific approaches that have proven helpful for program auditing.

When we speak of a *performance audit* in local government, we are usually referring to an evaluation of both programmatic results (effectiveness) and relative productivity (economy and efficiency) in achieving those results. The actual scope of the project may be limited in some cases to questions of efficiency or effectiveness; that is, a client may specifically request only an evaluation of effectiveness or an evaluation of efficiency. Arguments are sometimes made that an economy and efficiency study ought not to be conducted apart from an analysis of effectiveness, since economy and efficiency do not especially matter if a program is not achieving results: “We are doing the wrong thing, but we are doing it efficiently.” It is certainly possible, though, that the client may be satisfied from his or her own experience or from other sources, that the program is achieving results and that there is no need to re-examine that issue.

This evaluation is intended to be an amalgam of these approaches, assessing effectiveness in enforcing the environmental code, general efficiency in these efforts, and the overall management environment within which this takes place. However, given the fact that there is significant disagreement upon the actual work which should be performed by environmental code enforcement staff, it is clear that the efficiency issues have had to be of less importance. **If it is not clear what the results should be, how can one determine the most efficient methods for achieving these results?**

SPECIFIC APPROACH USED IN THIS PROJECT

Based upon a scope of services which has changed somewhat as this project has progressed, we have performed the following general tasks arriving at our recommendations:

- ❑ *The normal detailed review of factual data relating to the management and operations of the City’s environmental code enforcement activities.*--Appendix C details the information collected during this review. We believe the information to be accurate as of the point of time that data collection ended. During this review we attempted to focus as much as possible on collecting data related to issues identified in the previous management review.
- ❑ *Observation of the Environmental Enforcement Officers and the Zoning Inspector*, as they performed their daily and nightly tasks. This observation included ride-alongs.
- ❑ *Review of a number of historical documents, reports, City Council meeting minutes and videos, etc.*
- ❑ *Interviews and/or surveys for a select group of stakeholders*—the time available for these interviews was limited, but each interview or survey (a few of the stakeholders preferred to complete a survey) was completed either face-to-face or on the telephone. There were no group interviews. Since we

¹⁸ Some writers point out that productivity is more than just the efficiency achieved in the use of resources. It also involves the timeliness and quality of production. Actions which increase efficiency but detract from timeliness and product quality are not productivity enhancements.

were working on a review of the performance of City activities, a majority of the interview time had to be devoted to those managers and employees involved in environmental code enforcement.

- *Research into methods used in other cities*—since the City had already made many changes to improve its operations, we felt that a significant portion of this study should be the search for interesting and innovative enforcement tools used in other cities. We have also attempted to collect benchmark data from other cities, but have been relatively unsuccessful at getting any response to surveys. We continue to follow-up on these surveys and will collect any additional information possible between now and the time scheduled for the City Council study session.
- *Analysis of information collected during the previous tasks in order to identify options for performance improvements*—this analysis has been focused around the strategic framework of guiding principles discussed previously, and the issues identified in the previous management review.

We have adjusted the overall approach to the project away from the explication of a variety of detailed and less important management issues to focus more on the outcomes of current methods of managing environmental code enforcement and on the overall policy issues which impact these management issues.

APPENDIX B: ISSUES IDENTIFIED IN THE PREVIOUS MANAGEMENT REVIEW

The following issues identified in the previous study have been organized to allow appropriate discussion of related issues in the report.

PLANNING, ORGANIZATION, INFORMATION SHARING, AND WORK COORDINATION

1. Is the City organized properly to insure adequate coverage of code enforcement complaints by police and code enforcement personnel?
2. Do the code enforcement staff, police and municipal courts effectively share information?
3. Is there a sharing of ideas about innovations in enforcement among all participants? Is there coordinated planning of response among all entities?
4. Is there a coordinated strategy among police, code enforcement and municipal court personnel?
5. Is there an adequate sharing of information between the City and the University?

MONITORING ACTIVITY AND PERFORMANCE

1. Are there mechanisms in place for monitoring problem locations and following up on repeat offenders?
2. What performance measures and reporting systems need to be developed to capture the full scope of performance issues?
3. Is there any disconnect between public expectations and actual City practices in the realm of code enforcement?

OUTCOMES

1. Do repeat offenders actually suffer strenuous enforcement from the City/courts?
2. Does the City have clearly defined outcomes in the area of code enforcement (e.g., public satisfaction, increase in acceptable behavior, reduction in fear and disorder, etc.)?
3. Do proactive programs (such as Aloha Boulder) serve a really useful purpose?
4. Are the performance demands of citizens in one area of the City consistent with all residents of that City?

PROCESS DESIGN

1. Are there non-useful procedures built in to the City's enforcement procedures?
2. Is the City's management infrastructure—budgeting, staffing, training, communications, etc.—supportive of performance objectives in code enforcement?
3. Are all participants in environmental enforcement—code personnel, police, municipal court—adequately and consistently trained in topics such as issuing sound legal citations, evidence gathering, appropriate reliance on “hard” and “soft” enforcement approaches, working with citizen groups, use of management information, etc.?

APPENDIX C: OPERATIONAL PROFILE

OBJECTIVES AND OVERVIEW OF THIS PROFILE

The purpose of this appendix is to provide a basic factual profile of the City of Boulder's environmental enforcement efforts. It is intended to pull together, in one place, any pertinent facts about current and historical activities in order to establish a common groundwork of facts, to lay a foundation for subsequent analysis, and to educate the reader on the full range of environmental code enforcement activities in which the City engages. The use of the term "pertinent facts" is important and deliberate. There are clearly many aspects of environmental enforcement efforts that could be described in varying levels of detail. Many of these, though true, are irrelevant to the underlying questions and issues that motivated this analysis. For that reason, the material that follows provides, in our opinion, a sufficient if not exhaustive description of environmental enforcement activities and resources.

Our approach to compiling this information concentrated on what we felt were the most important facts needed for the larger analysis, particularly those facts needed to assess current performance. The topics covered in this profile include:

1. The historical background and development of environmental enforcement activities in the city
2. The resources dedicated to such efforts
3. Production and performance statistics
4. Process descriptions.

The material is divided into two major parts: 1) general management dimensions which discuss overall aspects of the program; and 2) process specific dimensions, which concentrate on the individual functional aspects of the Environmental Enforcement unit's work.

GENERAL MANAGEMENT DIMENSIONS

Historical Background

Boulder's active and formal involvement in environmental enforcement began in 1970 with implementation of the Noise Ordinance.¹⁹ To support this new regulatory effort, the City established a Noise Control Department which consisted of one authorized position reporting directly to the City Manager. In the early stages, the focus of City efforts was largely educational, with work concentrating on lectures to schools, churches and civic organizations and active outreach to automotive repair shops aimed at educating them on the law.

By 1972, in part due to a change in personnel, the emphasis shifted to active monitoring of vehicular noise and enforcement of the ordinance. While the Noise Control Officer could mechanically monitor vehicular sound levels, he was not a commissioned police officer and could not make vehicle stops. Off-duty police officers were used to stop vehicles which were in apparent violation of the ordinance. Visible vehicular emissions also became a target for enforcement efforts in the early 1970's. At this time, the office began to be called the Environmental Protection Office and its responsible official the Environmental Protection Officer.

¹⁹ Source: Operations Manual for the Environmental Enforcement Office, June 12, 1997.

**Report on the Performance Audit of Environmental Code Enforcement
City of Boulder, Colorado**

In 1977 the Environmental Protection Office assumed responsibility for enforcement of the City's ordinances related to weeds, trash, and sidewalk snow removal from the Fire Department. A second position, an Environmental Aide, funded by the Federal Government for one year, was added to help manage this additional workload. Organizational changes were also made. No longer an independent City department, the Environmental Protection office was placed within the Streets Division of the Public Works Department. In 1978, it was reorganized once again and placed with the Building Inspection Division.

The City also began sending its officers to the Boulder County Sheriff's Academy in 1978 for the purpose of having them become limited commissioned officers with the authority to carry weapons. The primary reason for this was to permit them to carry out their own vehicle stops rather than to continue to rely on off-duty (or on-duty) Boulder police officers. They also began, in this year, to take over some of the Police Department's responsibilities for non-vehicular noise complaints.

By 1981 Federal EPA funds for noise control were eliminated, and the office was required to eliminate one of its two authorized positions. The organization was also renamed the Environmental Enforcement Office, in order to avoid confusion with the Environmental Protection Agency, and the remaining position was renamed "Environmental Enforcement Officer." By 1984 a second position was reauthorized for these functions, and the office began reporting to the Director of Public Works for Development and Inspection Services. The addition of a second inspector permitted the office to cover two shifts per day and to handle non-vehicular noise during the November to April period.

City policy changes, including new ordinances governing smoking in public places (1985), wood burning (1986), pesticide application (1988), and coordination of the ICEBUSTERS program (1989), convinced the city council to restore the environmental aide position, bringing the total complement to three positions. In 1993, a half-time position to be shared with Zoning Inspection was authorized to assist with reception and clerical duties. Later, this position increased to a three-quarter time position and remains so today.

In 1994 the office was merged with Zoning Inspection, with both organizations supervised by an Enforcement Supervisor. The staffing in 1994, for the combined zoning and environmental enforcement responsibilities, consisted of 5.50 positions, including:

- 2 full-time Environmental Enforcement Officers
- 1 full-time position split between zoning enforcement and environmental enforcement activities
- 1 full-time Zoning Inspector
- .50 FTE Environmental Aide
- Enforcement Supervisor position, focused primarily on land use/zoning code enforcement

As of January 2000, the staffing for the combined zoning and environmental enforcement responsibilities had been reduced by approximately 14% to 4.75 positions, including:

- 2 full-time Environmental Enforcement Officers
- 1 full-time Zoning Inspector
- 1 full-time Enforcement Supervisor who focused on zoning/land use enforcement
- .75 Environmental Aide

During May of 2000, the Chief Building Official (CBO) resigned and duties associated with that position were temporarily distributed and reassigned to other positions, pending resolution of the evaluation of the Planning & Development Services organizational structure. The Enforcement Supervisor assumed responsibility for the supervision of the building inspectors and became the Acting Inspection and Enforcement Supervisor. Because this supervisory position became focused on building inspection

activities, less time was devoted to the supervision of Code Enforcement and Zoning/Land Use Enforcement.

During 2001, the Zoning and Environmental Code Enforcement Unit also has had a fixed term enforcement position to supplement staffing. This fixed term position expires at the end of the year.

General Operational Rules

1. Operating Rules

The general rules governing environmental enforcement operations are contained in the "Operations Manual for the Environmental Enforcement Office", the most recent edition of which was published in June 1997. The stated purpose of the manual is: 1) to provide workers with a reference document; 2) to establish qualifications and procedures for officers; 3) to outline their duties, responsibilities and authority; and 4) to ensure a standardized level of performance. The manual also describes the primary objective of the Environmental Enforcement office, which is "...to enhance the quality of life by controlling noise, air pollution, ice and snow hazards, pesticide application, and noxious weeds and trash." It also prescribes an approach to enforcement which emphasizes attention to priority public needs and emphasizes the importance of providing public relations and education to increase citizen awareness and voluntary compliance.

2. Qualifications of officers

Officers working in the unit must be 21 years of age, possess a high school diploma or its equivalent, and have effective verbal and written communication skills. They must also demonstrate an ability to deal tactfully with the public and show good organizational skills.

At a technical level, officers must have the ability to perform audiological and noise level tests with training. They must pass a physical exam, polygraph exam, and psychological exam prior to being hired, and must demonstrate personal and professional honesty, integrity and judgment. In terms of specialized training, they must pass a police academy certification program as Limited Law Enforcement Officers, including demonstrating qualifications with a hand gun. They must also complete the Environmental Field Training and Evaluation Program after completion of police academy training and they must pass the POST board certification for Colorado.

Officers must also have the ability to work seasonal schedules and variable daily shifts and possess a valid Colorado drivers' license

3. Disqualifications

Disqualifications include: any felony conviction or commission of a felony in the past six years; any non-traffic misdemeanor in previous 36 months; use, sale or possession of controlled substance in prior 36 months; 8 points or 3 moving violations or a suspended, restricted, or revoked drivers license in previous 24 months.

Other general city employment rules apply. Physical disabilities do not necessarily disqualify an applicant, and ADA rules supercede City rules related to individuals with disabilities. There is a requirement for a polygraph exam.

The desired qualifications for the position include previous related enforcement experience; college course work in audio logy or related field; prior certification from a law enforcement academy; and graduation with a four year college degree in any field.

4. Training Requirements

Within one year of being hired, an environmental officer must successfully complete the Boulder police training academy course or any other certified law enforcement training course. Applicant must also become POST certified. Failure to complete this requirement will result in termination from job. Employees must successfully complete the Environmental Field Training and Evaluation program. Officers may not engage in independent enforcement action until completing this program. Environmental officers must regularly qualify with a handgun. Police Department weapons qualification standards for the City of Boulder are used. In addition to weapons training, forty hours of other police training are required; additional training is required in noise control, health department anti-smoking training, and in first aid training.

5. General Policies

Environmental Enforcement Officers (EEO's) are required to wear city provided uniforms. They are prohibited from wearing a uniform if they are not permitted to carry or have not yet achieved qualification standards with a weapon. They may not make traffic stops or be the primary responding officer when not in uniform.

EEO's can carry weapons. The initial rationale for this approach was based on the need to make traffic stops when their primary responsibility was enforcing rules on vehicular noise and visible emissions. The weapons must be the same as those used by the Boulder Police Department and those weapons are inspected by the Department. Regular qualification requirements with a weapon are the same as for police officers. Weapons may be carried when carrying out undercover assignments but may not be carried as an Environmental Enforcement Officer when off duty. Standard reports are required when a weapon is discharged. The right to carry a weapon may be revoked by the Assistant Director of Public Works [Note: this position is now known as the Director of Public Works for Development and Support Services] for failure to qualify with weapon, during investigation of a discharged weapon, or for irresponsible use of a weapon. Additional rules govern holster, ammunition, baton, handcuffs and optional equipment such as mace. These conform to rules used by the Police Department. A bullet proof vest must be worn when in uniform.

6. Use of Force

Specific rules govern the use of force by EEO's. These rules generally require them to withdraw from situations that are getting out of control and to call other law enforcement personnel for assistance.

The rules state that officers should not arrest or forcibly detain a suspect. In cases warranting arrest, the officer should maintain surveillance and call for Police Department support for the arrest. In the event that an individual is becoming or is likely to become violent, the officer is instructed to withdraw and call police. The officer may employ reasonable and appropriate force only in the event of imminent threat to himself or others. Deadly force is authorized only when the officer believes to be an imminent threat of deadly force against themselves or another person.

Staff report no instances of the need to draw or use weapons as a part of their normal duties. However, since the EEO's provide backup for the Police Department, they have drawn, but not fired, weapons when assisting the Police Department. One EEO was involved in shooting an injured deer. If the EEO's ever draw their weapons, the supervisor must be notified; required Police Department and Public works reports must be filed whenever anything more than verbal persuasion is used.

7. Critical and non-critical incidents

The Assistant Director of Public Works and the Enforcement Supervisor (now known as the Director of Public Works for Development and Support Services) must be notified immediately when an officer is involved in an incident involving serious bodily injury or death. An officer may be placed on administrative leave during an investigation. Investigations are to be consistent with those used by the Boulder Police

Department in similar incidents. In non-critical incidents involving lesser injury or damage to property, a police report must be filed.

8. Communications

Radio communications and dispatch are handled by the Boulder Police Department. Training in proper radio communications protocols is required.

For cases not processed through the dispatch system, complaints or requests for service are made by telephone directly to the Environmental Enforcement Office. These cases (essentially all cases not involving noise) typically do not require an immediate response, and most often they relate to trash, weeds or occupancy problems. These calls are answered directly by Environmental Enforcement staff during normal office hours. For calls received during non-office hours, a voice mail system permits the caller to record a message that will be handled later by Environmental Enforcement staff during normal office hours.

9. Authority of Environmental Enforcement Officers

Authority to enforce the city's environmental code requirements is vested in the City Manager and delegated to the Director of Public Works [now known as the Director of Public Works for Development and Support Services] and, subsequently, in the Environmental Enforcement Officers.

Environmental enforcement officers may stop any person the officer reasonably believes is committing, has committed or is about to commit a violation of city code sections. The officer may require that person to show identification and provide an explanation of their behavior, and may conduct pat down searches of such persons. Initial contact rules emphasize a strong public relations approach to carrying out these duties.

Officers may only use lights and sirens on their vehicles in responding to calls for service or other incidents after completing approved training. Emergency responses should be limited to situations in which another officer needs emergency assistance or in the case of first aid emergencies. Even in such cases, speeds should not exceed 10 miles per hour above posted limits.

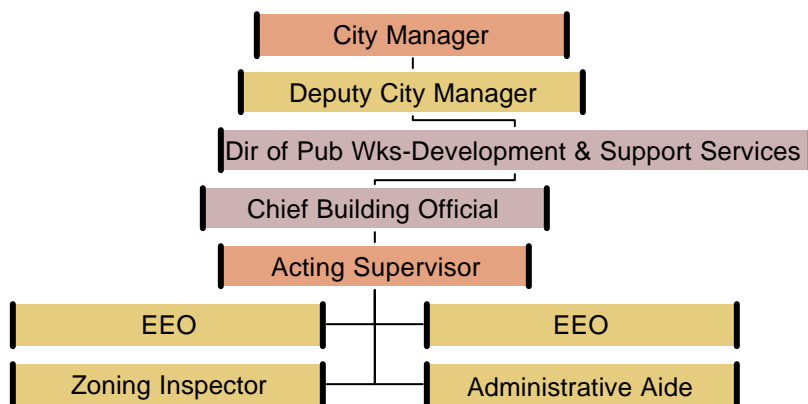
Officers may assist other departments in issuing summons for offenses other than those normally within the purview of the EEO's.

Organizational Framework

The Environmental Enforcement Office is located within the Zoning and Environmental Code Enforcement Unit, under the direction of the Acting Inspection & Enforcement Supervisor. The Acting Supervisor reports to a Chief Building Official who reports to the Director of Public Works for Development and Support Services. Planning & Development Services is a service area made up of all of the Planning staff and the "Development" portion of Public Works/Development & Support Services. The Director of Public Works for Development and Support Services reports to the Deputy City Manager for Environmental Services, who reports to the City Manager.

Only the organizational entities in question are shown in order to eliminate the complexity of the organization chart.

Current Organization Chart for Zoning and Environmental Code Enforcement Unit



Personnel Requirements—Position Standards

According to the City's formal position descriptions, the role of the Environmental Enforcement Officers (EEO's) is to enforce, under general supervision, the City's environmental ordinances related to neighborhood noise, vehicular noise, visible emissions from vehicles, weed control, refuse removal, snow removal, wood burning, pesticides and smoking in public places.²⁰ These responsibilities are carried out through patrol of city streets, responding to calls for service or complaints, active measurement of sound levels, and observations of wood burning on restricted days, smoking in restricted places, and visible auto emissions. They also are expected to research records on ownership and management of problem locations. They issue warnings and summonses as circumstances require and check for subsequent compliance. They maintain records related to enforcement, coordinate efforts with and provide technical assistance when needed to other departments, and consult with the City Attorney on enforcement issues.

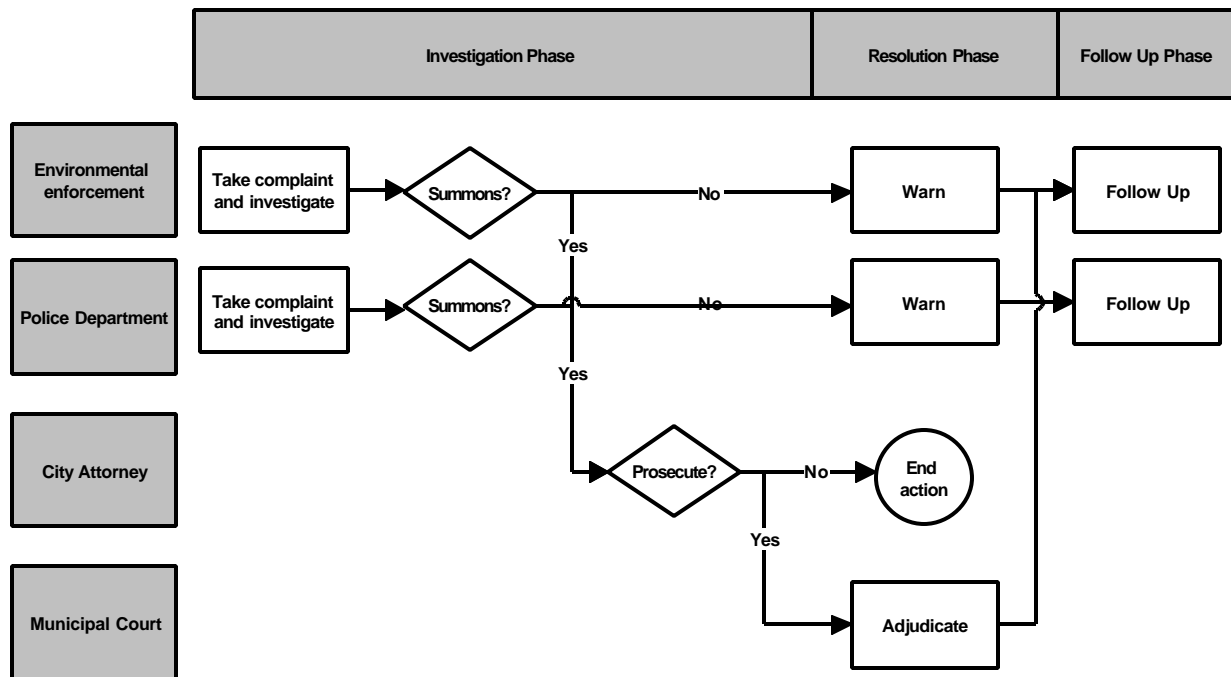
Basic Business Process Description

The process of enforcing the city's environmental code is not the sole province or responsibility of one city department. Individual enforcement "transactions" move across a three phase process involving investigation, resolution, and follow up. And in this process, activities move across organizational boundaries toward resolution. The following graphic shows, in a very simplified form, the essential

²⁰ The basic responsibilities of the City's Environmental Enforcement officer positions are outlined in Job Number 97-010 (January 24, 1997).

process applicable to all environmental code enforcement activities and the role of individual organizational entities in that process. More detailed process information is included in later sections of this profile.

Basic Business Process



Overall Zoning and Environmental Enforcement Workload Demands

The total caseload of the Zoning and Environmental Code Enforcement Unit has fluctuated between roughly 3,000 and 4,000 per year from 1998 to 2000. The first nine and a half months of 2001 have shown a notable increase in weed and trash cases/complaints.

Between 1998 and 2000, the major components of the zoning and environmental enforcement caseloads (88 percent) included responses to non-vehicular noise complaints (47.5 percent), snow removal complaints (15.9 percent), trash problems (12 percent), and signage problems (12.7 percent). During the first nine and a half months, the percentages vary somewhat. In particular, there appear to be significant increases in the number of weed and trash cases/complaints.

The following table summarizes the aggregate workload (e.g., complaints) handled by the Zoning and Environmental Enforcement Unit from 1998 through October 15, 2001

Historical Workload Summary

Type of violation	1998	1999	2000	2001 Through October 15
Vehicular noise	10	5	5	5
Non-vehicular noise ²¹	1587	1514	1783	1363
Vehicular visible emissions	7	11	10	3
Smoking in public places	46	85	28	11
Wood burning	6	9	17	13
Pesticide notifications	10	6	8	5
Weeds	123	175	104	298
Trash	307	468	464	512
Snow removal	729	146	762	395
Land use violations	180	211	157	72
Sign code violations	105	119	152	67
Signs removed from right of way	378	172	382	147
Occupancy violations ²²				144
Total	3488	2921	3872	3035

Current Staffing and Budget

The Zoning and Environmental Enforcement Unit effort currently consumes 5.4 full time equivalent (FTE) positions; however, one of these positions is a limited term position, which expires on December 31, 2001.

Current staffing includes 0.75 of one position for a part time aide, and 0.66 of one position for management. Two full-time, permanent EEO positions are responsible for the environmental code enforcement (excluding land use, signs, and occupancy). During 2001, an additional limited term position was approved to assist with environmental code enforcement, but that position will expire on December 31, 2001. In addition, one full-time Zoning Inspector is responsible for enforcing the sign and land use codes.

The budget for zoning and environmental code enforcement operations for the current year is \$309,941, with another \$60,000 added for one-time compensation costs for a limited term environmental enforcement officer. Anticipated expenditures for the current year are as follows.²³

²¹ Please note that the records of the Environmental Enforcement unit reflect total contacts related to non-vehicular noise, including pro-active contacts, while the records of the Police Department's dispatch system only reflect the complaints made directly to the police department. Thus, the non-vehicular noise statistics shown on this table are roughly 13 percent higher than those discussed later which only reflect statistics taken from the dispatch system records.

²² Prior to 2001 statistics on occupancy violations were combined with general land use violations. Staff estimate that, in 2000, 30 land use cases involved over-occupancy.

²³ Budgetary information was provided by public works department budget staff. The total amounts shown in this table include \$297,481 appropriated to "703100: Zoning Environmental Code Enforcement" and \$71,660 appropriated to "701100: Inspection Enforcement Administration."

Summary of Current Year Budget

	703100: Zoning Environmental Code Enforcement	701100: Inspection Enforcement Administration	Total
Salaries	\$ 189,031	\$ 68,560	\$ 257,591
Overtime	8,000	-	8,000
Other compensation	6,000	-	6,000
Office supplies	800	1,000	1,800
Miscellaneous materials	-	1,000	1,000
Copy charges	650	-	650
Postage	500	-	500
Materials, equipment	1,000	-	1,000
Information resources	500	-	500
Uniforms	1,500	-	1,500
Repair and maintenance	2,000	-	2,000
Purchased services	8,500	-	8,500
Advertising	500	-	500
Printing	1,000	-	1,000
Telephone services	1,000	-	1,000
Cellular phone service	1,000	-	1,000
Dues and memberships	500	100	600
Employee training	3,100	200	3,300
Land Information System	500	-	500
Fleet charges	9,000	-	9,000
Computer replacement fund	2,400	800	3,200
TOTAL	\$ 237,481	\$ 71,660	\$ 309,141
One time allotment for a fixed term position	60,000	-	60,000
GRAND TOTAL	\$ 297,481	\$ 71,660	\$ 369,141

Note: the position included in Inspection Enforcement Administration also supervises Building Inspection.

Performance Measurement

The City uses a set of “performance targets” for zoning and environmental code enforcement. These performance targets are listed on page 194 of Volume I of the 2001 Budget:

Measurement	Target
Total number of cases processed annually in Zoning and Environmental Code Enforcement	2,000
Percent of initial inspections performed within 3 business days of receipt of complaint	90%
Percent of complaints for which all investigation and action by Environmental Enforcement Officers is completed within 30 days	75%

As far as we have been able to determine, there are no specified goals and objectives, or performance

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standards established, for each individual program and these general targets are not necessarily appropriate to each program. For example, if an initial inspection of a noise violation took 3 days, there would be no specific evidence to support any complaint; however, this measure may be very appropriate for trash, weeds, and occupancy. In addition, these measures are not based upon staffing. Therefore, during the time when staff members are heavily involved in noise enforcement, there may be no available time to do inspections for trash or weeds; however, during other parts of the year, these complaints should probably be handled even more promptly. Therefore, additional work needs to be done to make these performance targets the kinds of monitoring and evaluation tools which will assist the City and its customers in determining that environmental enforcement efforts are meeting any established standard.

It is not clear whether the target of handling 2,000 cases indicates that the City would like to reduce to that number of complaints from the current 3,000-4,000. In addition, although the Environmental Enforcement Office Operating Manual states that the purpose of the manual included ensuring a standardized level of performance, we could not find any specifics regarding that standardized level of performance.

Deployment of Effort

Environmental Enforcement Officers (excluding staff assigned to perform zoning and other land use work) are assigned working hours and days according to a two-season schedule. In the colder months, officers work days and generally concentrate on problems of trash and snow removal as needed, while in the warmer months, they redeploy in large part to the night hours to address noise problems although efforts are still focused in part on trash and weeds.

The following table arrays the scheduled availability of EEO's by hour of the day and day of the week for both the October to March and April to September periods. The matrix shows the number of EEO's working during each half hour of the day/week. Hours for which no staff are working have been removed from the matrix to conserve space. It should also be noted that this staffing includes a fixed term officer position, which expires on December 31, 2001.

Deployment schedule for Environmental Code Enforcement Officers

Time of Year and Time of Day		Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
October through March Schedule								
7:30 AM	8:00 AM		1	2	2	2	1	
8:00 AM	8:30 AM		2	3	3	3	2	
8:30 AM	9:00 AM		2	3	3	3	2	
9:00 AM	9:30 AM		2	3	3	3	2	
9:30 AM	10:00 AM		2	3	3	3	2	
10:00 AM	10:30 AM		2	3	3	3	2	
10:30 AM	11:00 AM		2	3	3	3	2	
11:00 AM	11:30 AM		2	3	3	3	2	
11:30 AM	12:00 PM		2	3	3	3	2	

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Time of Year and Time of Day		Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
12:00 PM	12:30 PM		2	3	3	3	2	
12:30 PM	1:00 PM		2	3	3	3	2	
1:00 PM	1:30 PM		2	3	3	3	2	
1:30 PM	2:00 PM		2	3	3	3	2	
2:00 PM	2:30 PM		2	3	3	3	2	
2:30 PM	3:00 PM		2	3	3	3	2	
3:00 PM	3:30 PM		2	3	3	3	2	
3:30 PM	4:00 PM		2	3	3	3	2	
4:00 PM	4:30 PM		2	3	3	3	2	
4:30 PM	5:00 PM		1	2	2	2	1	
5:00 PM	5:30 PM		1	2	2	2	1	
5:30 PM	6:00 PM		1	2	2	2	1	

April to September schedule								
12:00 AM	12:30 AM					2	2	2
12:30 AM	1:00 AM					2	2	2
1:00 AM	1:30 AM						2	2
1:30 AM	2:00 AM						2	2
2:00 AM	2:30 AM						2	2
2:30 AM	3:00 AM						2	2

7:00 AM	7:30 AM			2	3	1		
7:30 AM	8:00 AM			2	3	1		
8:00 AM	8:30 AM			2	3	1		
8:30 AM	9:00 AM			2	3	1		
9:00 AM	9:30 AM			2	3	1		
9:30 AM	10:00 AM			2	3	1		
10:00 AM	10:30 AM			2	3	1		
10:30 AM	11:00 AM			2	3	1		
11:00 AM	11:30 AM			2	3	1		
11:30 AM	12:00 PM			2	3	1		
12:00 PM	12:30 PM			2	3	1		
12:30 PM	1:00 PM			2	3	1		
1:00 PM	1:30 PM			2	3	1		
1:30 PM	2:00 PM			2	3	1		
2:00 PM	2:30 PM			2	3	1		
2:30 PM	3:00 PM			2	3	1		
3:00 PM	3:30 PM			2	3	3		
3:30 PM	4:00 PM			2	3	3		
4:00 PM	4:30 PM			2	3	3		

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4:30 PM	5:00 PM			2	3	3		
5:00 PM	5:30 PM			2	3	3	2	2
5:30 PM	6:00 PM			2	3	3	2	2
6:00 PM	6:30 PM					2	2	2
6:30 PM	7:00 PM					2	2	2
7:00 PM	7:30 PM					2	2	2
7:30 PM	8:00 PM					2	2	2
8:00 PM	8:30 PM					2	2	2
8:30 PM	9:00 PM					2	2	2
9:00 PM	9:30 PM					2	2	2
9:30 PM	10:00 PM					2	2	2
10:00 PM	10:30 PM					2	2	2
10:30 PM	11:00 PM					2	2	2
11:00 PM	11:30 PM					2	2	2
11:30 PM	12:00 AM					2	2	2

It should be noted that Environmental Code Enforcement Officers (EEO's) continue to work on an overtime basis on Thursday, Friday, and Saturday nights during the March to September period whenever required. In addition, any EEO may work additional hours during the last three weeks of spring semester, during graduation, and the first six weeks of fall semester.

During the year, it is estimated that the entire staff of the Zoning and Environmental Code Enforcement Unit deployed approximately 48 percent of their effort to direct field work, including responding to calls for service and investigations.²⁴ Another 42 percent of the available labor effort was applied to work such as case-related paperwork and research that is essential to investigations. The remaining 10 percent of available labor was consumed by vacation, holidays, sick leave and other non-productive time. The following table provides a detailed analysis of estimated labor allocation. Again, it is important to remember that the FTE's included in this chart include a limited term position which ends as of December 31, 2001.

Estimated Allocation of Labor for Zoning and Environmental Enforcement

Work Activity	Total hours	FTE positions
Field Work (complaint response and proactive inspection efforts)		
Over-occupancy *	991	0.47
Illegal units and uses*	146	0.07
Land use: permit and basic zoning inspection related (including support for other departments)	272	0.13
Land use: complaint driven *	146	0.07
Sign code*	233	0.11

²⁴ The Zoning and Environmental Enforcement Unit does not make use of a formal labor accounting system, so these estimates were developed based on an interactive estimating process with the actual individual staff members. Initial estimates of how each person used their time were developed and critiqued, and revised estimates were then developed which form the basis of the estimates provided in this section.

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Work Activity	Total hours	FTE positions
Vehicular emissions	25	0.01
Wood burning	62	0.03
Public smoking	41	0.02
Noise: vehicular complaints	15	0.01
Noise: data gathering in support of other departments	21	0.01
Noise: residential	1,988	0.95
Trash	750	0.36
Sidewalk snow removal	412	0.20
Weeds	386	0.18
Pesticide notification	53	0.03
Sound monitoring support for Downtown Management Commission and Parks and Recreation	81	0.04
Water quality enforcement	20	0.01
Other	10	0.00
Attendance at community meetings	65	0.03
SUBTOTAL, FIELD WORK	5,717	2.74
Non-field direct support work		
Occupancy related *	1,205	0.58
Land use related *	39	0.02
Sign related *	73	0.03
Vehicle related	10	0.00
Burning related	15	0.01
Smoking related	10	0.00
Trash and weeds related	462	0.22
Snow related	338	0.16
Noise related	1,593	0.76
Pesticide related	22	0.01
Sound monitoring related	29	0.01
Other educational outreach	42	0.02
Interactive work and coordination efforts with other city departments	290	0.14
General management and supervision	487	0.23
Planning and coordination		
Staff meetings	303	0.15
Other	-	-
SUBTOTAL, NON FIELD WORK	4,959	2.38
Administrative and non-work time		
Training	258	0.12
Administrative leave	-	-

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Work Activity	Total hours	FTE positions
Sick leave	24	0.01
Holidays	308	0.15
Vacation	571	0.27
Other	-	-
SUBTOTAL, ADMINISTRATIVE TIME	1,161	0.56
GRAND TOTAL	11,837	5.67
Overtime included above	540	0.26

Based upon specific weather conditions and other special circumstances, such as a varying number of days declared as red days for wood burning, the number of complaints/cases may vary significantly from year-to-year. The estimates provided above are based upon significant input from the staff of the Zoning and Environmental Code Enforcement Unit; however, these estimates may not be totally accurate for any specified year. They have probably been normalized to current conditions and methods, since they are based upon the judgment of staff involved. They also include the limited term position budgeted during FY 2001. Obviously, if additional time is involved in any particular year for one activity (for example, if there is a year with many snow storms), then other activities may be given less attention.

Coordination Mechanisms and Procedures

When unified business processes are carried out across organizational boundaries, it is essential that integration mechanisms be developed to ensure that effectiveness and efficiency are not impaired as tasks move across those boundaries. In the case of environmental code enforcement issues, transactions typically move from the citizen complainant to the Police Department or the Environmental Enforcement Office, to the City Attorney, and then to the Municipal Court for final disposition. Infrequently, Parking Enforcement may also share information with Environmental Enforcement Officers, but more frequently with the Zoning Inspector.

Based upon our interviews with staff from all of the involved organizational units, as well as with their managerial staff, coordination seems to be focused on planning for special events. For example, there is planning for the beginning of the school year, when the heaviest workload related to enforcement of the noise ordinances begins also. And, special programs, such as Aloha, Boulder, require planning and coordination. We have not been able to discern any documented City Council approved formal policies or Council instigated policy declarations. During the time that the University Hill Action Group was in operation, the City did move more forcefully into interdepartmental planning, but generally related only to the Hill Neighborhood.

As the next section of this report indicates, the information needed for joint planning has not yet been fully developed. The community is not as involved in formal continuing planning, now that the University Hill Action Group has been disbanded. However, there is a trash-related task force in operation. We heard about this task force from a landlord and no additional information was provided regarding the efforts of this task force. Mo Rait, Jay Dunlap, and Jerry Gordon have been trying to meet regularly about environmental enforcement and other issues; however, there is no specific planning document or written strategy that has resulted from these meetings. All management level stakeholders said that no clear goals and objectives had been documented for environmental code enforcement; therefore, determining performance standards and measures is difficult.

Technology Applications

The city's environmental code enforcement efforts are supported by four primary information management and communication systems: 1) the police department's dispatch system; 2) the Land Link land management system; 3) the microfiche property records maintained by the Planning Department; and 4) the case management system maintained by the Municipal Court.

Information Systems Supporting Environmental Code Enforcement

Information system	User Group			
	Police Department	Environmental Enforcement	City Attorney	Municipal Court
Dispatch system	☞			
Land Link system		☞		☞
Microfiche property records		☞		
Municipal court system				☞

Enforcement efforts also depend to some degree on manual records. In general discussions with the City's technology staff, we have discussed our difficulties in obtaining consistent data from all of the systems in place. Obvious problems exist with any attempt to determine the overall time that a case may take, since information has to come from several independent systems. Obtaining operational information can also be a problem, as the full potentials of the Land Link system have not been explored. For example, we actually pulled information from the Land Link records to determine which addresses were most frequently the objects of complaints. As far as we know, this sort of reporting has not been developed as a part of the City's continuing operational review and strategic planning. Environmental Enforcement only began tracking non-complaint-based cases in July of 2001, so some important information may be missing from prior year statistics.

Appendix E also details some problems with the quality control of information that has been entered into the Land Link System. In addition, it has been noted that warnings are generally manually tracked. We have noted some minor discrepancies between the Land Link information on the number of summonses issued and the number of summonses identified in Municipal Court records.

The EEO's currently use a logbook to manually document addresses visited and the outcomes. This information is then entered into Palm Pilots which allow transfer of the information into the Land Link system. Although this is a redundant system, there is sometimes no time to do the entry into the Palm Pilot because several noise calls are stacked up, and it is too dark to allow accurate entry at night.

PROCESS SPECIFIC DIMENSIONS

The material in the remainder of this section focuses on individual functional aspects of zoning and environmental enforcement activities. The discussion is divided generally into two main parts: the major activities and the minor activities. This distinction is a simple recognition that some aspects of the environmental enforcement are significant in terms of the amount of effort they consume and the level of public concern they generate, while other areas are not. The major activities include residential noise, occupancy problems, trash and weeds, and snow removal. These are described in more detail than the minor activities since they are of more concern. For each activity, we have discussed the basic legal foundations of the effort, process descriptions, the levels of effort that the city applies to enforcement, production and performance statistics, and adjudication information, if available.

We have placed the business processes in descending order, based upon the labor allocation assigned to each process.

Residential Noise

1. Legal foundations

There are three sections of the Boulder Revised Code which relate to noise: 1) Section 5-3-8, Disruption of Quiet Enjoyment of the Home, 2) Section 5-6-2, Excessive Sound Levels, and 3) Section 5-6-1, Unreasonable Noise. In addition, as of June 2001, the nuisance party ordinance was adopted (section 5-3-11).

2. Process descriptions

The following is a description of the major steps in the noise enforcement process:²⁵

- A citizen files a noise complaint²⁶ by making a call to the Boulder Police Department.
- The dispatcher logs the call and gets pertinent information from the complainant.
- The dispatcher determines whether Environmental Enforcement officers are on duty
 - If Environmental Enforcement officers are on duty, the call is assigned to them.
 - If no Environmental Enforcement officer is on duty, the dispatcher assigns the call to an on-duty Boulder Police Officer.
- If an Environmental Enforcement officer is assigned the case, a determination is made as to whether the complainant wishes to be contacted
 - If the complainant wishes to be contacted and can be contacted, he/she is asked whether they wish to file a formal complaint and whether they are willing to testify in any subsequent proceedings.
 - A determination is made as to whether a noise warning has been made to the same party in the past 90 days.
- The officer investigates the scene and makes a determination of whether a violation is occurring.

²⁵ This and subsequent descriptions are not meant to be exhaustive. They are merely aimed at rudimentary documentation for the reader's understanding. If more information is desired, the reader should consult process flowcharts maintained by the Environmental Enforcement office.

²⁶ In some cases, the noise problem is witnessed directly by officers in the field and acted on without a citizen complaint.

- If no violation is occurring, the officer clears with dispatch and resumes normal duties.
 - If a violation is occurring, the officer attempts to locate a responsible party at the location in question.
 - ✓ If a responsible party cannot be located, the premises are cleared, the source of the noise is eliminated and the premises are secured.
 - If the responsible party is located, the noise source is stopped and several options are considered:
 - ✓ If the complainant wishes to file formal charges, a summons will be issued.
 - ✓ If the complainant does not wish to file formal charges the following steps can be taken:
 - If a warning has been given in the prior 90 days, a summons may be issued.
 - If no warning has been given in the past 90 days, the party can be warned and a contact card completed.
 - If the noise is considered a major violation (excessive noise or noise that can be heard 100 feet from the property after 11:00 p.m.) a summons can be issued regardless of whether there has been a complaint in the past 90 days.
- After resolution of the incident, the officer clears with dispatch and returns to normal duties.

3. Labor allocation

It is estimated that the equivalent of 1.71 positions are devoted to residential noise enforcement efforts. The following table shows the breakdown between direct and indirect effort.

Direct effort.....	0.95
Indirect support effort	0.76
Estimated total.....	1.71

The Boulder Police Department also invests a considerable amount of effort into residential noise complaints; however, we have no estimates for the amount of officer time that is dedicated to this kind of complaint.

We estimate that each non-vehicular noise case that the Environmental Enforcement unit responded to during calendar year 2000 required approximately 2.01 hours of effort.²⁷ This includes the direct response to the complaint, on-site investigations, record keeping and research, court appearances when needed, and proportional allocations of patrol time. It should also be kept in mind that two officers respond each call, so the actual amount of “real time” consumed per case is approximately one hour.

4. Production and Performance Statistics

In the 18 months ending June 30, 2001, the monthly complaint rate for residential noise problems has ranged from a low of 179 to nearly 600. There is a definite seasonal pattern to noise complaints, with the peak months occurring from April through September. In the off-peak months, the Police Department serves as the first responder; Environmental Enforcement is the first responder to noise complaints during the peak season, when they are on duty.²⁸ The Police Department’s workload related to noise ranged from a monthly low of 151 to a high of 358 calls for service. Environmental Enforcement, in the off-season, handles few if any calls, while they can handle as many as 281 calls per month in the peak

²⁷ The estimated labor allocation per case, described here and below, is based on the total number of cases handled in the year 2000 (the last year for which we have a complete year of data) and the estimated amount of time — direct and indirect — that is invested in each type of enforcement activity. Non-productive time such as vacation and holidays are not allocated as part of the case cost, nor is management activity for the unit, the public works department or general city management. Staff provided the information and probably made adjustments for any current changes in workload, since they will remember the most current operations when providing estimates.

²⁸ Information provided by Environmental Enforcement staff in interviews.

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season. At no time in the past eighteen months did Environmental Enforcement handle more calls per month than the Police Department.²⁹ This is due to the limited schedule that the EEO's can handle, with no more than 2-3 FTE's available.

The following table shows the assignment of services calls to both the Police Department and Environmental Enforcement in the eighteen months ending June 2001. We have not updated these tables to more recent data due to the extended amount of time necessary to do the detailed analyses. We completed these analyses at the end of September, before moving on to other issues and the data was as up-to-date as possible at that time.

Police and Environmental Enforcement Call Handling Distribution

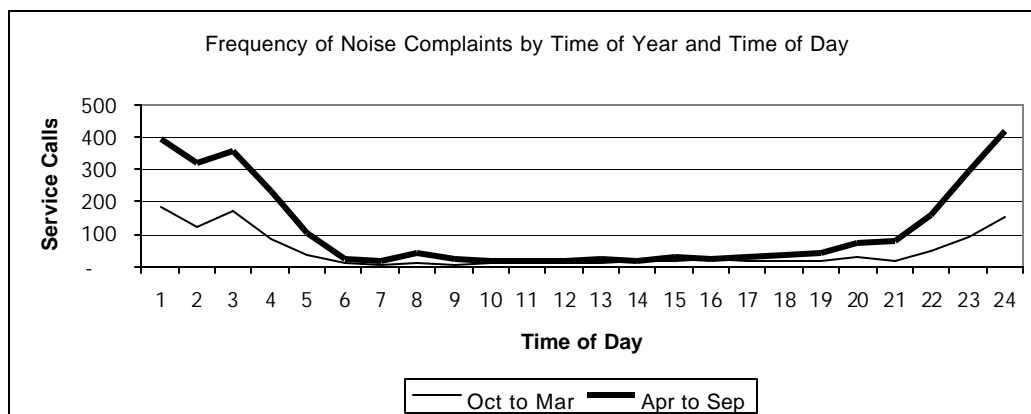
	Police	Environmental Enforcement	Total
January 2000	189	6	195
February 2000	247	0	247
March 2000	193	14	207
April 2000	233	120	353
May 2000	324	154	478
June 2000	293	176	469
July 2000	311	202	513
August 2000	358	176	534
September 2000	317	281	598
October 2000	151	28	179
November 2000	192	0	192
December 2000	189	0	189
January 2001	202	0	202
February 2001	223	0	223
March 2001	284	2	286
April 2001	299	126	425
May 2001	305	153	458
June 2001	327	187	514

The daily pattern of noise complaints is relatively consistent throughout the year, with complaints rising sharply after 9:00 p.m., peaking around midnight, and then declining through 6:00 a.m. The total volume of night-time complaints increases as much as 200 percent or more during the warmer months of April through September. The following graph describes the frequency of all complaints during calendar year 2000 by time of day and season of the year.³⁰ We have used 2000 data for this chart as we wanted to show an entire year of data and an entire year of data for 2001 was not yet available. It is doubtful that 2001 data will be significantly different from data for 2001.

²⁹ Statistics taken from the Boulder Police Department dispatch system records.

³⁰ Data are taken from Boulder Police Department dispatch system records for calendar year 2000. The complaint time used in this graph actually represents the time of day that the service call was relayed by the dispatch officer either to a Boulder PD officer or an Environmental Enforcement officer. We assume that the time delay between a citizen complaint and the dispatched call to an officer is minimal.

Frequency of Noise Complaints by Time of Year and Time of Day



5. Response times

The Environmental Enforcement Officers respond to roughly a quarter of all noise complaints within four minutes and 90 percent of all complaints within about half an hour.³¹ The following table summarizes response times.

Environmental Enforcement Response times for Noise Complaints

Response time	Percent at this level	Cumulative percent at this level
Under 4 minutes	25.9%	25.9%
4 to 8 minutes	25.3%	51.2%
8 to 16 minutes	20.9%	72.0%
16 to 32 minutes	18.3%	90.3%
More than 32 minutes	9.7%	100.0%

According to a special study completed by Terry Westover, Evaluation Project Coordinator in the City's Audit and Evaluation Division, in August of this year, and information provided by Commander Robert Sullenberger from the Police Department, Police Department response time for all noise complaints has improved from 1999, when the average response time for all noise complaints was approximately 38 minutes. In 2000, Police Department response to any complaints originating from the Hill averaged 13 minutes and 45 seconds, while the response to all other noise complaints averaged 31 minutes and 7 seconds. As of May, 2001, the average response time to Hill noise complaints was 12 minutes and 46 seconds, while the response to all other complaints averaged 16 minutes and 23 seconds.

Since April of 2001, noise calls have been handled differently by the City's dispatch center. For those times when EEO's are on duty (see previous descriptions of deployment strategies), if EEO's are

³¹ These percentages were developed based on a review of a sample of roughly half of all responses to noise complaints in 2000. Response time was calculated as the difference between the time the call was dispatched by the police department and the time recorded in office records for arrival on scene.

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available, they are dispatched immediately for noise anywhere in the City. However, for noise from the Hill, if EEO's are on another call they will be paged within 5 minutes to determine whether they will be free to take the Hill call. If that is not the case, then either the Hill unit or a district patrol car will be dispatched. For noise in other parts of the City, the page will go to EEO's within 30 minutes.

6. Call Disposition

Overall, both the Police Department and the Environmental Enforcement officers are likely to dispose of incidents in roughly the same manner. Some differences exist, but the differences involve small numbers; reading large meanings into small numbers is not advised. In general, the disposition statistics suggest the following:

- ❑ Enforcement has been getting more stringent. In the first six months of 2000, an offender was likely to receive a summons only 1.5 percent of the time. By the second half of that year, that had increased to 2.6 percent, and by the first six months of this year the likelihood of receiving a summons had risen to 3.9 percent — 260 percent higher than the summons rate for the same time period in the prior year.
- ❑ During 2000, the Environmental Enforcement Officers were more likely to issue a noise related summons than the Police Department, although in the first six months of this year the Police Department has increased its tendency to cite violators.
- ❑ Both groups issue warnings in roughly one-third of all complaint cases.
- ❑ The following table displays the breakdown of how both the Police Department and Environmental Enforcement handled cases in the eighteen month period ending June 30, 2001. It is broken down into three six month increments in order to show variations in treatment that have developed during that period. For each period of time, the composite percentage disposition is shown. This is an average of actual cases handled rather than an average of the percentages shown for the Police Department and Environmental Enforcement. Thus, they tend to be weighted toward the Police Department disposition rates since the Police Department typically handles more calls.

Noise Service Call Disposition Rates—All Cases

Disposition of case	Jan to June 2000			July to Dec 2000			Jan to June 2001		
	Police	Environ Enforce	Composite	Police	Environ Enforce	Composite	Police	Environ Enforce	Composite
Arrest	0.2%	0.0%	0.2%	0.7%	0.6%	0.6%	0.7%	0.4%	0.7%
Cleared	42.3%	45.4%	43.1%	42.9%	41.6%	42.5%	45.2%	43.9%	44.9%
Investigation	1.0%	0.9%	1.0%	2.2%	1.5%	1.9%	1.2%	0.4%	1.0%
Gone on Arrival	0.8%	2.1%	1.1%	1.1%	0.7%	1.0%	1.6%	1.3%	1.5%
Handled In-Service	0.1%	0.4%	0.2%	0.2%	0.4%	0.3%	0.8%	0.2%	0.7%
Unable to locate	10.4%	12.4%	10.9%	8.1%	7.3%	7.8%	7.4%	7.7%	7.5%
Paged	0.0%	0.0%	0.0%	0.3%	0.0%	0.2%	0.1%	0.0%	0.1%
Report	0.4%	0.9%	0.5%	0.2%	0.4%	0.3%	0.4%	0.4%	0.4%
Summons	0.9%	3.4%	1.5%	2.0%	3.9%	2.6%	4.5%	2.1%	3.9%
Unknown	2.0%	1.9%	1.9%	2.6%	2.0%	2.4%	2.0%	2.6%	2.1%
Warning	35.1%	27.8%	33.3%	33.5%	37.1%	34.6%	31.7%	33.8%	32.1%
Cancelled	6.1%	3.9%	5.6%	5.1%	3.5%	4.6%	3.9%	6.6%	4.5%
Aired	0.1%	0.9%	0.3%	0.1%	0.3%	0.1%	0.3%	0.0%	0.2%

**Report on the Performance Audit of Environmental Code Enforcement
City of Boulder, Colorado**

Disposition of case	Jan to June 2000			July to Dec 2000			Jan to June 2001		
	Police	Environ Enforce	Composite	Police	Environ Enforce	Composite	Police	Environ Enforce	Composite
Not coded	0.7%	0.0%	0.5%	1.1%	0.6%	1.0%	0.4%	0.4%	0.4%
TOTAL	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Again, we have not updated this information beyond June of 2001 because of the amount of time required. However, recent information provided by EEO's shows that, through October 15 of 2001, they actually have written more summonses for noise than have the Police Department.

- ❑ In 2000, EEO's issued 25 noise summonses; through October 15 of 2001, they have issued 75 summonses—an increase of 200%.
- ❑ In addition, from June 1 to October 15 of 2001, EEO's have issued 16 nuisance party summonses.
- ❑ In 2001, through October 15th, the Police Department had written 65 noise summonses and 9 nuisance party summonses.

7. Major and repeat offenders

For the 18 months ended June 30, 2001, the City responded to 6,262 noise complaints. These complaints were registered at 2,488 separate addresses. Several locations account for a disproportionate amount of the noise complaints. The 100 most frequently visited addresses generate roughly 30 percent of all workload.

The following table summarizes the relevant call data for this period:

Frequent Offenders

Number of complaints	Locations	Complaints at these addresses	These calls as percent of total	Cumulative percentage
>60	1	67	1.1%	1.1%
50-59	3	156	2.5%	3.6%
40-49	2	88	1.4%	5.0%
30-39	9	298	4.8%	9.7%
20-29	10	233	3.7%	13.4%
10-19	67	881	14.1%	27.5%
5-9	207	1300	20.8%	48.3%
2-4	655	1705	27.2%	75.5%
1	1534	1534	24.5%	100.0%
Total	2488	6262	100.0%	

The following table compares the disposition of noise related service calls for the 16 locations which generated the largest number of visits by the Police Department or Environmental Enforcement officers from January 1, 2000 to June 30, 2001.³² These locations accounted for a little more than 10 percent of all enforcement and police officer responses to noise complaints even though they only constituted six-tenths of one percent of all addresses visited by officers.

³² Only the top sixteen were used for this demonstration because they generated approximately 10 percent of service calls.

Treatment of Major Offenders

Location description	Service calls	Arrest	Cleared	Investigation	Gone on arrival	Handled in service	Unable to locate	Report	Summons	Unknown	Warning	Cancelled
Mobile home park with pool	67		31	1			5				26	4
Large apartment complex	52	1	30	3			1			2	11	4
Large apartment building with pool	52		20				7		2		20	3
Multi-unit apartment with interior corridors and pool	51	1	16					1	4	1	26	2
Mobile home park with pool	44		22				7			2	9	4
Apartment building with interior corridors and pool	44	1	14	1	1		8			2	17	
Multi-tenant apartment with pool	36	1	14	1		1	2		1	1	14	1
Apartment complex	36		16		1		12				6	1
Apartment complex	34	1	9	1			7	1	3		10	2
Apartment complex with pool	34		17						1	1	14	1
Fraternity house	33		16		1	2	1		2		9	2
Large apartment complex with interior corridors and pool	38		13				4		2		16	3
Large apartment complex with interior corridors and pool	31		12			1	2				14	2
Large apartment complex	30		14								14	2
Multi unit apartment building	30		16	1			2		1		9	1
Large apartment complex with interior	29		8				2		1		17	1

**Report on the Performance Audit of Environmental Code Enforcement
City of Boulder, Colorado**

Location description	Service calls	Arrest	Cleared	Investigation	Gone on arrival	Handled in service	Unable to locate	Report	Summons	Unknown	Warning	Cancelled
corridors and pool												
TOTAL	641	5	268	8	3	4	60	2	17	9	232	33
Major offenders		0.78%	41.81%	1.25%	0.47%	0.62%	9.36%	0.31%	2.65%	1.40%	36.19%	5.15%
City average		0.70%	44.90%	1.00%	1.50%	0.70%	7.50%	0.40%	3.90%	2.10%	32.10%	4.50%

The table shows the percentage disposition of service calls for “major offenders” arrayed on the final line against the similar disposition for all service calls throughout the city. While the treatment of the major offenders was roughly comparable to the rest of the city, it is interesting to note that these major offenders are more likely to be warned and less likely to receive a summons than the less frequent offenders. The fact that all but one of the major offenders illustrated above (Appendix D includes the top 100 offenders) are large apartment complexes, often with a swimming pool, may explain much about the frequency of service calls to these locations and the lighter treatment by officers. Large apartment complexes are always the source of high numbers of noise complaints if for no other reason than that there are a larger number of residents. Apartments with swimming pools are yet another source of potential outdoor noise about which neighbors or residents of the apartment can and will complain. Since an apartment complex has many times the number of residents than a single family or duplex unit, it is completely understandable why so many more service calls go to these locations. On a family unit by family unit basis, they actually may generate no more workload than a single family residence.

In Appendix D, the 100 addresses with the greatest number of violations are detailed. Maps showing the number of violations within neighborhoods are also included in Appendix D.

In addition, the Police Department has been careful to note that, although there may be many calls from the same address, the individuals involved may be different. Based on recent changes in ordinances, this is not as big a problem as it was when the same individual had to be contacted at least twice before a summons could be written. However, this does indicate the more limited effectiveness of trying to educate, inform, and warn. It also illustrates the reason that some of the ordinance changes being considered focus on landlords or building managers, even though they are not the individuals responsible for creating noise.

8. Geographic distribution of workload

The three maps attached in Appendix D show the distribution of noise calls from January to July of 2001. The first map indicates those addresses which had only one noise call; the second map shows those addresses which had 2-5 noise calls during the same time period. Addresses which had 6 or more calls are indicated on the third map.

9. Fines Paid for Environmental Enforcement Summonses

The following tables show the fines assessed by the Municipal Court for those cases that resulted in a summons:

Adjudication of Noise Violations-1999-October 2001

	1999	2000	Through Oct, 2001
Disruption Quiet Enjoyment Summonses	15	5	31
Number of Summonses With Fines	10	3	19
Percentage of Summonses With Fines	67%	60%	61%
Average Fine	\$151	\$283	\$138
Making Unreasonable Noise Summonses	29	17	46
Number of Summonses With Fines	26	17	32
Percentage of Summonses With Fines	90%	100%	70%
Average Fine	\$134	\$236	\$204
Total Noise Summonses	44	22	77
Number of Summonses With Fines	36	20	51
Percentage of Summonses With Fines	82%	91%	66%
Average Fine	\$139	\$243	\$179

Note: there are some variations between the information provided by the Municipal Court on the number of summonses and the information provided by the EEO's. For these charts, we have used the Municipal Court information.

Occupancy

1. Legal foundations

Section 9-3.2-8 of the Boulder Revised Code, Occupancy of Units, describes the maximum number of persons that can occupy a dwelling unit.

2. Process descriptions

It is important to note here that the EEO's are usually not responsible for enforcing the occupancy code. This is a responsibility of the Zoning Inspector. The following are the major steps in the enforcement process for cases related to occupancy and land use:

- An occupancy problem is either discovered by City staff or reported to the City by an outside party.
- Staff check to determine whether the complaint reflects an already open case
 - If a case is already open on this location, the new information is added to that file
 - If no case already exists, a new case is initiated.
- If a new case is opened, the complainant is contacted in order to gain more information and clarify the complaint. Records on the location are also checked to determine the rules governing that particular location.
- An on-site investigation is conducted during which the residents of the unit in question are contacted.
 - If insufficient information of a violation is uncovered in the investigation, the complainant is notified of that fact, the owner/manager is notified, and the case is closed
 - If sufficient evidence of a violation is discovered, the property owner/manager is contacted.
- A summons review is conducted with the owner/manager of the property
 - If the disputed use can be resolved, through means other than formal legal action, that option can be pursued
 - If further investigation is warranted based on the review, that investigation is initiated.

- If other options are not pursued, a summons is issued
- ❑ Following issuance of a summons the complainant and owner are notified and a filing decision is made in conjunction with the City Attorney.
- ❑ If a decision is made to prosecute the case, the case is forwarded to the court for formal action
- ❑ After court action, the property is re-inspected in order to confirm that there is compliance with the court order.
- ❑ If the property is not brought into compliance, an additional summons can be issued and the court notified of the failure to comply
- ❑ If the property is brought into compliance, all parties are notified of that fact.
 - The case is closed.

3. Labor allocation

The Zoning and Environmental Code Enforcement Unit invested an estimated 1.32 FTE positions in efforts related to occupancy in the past calendar year. The breakdown between direct and indirect effort was estimated as follows:

Direct effort.....	0.74
Indirect support effort	0.58
Estimated total.....	1.32

Occupancy related cases appear to be the most “expensive” of the cases that the Environmental Enforcement unit handles, based upon the hours that each case consumes. Based on calendar year 2000 statistics, we estimate that the average occupancy and land use violation case consumes approximately 17.8 hours of staff time. This includes taking the complaint, researching city property records, site visits to investigate the complaint, follow up notifications of the property owner, property manager or tenants, issuance of citations and court appearances when necessary. It is important to note that, when a land use or occupancy related case moves beyond a warning to a legal summons, the amount of effort invested can become considerable. These estimates do not include potential subsequent participation by the City Attorney’s Office or the Municipal Court.

4. Production and performance statistics

Occupancy complaints/contacts were included with other land use violations prior to 2001, but the Zoning and Environmental Code Enforcement Unit has provided as much information as possible for 2000 and 2001. Based upon this information, enforcement is becoming more stringent.

Year	Contacts/Complaints	Summonses
2000	94	4
2001 thru October 15	143	24

5. Seasonal and geographic variations in workload

We have no information on seasonal and geographic variations. However, occupancy is largely an issue in single family zones where there are residences that have been converted to rentals, particularly when these rentals have been grandfathered during previous downzonings. In addition, occupancy appears to be more proactively enforced, at least on the Hill, reducing any impact of seasonality.

6. Fines Paid

The following tables show the fines assessed by the Municipal Court for those cases which resulted in a summons:

Adjudication of Occupancy Violations 1999-October 2001

	1999	2000	Through Oct 2001
Occupancy Summonses	4	5	31
Number of Summonses With Fines	1	3	7
Percentage of Summonses With Fines	25%	60%	23%
Average Fine	\$200	\$308	\$698

There is a very wide range in the fines assessed so far in 2001. For example, one case resulted in a fine of \$5, while another resulted in a fine of \$2,000.

Trash and Weeds

1. Legal foundations

Title 6, Chapter 3 of the Boulder Revised Code, is the "Trash Ordinance." Section 5-4-12 prohibits the unauthorized use of a trash receptacle; Section 5-4-13 prohibits littering. Title 6, Chapter 2 of the Boulder Revised Code is the "Weed Ordinance."

2. Process descriptions

The major steps in investigating trash and weed problems include:

- Print out Land Link cases dealing with weeds and trash
 - Part-time clerk will have entered these cases into the Land Link program based upon phoned-in complaints from citizens.
 - Enforcement Officers may have also entered in cases based upon field observations or other sources that provide them with information.
 - Weed and trash cases are assigned a separate code so that they can be sorted and extracted to form a daily checklist of investigations that need to be conducted.
- Enforcement Officer takes daily print out of cases and drives to sites to be examined
 - Enforcement Officer takes a Polaroid to support any future legal actions.
 - Occupant of offending location may be contacted while Officer is investigating.
 - Officer completes notes and pictures and moves to the next case to be investigated.
- Enforcement Officer returns to the office and determines identity of owners/occupants of any properties where problems have been documented.
 - Enforcement Officer prepares letter advising owners/occupants of violations and ordering them to remedy problems within a specified time.
 - Entries are made into Land Link system tickler file for follow-up action or put in the file for future re-inspections.
 - If Land Link system shows that there have been prior warnings, or a problem is egregious, the Enforcement Officer writes a summons to the owner/occupant.
- At the end of shift, Land Link either closes a case or that case can be placed into the file for future re-inspections.

3. Labor allocation

Approximately three-quarters of one Environmental Enforcement position is employed in responding to problems related to trash and weeds. The following table summarizes our estimates.

Direct effort (trash)	0.36
Direct effort (weeds).....	0.18
Indirect support effort (trash and weeds).....	0.22
Estimated total.....	0.76

We estimate that the Environmental Enforcement unit expended approximately 2.83 hours of labor effort per weed and trash case in calendar year 2000. This includes direct investigation of the complaint, contact with the complainant, contact with the offender, record keeping and research, and court appearances when needed. This is a “real time” estimate since responses related to weeds and trash are handled by a single officer.

4. Production and performance statistics

The following table compares the contacts and complaints related to trash and weeds for January through December 31, 2000 and for January through October 15, 2001, showing that many additional complaints and contacts had been handled during the first part of 2001:

12 Month Complaints/Contacts 2000		9.5 Month Complaints/Contacts 2001	
Trash	464	Trash	489
Weeds	104	Weeds	296
Total	568	Total	785

Obviously, this workload is increasing. It is likely that having the additional limited term EEO enabled response to the additional complaints and/or contacts. In addition, EEO’s have taken a more proactive approach to weed and trash violations.

5. Seasonal and geographic variations in workload

Trash complaints are received year round and can be received from any part of the City. During the peak periods of CU student move-in and move-out, the trash violations and complaints are significantly higher. Programs such as the Sofa Swap and Aloha Boulder have been attempts to minimize the negative impacts of these periods on the affected neighborhoods. Neighborhoods most affected by high student turnover are University Hill, Goss/Grove, East Aurora, and Martin Acres.

Weed complaints and violations are highest between June and September, depending upon the weather. Early heavy rains and hot summers contribute to faster growing weeds and the potential for more and earlier complaints. The complaints can occur in any part of the City.

6. Fines Paid

The following tables show the fines assessed by the Municipal Court for those cases which resulted in a summons. Note that the Court had no information on weed violations for 1999 and 2000:

Adjudication of Trash and Weed Violations 1999-October of 2001

	1999	2000	2001 Through Oct
Trash Summonses	3	13	51
Number of Summonses With Fines	2	11	21
Percentage of Summonses With Fines	67%	85%	41%
Average Fine	\$100	\$222	\$132
Weed Summonses	0	0	5
Number of Summonses With Fines	0	0	3
Percentage of Summonses With Fines	n/a	n/a	60%
Average Fine	n/a	n/a	\$67
Total Trash Only Summonses	3	13	56
Number of Summonses With Fines	2	11	24
Percentage of Summonses With Fines	67%	85%	43%
Average Fine	\$100	\$222	\$124

Obviously, trash and weed summonses have significantly increased during 2001.

Sidewalk Snow Removal

1. Legal foundations

Section 8-2-13 of the Boulder Revised Code deals with snow removal from public sidewalks abutting a property.

2. Process descriptions

The Code requires that all snow and ice hazards be removed from a public sidewalk abutting a property by noon on the day following a snowfall. The major steps in this enforcement process include:

- At noon on the day following a snowfall, EEO's inspect properties both proactively and based upon complaints.
- Proactive inspections are made in high pedestrian areas and corridors.
- Warning notices in the form of door hangers are given to residents or left at properties with ice or snow on the sidewalk.
- Letters are sent to landlords of multi-family residential, commercial, and repeat offenders.
- Reinspections for compliance are performed after all complaints and most high pedestrian corridors have been inspected.
- Summonses may be issued after a warning has been given. Summonses are issued to the resident, manager, owner, or any combination thereof.
- A contractor is occasionally hired to clear particularly hazardous, high pedestrian areas that are not cleared by the resident or landlord. The owner is charged for the cost, plus an administrative fee. If the charges are not paid, the bill is certified to the taxes by the County Assessor's Office.

3. Labor allocation

The Environmental Enforcement Office estimates that it invested approximately one third of one full time position in efforts related to snow removal during calendar year 2000. The following table summarizes these estimates.

Direct effort..... 0.20
 Indirect support effort 0.16
 Estimated total..... 0.36

Each snow removal case, according to our estimates, takes approximately one hour of staff time. This includes taking and investigating the complaint, talking with the offending party, record keeping, and coordinating the volunteer effort aimed at preventing such problems.

4. Production and performance statistics

This workload can vary significantly, based upon the weather.

Year	Number of Contacts/Complaints	Percentage Resulting in Summons
1998	729	.3%
1999	146	2.7%
2000	762	.5%
2001 through October 15	395	.2%

5. Seasonal and geographic variations in workload

Snow complaints and enforcement can occur any time between September and May and are entirely weather dependant. Higher priority is given to high pedestrian areas, such as the University Hill, Marin Acres, East Aurora, Table Mesa, and downtown neighborhoods.

6. Fines Paid

The following tables show the fines assessed by the Municipal Court for those cases which resulted in a summons:

Adjudication of Snow and Ice Violations 1999-October 2001

	1999	2000	2001 Through Oct
Snow and Ice Summonses	3	2	1
Number of Summonses With Fines	1	2	1
Percentage of Summonses With Fines	33%	100%	100%
Average Fine	\$25	\$180	\$50

Sign Code Violations

It is important to note here that the EEO's are not responsible for enforcing the sign code. This is a responsibility of the Zoning Inspector and has not been area of particular concern to the stakeholders interviewed. Since this function is not relevant to this report, we have provided only minimal information.

1. Labor allocation

The Zoning and Environmental Code Enforcement Unit invested approximately 15 percent of one full time position on matters related to enforcement of the City's sign code. Again, it is important to note that this labor allocation does not include the EEO's. The following table summarizes these estimates:

Direct effort..... 0.11
 Indirect support effort 0.04

Estimated total..... 0.15

It should be kept in mind that not all work related to enforcement of the sign code is performed exclusively within the Environmental Enforcement unit. Staff members estimate that they handle 70 percent of all cases, with the remaining 30 percent of cases handled directly by the Planning Department.³³ Therefore, the table above does not reflect a full estimate of city efforts in this area.

Sign code violations appear to be the least costly of all types of cases handled by the Zoning and Environmental Code Enforcement unit. We estimate that each violation of the sign code handled by the Environmental Enforcement staff consumes approximately 36 minutes, including investigation and record keeping.

2. Production and performance statistics

We have combined sign code violations and signs removed from right of way violations in the following statistics:

Year	Number of Contacts/Complaints
1998	483
1999	291
2000	534
2001 through October 15	214

The reduction in the contacts and cases related to the sign code may, in part, be the result of the heavy emphasis upon more proactive enforcement of occupancy during 2001.

Wood burning

1. Legal foundations

Title 6, Chapter 9 of the Boulder Revised Code restricts burning.

2. Process descriptions

The major steps in enforcing the wood burning ordinance include:

- Between November 1 and April 1 of each year, the Colorado Department of Health reviews the air quality and predicted weather. The Health Department then designates the next 24 hour period as either a “red” day, which means that wood burning is illegal, or “blue” day, which means that wood burning is allowed. It is each citizen’s responsibility to determine whether wood burning is allowed on any given day, before starting a fire in their fireplace or wood burning stove.
- EEO’s proactively patrol for wood burning violations on high pollution days.
- Occasionally, EEO’s receive a complaint from a citizen or the State’s Air Pollution Hot Line. Addresses named in complaints are checked for violations.
- The Environmental Aide has the responsibility for granting exemptions to the ordinance, based upon the State of Colorado guidelines and the Boulder Revised Code. The Environmental Aide also maintains the list of exemptions for the EEO’s to reference while enforcing the code.

³³ Staff report that the Planning Department is about to assume roughly 40 percent of the cases related to the sign code. This will decrease the level of effort of the Zoning and Environmental Code Enforcement Unit.

- When someone is burning on a high pollution day, the EEO's contact the residents, give them a City of Boulder brochure on the wood burning ordinance, explain the ordinance and qualifications for exemptions, and how to find out whether burning is allowed on any day.
- If an address has had a violation, that address is rechecked on high pollution days throughout the season. Subsequent violations may result in a summons.

3. Labor allocation

The Environmental Enforcement unit invested an estimated four percent of one full time position in activities related to regulation of wood burning in calendar year 2000. The following table summarizes these estimates:

Direct effort.....	0.03
Indirect support effort	0.01
Estimated total.....	0.04

We estimate that each wood burning case handled by the Environmental Enforcement staff consumes approximately 4.9 hours of staff time. This includes the initial response to a complaint, investigation and discussions with the offender, rechecks, record keeping and research, and court appearances in those cases in which a summons has been issued.

4. Production and performance statistics

Enforcing the wood burning ordinance is a minor duty for the EEO's. The number of no-burn ("red") days determined by the Colorado Health Department is a significant workload issue.

Year	Number of Contacts/Complaints
1998	6
1999	9
2000	17
2001 (through October 15)	13

Information provided by EEO's showed no summonses written for wood burning.

5. Seasonal and geographic variations in workload

The Colorado State Department of Health calls high pollution days during the winter months between November 1 and April 1. There are wood burning stoves and fireplaces in every residential neighborhood in the City. These are more concentrated in the homes and townhouses built before the mid-1980's as newer homes and apartments often have gas fireplaces, which are not covered by the ordinance.

Pesticide notifications

1. Legal foundations

Title 6, Chapter 10 of the Boulder Revised Code requires notification of pesticide use. Restrictions on what can be used, when, where, and how, are under the jurisdiction of the Federal government, and enforced by the Colorado Department of Agriculture.

2. Process descriptions

Enforcement of the pesticide ordinance is entirely complaint-based.

- A citizen calls a complaint into the Environmental Enforcement Office.
- The Environmental Aide enters the complaint and details into Land Link.

- An EEO investigates by talking to the complainant, the owner of the property where the pesticides were applied, the commercial applicator (if appropriate), and any other available witnesses.
- The EEO may inspect the property for appropriate signage.
- The EEO will send warning letters, when appropriate.
- A summons may be issued to a repeat offender.
- Complaints about methods of application or questions about the pesticide sensitivity registry are referred to the Colorado Department of Agriculture.

3. Labor allocation

The Environmental Enforcement Office estimates that it invested approximately 4 percent of one full time position in efforts related to pesticide notification during calendar year 2000. The following table summarizes these estimates.

Direct effort.....	0.03
Indirect support effort	0.01
Estimated total.....	0.04

The level of effort required per pesticide notification case is rather high — the second highest cost per case of all of the Environmental Enforcement unit’s responsibilities. We estimate that approximately 10.4 hours of staff time is invested for each case that is processed. This includes the initial investigation, discussion with the offenders and neighbors, warnings or issuances of summonses, record keeping, and court appearances when required.

4. Production and performance statistics

Enforcing the pesticide ordinance takes more time than the number of contacts/complaints implies, due to the high level of effort required for each case.

Year	Number of Contacts/Complaints
1998	10
1999	6
2000	8
2001 through July 2	5

No information has been provided regarding the number of summonses issued. Obviously, this is a minor element in the EEO’s workload.

5. Seasonal and geographic variations in workload

Pesticides are usually applied in the spring, summer, or fall and may be used in all neighborhoods. An awareness on the part of many residents who use natural alternatives keeps this workload lower.

Vehicular noise and Visible Emissions

1. Legal foundations

Two sections of the Boulder Revised Code deal with vehicular noise: 1) Section 5-6-2, Excessive Sound Levels and 2) Section 7-3-4, Inadequate Muffler Prohibited. Section 7-3-5 of the Revised Code prohibits visible emissions.

2. Process descriptions

While on random patrol, Environmental Enforcement Officers perform a traffic contact, stopping vehicles in violation of the noise and/ or visible emissions ordinances. An information sheet is provided, along with a summons, which explains the options and process. The violator has the option of repairing the vehicle. If the vehicle is repaired, inspected by an EEO and found to be in compliance, a recommendation for a lesser fine is given to the court.

The EEO's may also take complaints from citizens about loud and smoking vehicles. A letter is sent to the registered owner explaining the ordinance, the consequences, and how to get the vehicle checked by an EEO for compliance. Occasionally, for repeat complaints, focused patrol in the area where the offending vehicle is frequently seen may be used.

3. Labor Allocation

The Environmental Enforcement unit invested the equivalent of approximately one-fiftieth of a full time position in enforcement efforts related to vehicular noise and visible emissions during calendar year 2000. The following table summarizes these estimates:

Direct effort.....	0.02
Indirect support effort	0.00
Estimated total.....	0.02

We estimate that vehicle related cases consume approximately 2.8 hours each of staff time. This includes the vehicle stop, cautioning the driver or owner, issuing a summons when appropriate, background research or record keeping, and court appearances when necessary.

4. Production and Performance Statistics

During 2000 and 2001 EEO's have not had the time to proactively patrol for vehicular violations, as office priorities have been focused on trash and weed violations. The following table shows the contacts/complaints handled historically:

Vehicular noise and emissions violations 1998-2001

Year	Vehicular Noise Cases/Complaints	Percentage Resulting in Summons	Vehicular Emissions Cases/Complaints	Percentage Resulting in Summons
1998	10	20%	7	71%
1999	5	40%	11	9%
2000	5	0%	10	30%
2001 (Through October 15)	3	0%	0	0%

These violations obviously constitute a minor part of the EEO's caseload.

5. Seasonal and geographic variations in workload

There are no significant seasonal variations. Geographically, EEO's can observe more vehicles and more violations when patrolling the major streets, rather than residential areas. With the current focus on residential violations, this area has been somewhat neglected recently.

Public Smoking

1. Legal foundations

Smoking in public places is restricted by Title 6, Chapter 4 of the Boulder Revised Code.

2. Process descriptions

Due to changes in social values, this ordinance is largely self-enforced. People rarely smoke indoors these days. If enforcement is required, the following procedures are used:

- Enforcement is both by complaint and on a proactive basis. The majority of enforcement is focused on six to eight bars and an occasional complaint about recurring smoke in the workplace.
- Officers walk through the bars that have a reputation of allowing smoking and issue summonses to patrons who are smoking in a no-smoking area.
- Officers check for required signage and confirm that the other requirements of the ordinance are being met.
- Contact is made with the manager and compliance methods are discussed.
- Reinspections are made as necessary for compliance.

3. Labor allocation

The Environmental Enforcement unit invested approximately 2 percent of one full time position in calendar year 2000 on matters related to enforcement of the public smoking rules in the city. The following table summarizes these estimates:

Direct effort.....	0.02
Indirect support effort	0.00
Estimated total.....	0.02

We estimate that each case of smoking in public places handled by the Environmental Enforcement staff consumes approximately 1.5 hours of staff time. This includes responding to the complaint, on-site investigation, issuance of a citation when appropriate, record keeping, and court appearances when necessary.

4. Production and performance statistics

The workload associated with smoking in public places is decreasing, based upon improved self-enforcement:

Year	Number of Contacts/Complaints	Percent Resulting in Summons
1998	46	33%
1999	85	28%
2000	28	11%
2001, through October 15	11	0%

5. Seasonal and geographic variations in workload

Complaints about smoking in the six to eight bars that have a reputation for tolerating smoking increase during cold weather. During the warmer months, smokers readily go outside. Complaints about smoking in bars on the Hill increase when the students return in the fall. The ordinance only deals with commercial properties and work places. Residential dwelling units are exempt.

APPENDIX D: REPEAT OFFENDERS

The following table lists the addresses with the most noise calls during the 18-month period from January 1, 2000 to June 30, 2001. This table has not been updated because obtaining the data originally was so time consuming that there was no time to update. Addresses with noise complaints have also been mapped. These maps follow the table.

TOP 100 NOISE SERVICE CALL LOCATIONS, JANUARY 1, 2000 TO JUNE 30, 2001

Rank	Address	Calls to this address	Cumulative	% of total
1	4500 19TH ST	67	67	1.1%
2	2707 VALMONT RD	53	120	1.9%
3	2915 BASELINE RD	52	172	2.7%
4	505 27TH WY	51	223	3.6%
5	5000 BUTTE	44	267	4.3%
6	1853 26TH ST	44	311	5.0%
7	1200 COLLEGE AV 3RD ST AND PEARL ST	37	348	5.6%
8	ST	36	384	6.1%
9	1555 BROADWAY	36	420	6.7%
10	1065 UNIVERSITY AV 11TH ST AND COLLEGE AV	34	454	7.3%
11	COLLEGE AV	33	487	7.8%
12	3250 O'NEAL CR	31	518	8.3%
13	2985 E AURORA AV	31	549	8.8%
14	3100 34TH ST 12TH ST AND COLLEGE AV	30	579	9.2%
15	COLLEGE AV	30	609	9.7%
16	3035 O'NEAL PY	29	638	10.2%
17	2702 MOORHEAD AV	25	663	10.6%
18	2141 BASELINE RD	25	688	11.0%
19	903 18TH ST	24	712	11.4%
20	805 29TH ST	23	735	11.7%
21	2035 MARINE ST	23	758	12.1%
22	1515 BROADWAY	22	780	12.5%
23	1024 MARINE ST	22	802	12.8%
24	1090 11TH ST	20	822	13.1%
25	1012 UNIVERSITY AV BROADWAY AND LEE HILL RD	20	842	13.4%
26	LEE HILL RD	18	860	13.7%
27	949 MARINE ST 4825 THUNDERBIRD CR	18	878	14.0%
28	CR	18	896	14.3%
29	3161 MADISON AV	18	914	14.6%
30	2200 CANYON BL	18	932	14.9%
31	1926 CANYON BL	18	950	15.2%
32	2340 SOUTH ST	17	967	15.4%
33	1138 GRANDVIEW AV	17	984	15.7%
34	315 CANYON BL	16	1000	16.0%
35	302 PEARL ST	16	1016	16.2%
36	2800 KALMIA AV	16	1032	16.5%

**Report on the Performance Audit of Environmental Code Enforcement
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Rank	Address	Calls to this address	Cumulative	% of total
37	2415 SPRUCE ST	16	1048	16.7%
38	2320 GOSS ST	16	1064	17.0%
	22ND ST AND			
39	WALNUT ST	16	1080	17.2%
40	2128 GROVE CR W	16	1096	17.5%
41	1155 MARINE ST	16	1112	17.8%
	10TH ST AND			
42	COLLEGE AV	16	1128	18.0%
43	953 9TH ST	15	1143	18.3%
44	2985 E COLLEGE AV	15	1158	18.5%
45	2637 VALMONT RD	15	1173	18.7%
	11TH ST AND			
46	MARINE ST	15	1188	19.0%
	11TH ST AND			
47	EUCLID AV	15	1203	19.2%
48	2130 11TH ST	14	1217	19.4%
	18TH ST AND GROVE			
49	ST	14	1231	19.7%
50	1650 9TH ST	14	1245	19.9%
51	1245 ELDER AV	14	1259	20.1%
	4827 THUNDERBIRD			
52	DR	13	1272	20.3%
53	2995 COLORADO AV	13	1285	20.5%
54	2955 GLENWOOD DR	13	1298	20.7%
	19TH ST AND GOSS			
55	ST	13	1311	20.9%
56	1841 19TH ST	13	1324	21.1%
57	1100 28TH ST	13	1337	21.4%
	LINCOLN PL AND			
58	MARINE ST	12	1349	21.5%
59	900 BASELINE RD	12	1361	21.7%
	4827 THUNDERBIRD			
60	CR	12	1373	21.9%
61	311 PEARL ST	12	1385	22.1%
62	2635 MAPLETON AV	12	1397	22.3%
63	2110 GROVE CR W	12	1409	22.5%
64	1833 FOLSOM ST	12	1421	22.7%
65	1622 18TH ST	12	1433	22.9%
66	1596 16TH ST	12	1445	23.1%
67	1133 PLEASANT ST	12	1457	23.3%
68	1111 MAXWELL AV	12	1469	23.5%
	10TH ST AND			
69	MARINE ST	12	1481	23.7%
	9TH ST AND MARINE			
70	ST	11	1492	23.8%
71	695 MANHATTAN DR	11	1503	24.0%
72	3525 ARTHUR CT	11	1514	24.2%
73	3515 ARTHUR CT	11	1525	24.4%
74	3000 COLORADO AV	11	1536	24.5%
75	2925 GLENWOOD DR	11	1547	24.7%
76	2307 SPRUCE ST	11	1558	24.9%

**Report on the Performance Audit of Environmental Code Enforcement
City of Boulder, Colorado**

Rank	Address	Calls to this address	Cumulative	% of total
77	2142 CANYON BL	11	1569	25.1%
78	1811 FOLSOM ST	11	1580	25.2%
79	1515 GREENBRIAR BL	11	1591	25.4%
80	1135 PENNSYLVANIA AV	11	1602	25.6%
81	1125 GRANDVIEW AV	11	1613	25.8%
82	FOLSOM ST AND MAPLETON AV	10	1623	25.9%
83	BROADWAY AND VIOLET AV	10	1633	26.1%
84	953 11TH ST	10	1643	26.2%
85	845 32ND ST	10	1653	26.4%
86	810 20TH ST	10	1663	26.6%
87	782 19TH ST	10	1673	26.7%
88	2788 MOORHEAD AV	10	1683	26.9%
89	2121 CANYON BL	10	1693	27.0%
90	1410 19TH ST	10	1703	27.2%
91	11TH ST AND PLEASANT ST	10	1713	27.4%
92	1000 11TH ST	10	1723	27.5%
93	ARTHUR CT AND KALMIA AV	9	1732	27.7%
94	935 BROADWAY	9	1741	27.8%
95	837 20TH ST	9	1750	27.9%
96	7TH ST AND MARINE ST	9	1759	28.1%
97	680 S LASHLEY LN	9	1768	28.2%
98	2995 GLENWOOD DR	9	1777	28.4%
99	2802 SUNDOWN LN	9	1786	28.5%
100	2757 GLENWOOD CT	9	1795	28.7%

APPENDIX E: DATA PROBLEMS DISCOVERED DURING ANALYSIS

SUMMARY OF PROBLEMS WITH RESPONSE TIMES

There may be a problem of quality control on Land Link data entry for Environmental Enforcement cases. Some case records entered into the system appear to contain data errors. The errors make technical analyses somewhat suspect. We have basically ignored cases which exhibit these errors in order to complete our analysis. This is an issue which needs to be resolved in order to provide the management information required for future decision-making.

Between May 5, 1999 and August 30, 2001, a total of 2,083 individual cases were entered into the Land Link records for cases related to noise, occupancy, trash, weeds, and weeds and trash.³⁴ Of that number, 304 cases (14.6 percent) show dates on which the investigation began that precede the date that the complaint was made. Each case is also assigned a case number, and the complaint dates on cases seem to follow the sequential case numbers. There are, however, case numbers in sequential order that have complaint dates a year or more apart. The sequential consistency of case numbers and complaint dates suggests that they are less frequently in error.

The following tables show the extent of the problem in each area. The column heading "negative response time" indicates the number of times an investigation date is recorded as beginning before the complaint was made.

Noise Complaint Error Rates

Apparent errors on data entry into Land Link for noise related complaints are the highest of all functional areas. Over the three year period, 220 cases (43.2 percent) show investigation start dates that are earlier than the date the actual complaint was made. We believe that some of the errors relate to an initial misunderstanding of how to use the system.

Error Rates In Land Link Noise Complaint Records

Year	Complaints	Negative response time	Percent
1999	61	27	44.3%
2000	75	39	52.0%
2001	84	29	34.5%
Total	220	95	43.2%

Occupancy Complaint Error Rates

Error rates related to occupancy cases improved over the three year period, dropping from a high of more than 17 percent to a low of about 2 percent in the current year.

³⁴ When both weed and trash are the cause of the complaint, a separate record is established to distinguish it from those that are only related to weeds or to trash complaints.

Error Rates In Land Link Occupancy Complaint Records

Year	Complaints	Negative response time	Percent
1999	58	10	17.2%
2000	96	12	12.5%
2001	96	2	2.1%
Total	250	24	9.6%

Trash Complaint Error Rates

Trash complaint error rates fell from their highest rate of occurrence in 1999, but they are still apparently at nearly 10 percent.

Error Rates In Land Link Trash Complaint Records

Year	Complaints	Negative response time	Percent
1999	232	50	21.6%
2000	443	32	7.2%
2001	377	37	9.8%
Total	1052	119	11.3%

Weeds Complaint Error Rates

Errors related to weed complaints dropped from a high of nearly 19 percent in 1999 but have risen again in the current year to nearly 13 percent.

Error Rates In Land Link Weed Complaint Records

Year	Complaints	Negative response time	Percent
1999	148	25	16.9%
2000	101	5	5.0%
2001	237	30	12.7%
Total	486	60	12.3%

Weeds And Trash Complaint Error Rates

Error rates on combined weed and trash complaints are the lowest of all case categories. They average 8 percent over the past three years.

Error Rates In Land Link Weed And Trash Complaint Records

Year	Complaints	Negative response time	Percent
1999	22	4	18.2%
2000	24	1	4.2%
2001	29	1	3.4%
Total	75	6	8.0%

OTHER DATA ISSUES

In addition to the issues identified with calculating response times, we have discovered some variations in the data reported from the Municipal Courts regarding the number of citations written. In many cases there is no difference from the data provided from the Land Link system; in other instances there are small differences. When the percentage of summonses receiving fines is calculated, small differences in counts can make significant differences. We have used information from the Municipal Court when there was a difference. This is another issue to be addressed in the overall evaluation of information available to support operational and long-term planning.

We also noted that there is no way to accurately determine what percentage of various violations is attributed to students. As the Police told us, some violators claim to be students and are not. Other violators claim not to be students, but are later found to be.

APPENDIX F: RELEVANT DATA FROM BOULDER CITIZEN SURVEY

DATA FROM THE LATEST CITIZEN SURVEY

The following data relevant to the environmental code enforcement were obtained from the Boulder Citizen Survey 2001: Report of Results (referred to as “the Survey”):

- ❑ The Survey generally includes comparison results from surveys conducted for other cities; however, “no comparison data were available for the code enforcement services evaluated.” (p. 35)
- ❑ Previous surveys did not include noise, ice and snow, trash, weed, or over-occupancy enforcement, so there is no comparison of this year’s results with those from prior years.
- ❑ Average ratings for code enforcement services are generally in the middle of a 100-point scale:
 - Building and housing inspection-55
 - Noise control enforcement-51
 - Enforcement of ice and snow removal, trash, and weed control-50
 - Enforcement of residential over-occupancy -47
- ❑ Detailed ratings for each of the code enforcement services follow:

	N/A or don't know	Very Bad	Bad	Neither Good Nor Bad	Good	Very Good
Building/housing inspection	48%	3%	7%	22%	17%	3%
Over-occupancy	48%	7%	12%	18%	9%	6%
Noise	29%	6%	13%	30%	17%	5%
Snow, trash, weeds	36%	6%	13%	25%	17%	4%

- ❑ Table IV.9 also indicates that the ratings for those citizens who have called in complaints are lower than those who have never had a complaint about a neighborhood problem. For those who have never called in a problem, the ratings are significantly higher than for those who have not called in problems (based on a 100 point scale):

Service	Rating for those who have called in at least once	Rating for those who have never called in
Building and housing inspection	57	54
Over-occupancy	45	48
Noise	47	53
Snow, trash, weeds	43	53

RELEVANT COMMENTS FROM BOULDER CITIZEN SURVEY

The following comments derived from the Survey were related to code enforcement issues and relationships with the students and with the University. The comments have been organized by subject and neighborhood.

Subject	Neighborhood/Comment
University Hill	<p><u>Gunbarrel:</u> “For such a ‘green’ place, the Hill is a pit.” (pg. 4)</p> <p><u>North Boulder:</u> “I lived at the hostel the first 2 weeks I was in Boulder. Those kids are out of control! Yelling in the middle of the night, smashing at car windows (just for fun), riots.” (pg. 24)</p> <p><u>Central-North:</u> “As for the slum owners/landlords of rental units on the Hill where CU students live, they may pay property taxes, but they don’t give a damn about the ghetto they have created, nor do they care about their problem tenants...It is time to pass ordinances to help the Hill neighborhood assoc & clean up the ghetto.” (pg. 30)</p> <p><u>Central-South:</u> “...landlords need to fix up houses around the Hill and Goss/Grove or decrease rent. Some houses are really disgusting and dirty.” (pg. 37) “Less police on the Hill, or a more lenient policy.” (pg. 38) “We live on the Hill: worry that nothing is being done to preserve this part of the City. The student housing...contributes to the noise, the defilement of the neighborhood (trash, upholstered furniture on porches, etc.—too many living in one house, parking problems.” (pg. 38) “I live on the Hill. As a young woman, I do not feel safe at night walking from wherever I have to park back to my house.” (pg. 40)</p> <p><u>Dormitories:</u> “...the Hill, which is dirty and nasty...” (pg. 81) “...I would really like to see police crack down on the drinking...” (pg. 82) “I think the houses on the Hill are horrendously ugly and for such filth and yucky living...” (pg. 82) “...students living on the Hill do not have enough pride in their city to keep their property nice...” (pg. 81)</p>
Noise	<p><u>Gunbarrel:</u> “...do have strong concerns about the noise levels. It is frustrating to listen to the train at 5AM & to hear the noise from the Diagonal Hwy, increase from 6:30-8 AM to a constant roar during rush hour.” (pg. 3)</p> <p><u>Central-North:</u> “Boulder’s quality of life has deteriorated...traffic, air pollution, noise...” (pg. 25) “The city of Boulder has been quite responsible for a serious decline in my quality of life...noise...” (pg. 28) Note: could not tell if this was noise related to traffic only or other kinds of noise. “Enforcement of existing noise and over-occupancy laws is important..” (pg. 42)</p> <p><u>Southeast Boulder:</u> “The noise ordinances in Boulder are often out of control.” (pg. 64)---</p>

	<p>note: this appears to mean there is too much enforcement.</p>
<p>Trash, Weeds, Ice and Snow, Over-occupancy</p>	<p><u>Gunbarrel:</u> “Boulder needs to clean up debris & trash around the city.” (pg. 2) <u>Central-North:</u> “Boulder does an excellent job of enforcing everything except weed control. I have not seen any measures taken in our neighborhood with a few problem homes in which weeds have taken over.” (pg. 26) <u>Central-South:</u> “The city needs to maintain the trees, streets and enforce having a trash free, junk free environment. There is trash, newspapers and junk all over the city. Start giving tickets to people who litter and leave junk around when moving.” (pg. 37) “Would like to see rules/laws enforced—snow-ice on sidewalks...rusting cars...hasn’t mowed...” (pg. 42) “Enforcement of existing noise and over-occupancy laws is important...” (pg. 42) <u>East Boulder:</u> “...would like to see the enforcement of snow removal regulations...” (pg. 44) “Recommend enforcing over-crowding regulations & codes for ...mobile [homes]...” (pg. 50) <u>South Boulder:</u> “Sidewalks are often snow packed & icy.” (pg. 55)</p>
<p>Relations with University and students</p>	<p><u>Gunbarrel:</u> “...controversy between students and others. They are viewed as separate communities.” (pg. 2) <u>Palo Park:</u> “Stop fighting with CU at every opportunity.” (pg. 9) <u>North Boulder:</u> “...improve your working relationship with CU.” (pg. 24) <u>Central-North:</u> “The cultural and social/neighborhood life in central Boulder is really dominated by the student population. I increasingly resent the behavior or college students in my neighborhood (Whittier)—the way they drive, party, bike on the sidewalk, and let their dogs poop and bark.” (pg. 26) “Why does City Council put so much emphasis on what CU students have to say?” (pg. 30) “We believe the laws of Boulder should apply to all, regardless of whether they are a student.” (pg. 41) <u>East Boulder:</u> “CU Boulder students seem to be impervious to the law...” (pg. 49) <u>South Boulder:</u> “I am tired of the city not working more closely with the university...” (pg. 52) <u>Dormitories:</u> “I feel there is a clash between the University community and Boulder community in general.” (pg. 83) “I am highly disappointed with the treatment of Boulder police towards the college students...” (pg. 83)</p>

Couches	<p><u>Gunbarrel:</u> “...we go a little overboard with some of our restrictions. For example, the whole couch on the outside porch debate.” (pg. 2)</p> <p><u>North Boulder:</u> “I’m totally against the front porch sofa restriction...” (pg. 17)</p> <p><u>Central-South:</u> “Couches on porches?—more important things to worry about.” (pg. 39)</p>
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APPENDIX G: INTERESTING PROGRAMS

We have selected a few interesting programs that we have found while conducting the research for this study. We did not have the time to review each of these programs in any detail.

ORGANIZATIONAL INNOVATIONS

East Lansing, Michigan

East Lansing has combined parking and code enforcement into a single organization which reports to the Chief of Police. Code/parking control officers are on duty 24 hours a day, seven days a week, and are dispatched by police dispatchers. This program is both complaint- and self-initiated.

Jacksonville, Florida

Jacksonville has six municipal code enforcement boards to serve each of its neighborhood planning districts. These boards seem to be volunteer boards that hear code enforcement cases, on an administrative basis. However, we have found that some other Florida cities have been disbanding these volunteer boards and moving cases to their municipal or county courts, attempting to get stronger enforcement.

Portland, Oregon

Portland, Oregon is the only other city we could find with a specific office responsible for noise.

TRASH AND/OR WEEDS

East Lansing, Michigan

Code enforcement officers are responsible for enforcing a “party litter” ordinance which requires that any area is cleaned up within eight hours of notification; if such clean up does not take place, occupants of violating residences are issued citations.

Saint Paul, Minnesota

Grass or weeds above 8 inches are considered a nuisance. This limit is much lower than in most cities—the most common limit we could find is 12 inches, as in Boulder.

OCCUPANCY

Boston, Massachusetts

Four or more unrelated persons living together are considered a lodging house; lodging houses require a special license.

GENERAL CODE ENFORCEMENT ALTERNATIVE APPROACHES

Corvallis, Oregon

Corvallis utilizes the City Attorney's office more, in that the Director of Land Development appears to have to provide a request for prosecution to the City Attorney, who must pursue additional enforcement, determine whether corrective action has taken place, etc. The interesting thing here is that a violation of the land development code "may be subject of criminal, civil, or other sanctions authorized under ordinance of the City." 1.3.50.04 That means that they have left their options open to allow various kinds of sanctions.

- The Director of Land Development is authorized to impose a civil penalty of up to \$1,000 1.3.50.04 b. 1.
- The imposition of a civil penalty is not a"bar to any criminal proceeding authorized..." 1.3.50.01 b. 3.
- The Municipal Court hears appeals of civil penalties

Fort Collins, Colorado

Fort Collins uses community mediation for noise, property maintenance, and other disputes and conflicts; they contend that mediation is successful in 85% of those cases in which both parties actively participate in the mediation.

King County, Washington

A recent proposal included an alternate way to address "code violations that do not pose a significant risk and do not require short-term resolution."³⁵ In cases such as these, the County has proposed the use of a voluntary compliance agreement for compliance by a specific date, freeing staff to work on cases that "pose greater public risk."³⁶

San Jose, California

San Jose uses several alternative enforcement methods, including:

- Administrative citations and fines (\$25-250)
- Administrative remedies for major violations, through an Appeals Hearing Board (fines up to \$2,500 per day)

³⁵ From "Summary of Proposed Ordinance to Improve Code Enforcement," dated September 12, 2001. Obtained from the King County, Washington website.

³⁶ Ibid

- ❑ Abatement
- ❑ Mediation may be ordered resulting from either criminal prosecution or civil injunction

Santa Cruz, California

Santa Cruz uses many alternatives, including:

- ❑ Their website lists a Zoning Administrator, a position that “conducts hearings and renders decisions on various land use applications...and related environmental findings.” This position is usually a planner and is supervised by the Planning Director. Decisions of the Zoning Administrator can be appealed to the Zoning Board.
- ❑ An entire chapter of their municipal code addresses Administrative Civil Penalties (Chapter 4. 12) The Santa Cruz code says that the city council found that there was a need for alternatives to enforcing the code. some of the alternatives addressed include:
 - Civil penalties may be directly assessed by means of a notice and order issued by the enforcement official or affirmed by an enforcement hearing officer 4.12.030 (3)
 - Civil penalties may be recovered by assessment of a nuisance abatement lien 4.12.030 (3)
 - Civil penalties shall be assessed at a daily rate determined by the enforcement official or enforcement hearing officer at a maximum of \$2,500 per violation. (This sort of limit would undoubtedly be required before anyone would allow this sort of power to devolve from the Court to a hearing officer).
- ❑ The code contains the criteria for assessing penalties, including duration of the violation, frequency, etc. 4.12.050 (3)
- ❑ Enforcement official or hearing officer can assess any reasonable administrative cost.
- ❑ Hearing officers only consider evidence about whether the person in the hearing caused or maintained a violation on the date specified and whether penalties assessed by the enforcement official are reasonable. Hearing officers then issue an “administrative enforcement order.” The enforcement official monitors compliance with the enforcement order.
- ❑ An enforcement official can issue an administrative citation. 4.14.020 (1)
 - For continuing violations, 10 days is considered a reasonable period for allowing correction of a problem (this is of particular interest, as it refers to building issues as well...a shorter time frame could be allowed for minor issues like trash and weeds).
 - Administrative citations carry increasing assessments (first violation is \$100, second within one year is \$200, etc.)
 - Failure to pay penalties can be addressed by filing a claim with the small claims court or pursuing other legal remedies 4.14.080
- ❑ Santa Cruz also uses abatement, both summary and non-summary, as well as administrative abatement.

FEES

Saint Paul, Minnesota

- Saint Paul has an “excessive consumption” ordinance, which allows the City to impose and collect a user fee “to defray costs associated with the excessive consumption of City exterior inspection services.”³⁷ These fees are charged to property owners who have repeatedly been ordered to abate their property. The fees seem to vary from \$200 to \$300. Property owners assessed these fees are listed on the website, along with the address for which the fees have been assessed. Similarly, any individual who has violated other codes and has not appeared or paid a fine, is listed on the website.

The excessive consumption fees are based upon the number of inspections performed and are calculated including salaries of enforcement officers, equipment and materials used, and overhead costs, as well as the costs of “any medical treatment of enforcement officers injured as the result of these inspections.”³⁸

Excessive consumption is defined as three additional exterior inspections (not counting an initial inspection), due to new violations or failure to correct previous violations.

- Abatement costs are calculated as the costs of investigation, including title searches, inspections and testing; notification costs; filing costs; attorney, witness and appraisers’ fees; and administrative costs. (Note: some of these costs are more appropriate to building inspection issues, but do indicate that “full costs” are being charged for any abatement.)

OTHER IDEAS

Arlington, Texas

Arlington conducts targeted street-by-street inspections in areas of high code violations. The City works with apartment owners to develop a “certificate of excellence” program for apartments that have few code violations. These apartments can display certificates in their windows to recruit tenants who want to rent apartments with few problems. A similar program could be worked out to certify rental houses on the Hill which have few violations.³⁹

Eugene, Oregon

Eugene offers \$100,000 per year in matching grants to encourage neighborhoods to make improvements.⁴⁰

³⁷ From “Excessive Consumption Bills, January 1, 1998-January 18, 2000.” Obtained from the City of Saint Paul website.

³⁸ Ibid

³⁹ From Management Review of Development Code Compliance, and Business Assistance Services for the City of San Antonio, DMG-MAXIMUS.

⁴⁰ From the City of Eugene’s website—Welcome to the City of Eugene’s Neighborhood Matching Grants Page.

APPENDIX H: PERFORMANCE MEASURES

INTRODUCTION

This appendix is intended to provide the basic conceptual information to allow the reader to understand the recommendations for environmental enforcement performance measures. This is a very basic and summary treatment of the concepts and terms of performance measurement. The information provided should be adequate to support the recommendations and to supplement the materials provided by Terry Westover, Evaluation Project Coordinator in the City's Audit and Evaluation Division. Ms. Westover is leading the City's project for improving performance measurement.

It is interesting to note that we conducted a productivity study of Boulder's Administrative Service Departments in 1991. In that study, we identified the lack of an appropriate performance measurement structure, including articulated goals and objectives to support that structure. In 1991, the City published extensive performance measures, but there was no monitoring of performance based upon these measures. Current budgets list a few performance targets—a much more efficient system than that in use in 1991--and these targets can be used, with some additions and adjustments, as a base from which to develop a more complete performance measurement system.

WHAT IS PERFORMANCE MEASUREMENT?

In its manual for performance management, Fairfax County, Virginia defines performance measurement as "the regular collection of specific information regarding the results of ...services."⁴¹ In the County's manual on advanced performance measurement, the same term is defined as: "a process of assessing progress toward achieving predetermined goals, including information on the efficiency with which resources are transformed into goods and services (outputs); the quality of those outputs (i.e., how well they are delivered to customers and the extent to which customers are satisfied (service quality)); and the qualitative results of a program activity compared to its intended purpose (outcome)."⁴²

In another publication Paul Epstein defines performance measurement as "any systematic attempt to learn how responsive a local government's services are to the needs of the community, and to the community's ability to pay."⁴³ Basically, performance measurement is used to "improve decision making, to improve service performance,...and to improve public accountability."⁴⁴

In the end, David Ammons says, the basic question of performance measurement is, "How are we doing?" He also notes that in most instances, governments have only a vague notion as to how to answer that question.⁴⁵ Performance measurement is a useful tool for answering the "how are we doing" question. Of course, Ammons proposes combining performance measurement with benchmarking to strengthen the response. Fairfax County is combining performance measures with continuous process improvement and root cause analysis to make performance measurement a true management tool, a means for "managing for results," as their advanced performance measurement manual is titled.

⁴¹ P. 4, Fairfax County Measures Up, July 2000, Fourth edition.

⁴² P. 4, Fairfax County Manages for Results, Spring 2000.

⁴³ P. 2, Paul D. Epstein, Using Performance Measurement in Local Government, National Civic League Press, New York, NY, 1988.

⁴⁴ P. 5, *Ibid.*

⁴⁵ P. 1, David N. Ammons, Municipal Benchmarks, Assessing Local Performance and Establishing Community Standards, Sage Publications, Thousand Oaks, CA, 1996.

In summary, then, **performance measurement requires the systematic collection of information to tell a government how it is doing, to assess progress toward achieving its defined goals, to measure the results of its services.** To make performance measurement a truly useful management tool, additional analyses—such as benchmarking or causal analysis—are required.

THE USUAL MEASURES OF PERFORMANCE

Traditionally, performance measures were of three types:

- Measures of workload or output, such as number of complaints, number of cases, number of summonses
- Measures of efficiency, such as cost per complaint processed
- Measures of effectiveness, such as percentage of summonses upheld in court

In recent years, there has been considerable concern about systems of measurement which focus mostly on operations and not on achieving overall desired results. Thus, measurements of outcome have been added to the mix. This means that desired outcomes must be carefully identified. As you will note in the following section, a desirable outcome might be a reduction in the number of violations. Successful monitoring of outcomes is important, because it assists a government in determining whether its approaches to a problem actually impact that problem. That is the reason that Fairfax County is focusing its advanced approaches on causal analyses and continuous improvement. No one expects governmental services to eliminate code enforcement problems—which would be the ultimate positive outcome. However, if outcomes are not measured and monitored, negative or neutral impacts will not be understood and ineffective programs could continue to be funded.

As governments have become more aware of the importance of customer service, many governments are adding measures of service quality or of customer satisfaction. These might be considered outcome measures, but are so important in the current governmental setting, that they are often separately identified as a unique type of measure.

David Osborne and Ted Gaebler go further and propose differentiating between short-term and longer-term outcomes, as well as between “program outcomes” and “policy outcomes.”⁴⁶ Osborne and Gaebler suggest that, for example, courts should assess the impact of their actions on crime rates—that would be a policy outcome measure. Again, courts are not expected to be held solely responsible for reducing crime rates; however, their actions, in consort with other actors, may certainly impact outcomes. For example, if the Municipal Court were simply to not assess penalties for environmental code violations, it would not matter how many summonses were written by Environmental Code Enforcement Officers. All of the actors in a business process must have similar notions of good performance and jointly and in concert assess the impacts of their actions on the ultimate desired outcomes.

The Governmental Accounting Standards Board (GASB) utilizes a set of indicators in measuring performance under its Service Efforts and Accomplishments (SEA)—its own version of governmental performance measurement⁴⁷:

- Input indicators: these are measures of the resources—financial or personnel—used for a specific service or programs. These indicators may be at a very high programmatic level, such as police services, fire services, water services.

⁴⁶ P. 37, David Osborne and Ted Gaebler, “The Art of Performance Measurement,” *Accountability for Performance Measurement and Monitoring in Local Government*, International City/County Management Association, Washington, DC, 1995.

⁴⁷ From GASB website, “Performance Measurement for Government” segment.

- ❑ Output indicators: these measures indicate the units of service produced
- ❑ Outcome indicators: these measures are designed to report the results, including quality, of services.
- ❑ Efficiency (and cost-effectiveness) indicators: these are measurements of the costs per unit of output or outcome (e.g., cost per thousand gallons of effluent treated to a certain level of quality)
- ❑ Explanatory information: this information explains many of the variations among measurements, such as weather impacts upon costs of street maintenance, if snow plowing is a part of these costs.

We have attempted to describe a few of the definitions of performance measures currently in use. Based upon the preceding examples of performance measures, we have developed our own working definitions. The exact definitions are not as important as the fact that we do not address only simple measures or workload or output, but that we include measures intended to assess output, efficiency, effectiveness, outcome, and customer satisfaction.

- ❑ Measures of workload or output: number of units of work produced; in some cases, such as number of complaints or cases investigated for environmental code enforcement, the goal may be to reduce an output by pursuing other strategies which are more effective in achieving the desired outcome of achieving a higher level of satisfaction with the peacefulness and attractiveness of a neighborhood
- ❑ Measures of efficiency: cost per unit measures or other such related measures of productivity; for example, if one educational session is good, perhaps the goal should be to provide three sessions with the same staff and funding; this would indicate a higher level of efficiency in the use of staff and other financial resources
- ❑ Measures of effectiveness: measures which relate to accomplishing a specific goal, determining whether the work performed has any impact upon a desired result; for example, determining whether providing the additional educational sessions was an effective means of achieving a higher level of satisfaction with the peacefulness and attractiveness of a neighborhood
- ❑ Measures of outcome: measures to show whether efforts are successful in impacting a basic community-defined good, such as a feeling that the community is quieter and more peaceful
- ❑ Measures of service quality or customer satisfaction: these measures may be measures of output, efficiency, effectiveness, or outcome—they are dependent upon stakeholder assessment of success

We will not include one of every type of measure for each business process; in some cases, the measures may overlap or may be used at a summary level. In other cases, very specific goals and targeted measures may be proposed, based upon our knowledge of current issues of importance to the customers of the City's environmental code enforcement efforts.

IMPORTANT CONSIDERATIONS IN DEVELOPING PERFORMANCE MEASURES

Characteristics of Good Performance Measures

Based upon information from the experts quoted in the previous section and our own experiences, we believe that "good" performance measures are defined by the following characteristics:

- ❑ Completeness: do the measures cover all of the important informational and evaluative needs of both internal customers and external stakeholders?
- ❑ Legitimacy: are the measures relevant and accepted by internal customers and external stakeholders as being relevant to their information and evaluative needs?
- ❑ Understandability: do the measures appropriately communicate performance?
- ❑ Comparability: do the measures provide a frame of reference for comparison of performance against published standards or against the performance of comparable entities?
- ❑ Ability to relate to cost: are the measures defined so as to allow appropriate use of costs to develop unit costs for inputs, outputs, and/or outcomes?
- ❑ Timeliness: are measures provided so as to allow sufficient time to make decisions?

- ❑ Consistency: are measures reported consistently from period to period in order to allow long term evaluation and to allow users to become familiar with their content and meaning?
- ❑ Reliability: are the measures derived from information systems and sources that produce controlled and verifiable data?
- ❑ Flexibility: can the measures be adjusted to changing priorities and informational needs, while maintaining an appropriate level of consistency?
- ❑ Reasonable Cost and Ease of Collection: are the costs of collecting and monitoring the information required for the measures appropriate to the usefulness of the measure?

It is easy to become so involved in the complexities of measuring that the measurement system developed becomes useless. We include a few simple lessons, culled from the experts quoted and from our own experiences:

- ❑ No measurement system is perfect and a city's needs change; therefore, any system developed should be flexible.
- ❑ All stakeholders should be involved in the development of appropriate measures, since the measures have to be accepted by those whose work is being measured, as well as by those who are monitoring and evaluating performance based upon the measures—this includes citizen stakeholders.
- ❑ Flexibility is needed, but if the entire system of measurement is constantly in flux, then the lessons learned from a longer-term look at performance may be lost.
- ❑ A measurement system is most effective when the City has considered the goals and objectives and performance standards which support that measurement system.
- ❑ A few good measures, supported by appropriate information gathering and monitoring, are more effective than many measures with no means for collecting and monitoring the data related to these measures.
- ❑ Different kinds of measures are required to support day-to-day management decision-making versus long-term evaluation of outcomes. Other measures may be required to appropriately communicate with citizen stakeholders.
- ❑ Support for a performance measurement system must be built into every level of the City, from City Council down to the lowest level of employee whose performance is being evaluated.
- ❑ Truly implementing a performance measurement system requires adjusting resource allocation systems and employee evaluation systems to comply with and support the performance measurement system.

A SPECIAL NOTE ON BENCHMARKING

We want to give some special attention to benchmarking, the comparison of performance against industry standards or “best in class cities or organizations.” Benchmarking can also include comparison against other comparable cities.

Benchmarking is an interesting tool, but a tool with many drawbacks, as the Boulder discovered when attempting to develop benchmarking data with a set of benchmarking partners. Because of the many variations in the ways that cities provide services, benchmarking is particularly difficult. For example, in Colorado, many code violations are prosecuted under the criminal code; in other states, these violations might be included in the civil code. This is important because criminal cases often take longer to be resolved than do civil cases.

In Boulder, noise violations are the responsibility of the Environmental Code Enforcement staff, as well as of the Police Department. In most other cities, code enforcement staff have no responsibility for residential noise violations but are largely involved in zoning issues. In addition, many of the comparable cities have significant growth and staff are more involved in reviewing new development. Some of the

comparable cities are also responsible for code enforcement county-wide. These issues all impact the staffing levels reported for code enforcement, making appropriate comparisons difficult.

The most useful benchmarking we have seen is actually a longitudinal comparison of performance. That is what we refer to as “internal benchmarking.” In these cases, a city will establish a set of goals and measure its current performance related to these goals. Each year new specific objectives which move toward accomplishing the goals will be established, and measurements focus on monitoring achievement of objectives and movement toward accomplishing the established goals. In this way, a City is committed to performance measurement and continuous improvement as a part of an internal benchmarking process.

WHAT ARE OTHERS MEASURING?

According to David Ammons

According to David Ammons, the author of Municipal Benchmarking, Assessing Local Performance and Establishing Community Standards, some of the more interesting measures of code enforcement activities-- he is defining code enforcement as focusing on “existing neighborhoods, commercial areas, and other already-developed properties rather than on new construction projects”⁴⁸—include:

- ❑ Greenville, South Carolina records the number of violations per block face and tracks improvements (i.e., reductions in the number of violations) over time
- ❑ Savannah, Georgia tracks the percentage of occupied housing that complies with its housing code and bases its performance assessments upon whether that percentage is increasing
- ❑ Promptness of response is a commonly used performance measure

Ammons states that “an important dimension of code enforcement performance is the rate of compliance by offending parties following notice of code violation.”⁴⁹ He notes that many of the cities he studied have less than 50% compliance, but that many others report compliance from 70-90%. Some of the cities which reported compliance rates following the notice of a violation include⁵⁰:

Type of Violation	City	Special Conditions Noted
Grass and Weeds	Denton, TX-98% Lubbock, TX-98% Hurst, TX-90%* Winston-Salem, NC-90% Shreveport, LA-50%	*Hurst shows 90% compliance within 10 days
Nuisance Cases	Decatur, IL-90% Alexandria, VA noise cases-35%*	*Alexandria is measuring number of noise violation cases closed within 10 days
General Code Enforcement	Denton, TX-90% Anaheim, CA-90%* Lubbock, TX-88% Greenville, SC-88%** Peoria, AZ-85%*** Charlotte, NC-84%****	*Anaheim’s target is 90% resolution within 30 days; no indication of actual performance **Greenville bases its compliance rate on a 60 day time frame ***Peoria bases its compliance rate

⁴⁸ P. 57, David N. Ammons, Municipal Benchmarking, Assessing Local Performance and Establishing Community Standards, Sage Publications, Thousand Oaks, CA, 1996.

⁴⁹ P. 60, Ibid.

⁵⁰ P. 63-64, Ibid.

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	Fayetteville, AR-79% Houston, TX- 70%***** Tallahassee, FL-average 87days to compliance	on a 45 day time frame ****Charlotte bases its compliance rate on a 90 day time frame ****Houston has a target of 70%; no indication of actual performance
Zoning Violations	Fort Collins, CO-98% voluntarily resolved Lubbock, TX-93.9%	

An important aspect of this measurement is the time frame (perhaps every violation comes into compliance within 5 years, but is that too long to wait?). And, taking a hint from the Fairfax County manual, it would seem to be important to measure this compliance rate prior to any improvement process related to the measure so that movement toward a goal, or target, can be tracked.

Eugene, Oregon

Finding specific measures used for code enforcement from other governments' performance measurement systems has been difficult. However, Eugene, Oregon did publish some zoning code enforcement measures in its annual budget. These measures include both ongoing measures and three year strategies and associated measures of success:

On-Going Measures

On-going measures include:

- Cycle-time goals related to the review of land use applications—the detailed measures are legally mandated and were not included in the budget.
- Labor hours per completed zoning review--there was not enough detail to identify whether these were the reviews of land use applications, but that is the assumption.
- Average number of contacts per resolved complaint—this measure is based upon the goal to have complaints resolved with the fewest number of contacts with any person responsible for violations. In FY 99, there were 6 contacts with each complainant; in FY 00 and 01, the contacts were reduced to 5.4 and 5.5.
- Percent of customers who were satisfied or very satisfied—a quarterly survey of counter customers and complainants resulted in 80% of customers reportedly being satisfied or very satisfied that services were timely and consistent.

Three Year Strategies and Measures of Success

These specific strategies and associated measures were established for the years FY 99-FY 01:

- Participate in a an update to the land use code, aimed at ensuring a well written and easily administered code; the measurement intended to show achievement of this goal was a 25% decrease in the number of appeals
- Improve timeliness of complaint response; the measurement intended to show achievement of this goal was to respond to 80% of all complaints within established standards. Standards include 5 working days for nuisances and 10 working days for aesthetic complaints.

Any good measurement system will include, as does that of the City of Eugene, measures of continuing importance, as well as measures related to agreed-upon short term improvements.

Santa Barbara, California

Santa Barbara, in its annual report on community development efforts, has listed a few service efforts (borrowing from the terminology of GASB):

- ❑ Percentage of Zoning Information Reports⁵¹ (reports that provide information regarding zoning and building violations for a specific property to prospective buyers) completed within 3 weeks: target is 85%.
- ❑ Percentage of enforcement cases started within one week of complaint: target is 85%

The annual report also contained workload measures on the number of enforcement cases completed and closed and the number of Zoning Information Reports completed. This document is intended to be an overall report on the City's operations and includes only a select few measures. This illustrates the need to have a different level of information for citizen-related publications as opposed to the information needed for operational decision-making.

ICMA Comparative Performance Measure Project

Since 1995, the International City/County Management Association (ICMA) has been collecting comparative performance measures from cities and counties. The project has been interesting for several reasons:

- ❑ There is a clear indication that the variations in reported performance must be acknowledged and that individual variations in legal setting, definition of the service being reported upon, etc. varies significantly from one entity to another.
- ❑ The definitions of the services being measured has been refined and has become more and more specific over the course of the project.
- ❑ There are differences between very large entities and those entities with populations between 10,000 and 100,000.

In the FY 1997 data report, published in 1999, the relevant measures for zoning, nuisance, and other code violations include measures related to time frames and per capita expenditures. For entities with populations between 10,000 and 100,000 these measures include:

- ❑ Average number of days from case initiation to voluntary compliance, including separate measures for zoning, nuisance, and other code violation cases
- ❑ Average number of days from case initiation to administrative/judicial action, including separate measures for zoning, nuisance, and other code violation cases
- ❑ Mean and median code enforcement expenditures per capita

WHAT SHOULD BOULDER MEASURE?

In order to develop a strategic framework for performance measures, we have once again looked to the guiding principles articulated in the foreword of the report. Ideally, we would have a set of City Council approved policies, goals, objectives, and related performance standards to back the measures. However, since that is one of the issues of concern for the project, we have attempted to provide examples of measures which might be useful, given that the preliminary work has not yet been completed. We are proposing specific measures for different business processes. A five day response to a weed complaint may be appropriate, while a five day response to a noise complaint is useless; therefore, each business process will require a unique set of measures. The following chart outlines a set of potential measures for each of the major business processes, based upon a set of goals and strategies intended to support the measures. **It should be noted that implementing all of these measures and associated strategies may not be possible with current budgetary resources**

⁵¹ I have assumed that this is what ZIR stood for, based upon the definition provided.

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Assuming the guiding principles make sense, then a basic measurement strategy can be built around these principles. The following chart summarizes the measurements which support each of the elements of the guiding principles, along with those issues identified in the previous management audit which lend themselves to continuing measurement:

Guiding Principle or Issue	Associated Performance Measures
Balancing public good and individual rights	Percentage of satisfaction of customers (including landlords/property managers, renters, permanent residents) with the services and the balance achieved
Codes should clarify enforcement	<ul style="list-style-type: none"> -Number of complaints for parties -Percentage of complaints receiving summonses -Percentage of complaints upheld in court -Fines associated with adjudicated cases -Percentages of adjudicated cases with other punishments -Percentage of customers with higher level of satisfaction with quiet in neighborhood, particularly related to party noise
Compliance is the goal of enforcement	<ul style="list-style-type: none"> -Percentage of residences in compliance with environmental codes -Percentage of residences in compliance with noise ordinances -Percentage of residences in compliance with weed ordinance -Percentage of residences in compliance with trash ordinance -Percentage of residences in compliance with snow removal ordinance -Percentage of compliance with other environmental codes -Percentage of residences in compliance with zoning codes
It is not common to impose punishment after a violation has been abated	<ul style="list-style-type: none"> -Percentage of violators coming into compliance after 7 days, by type of violations -Percentage of violators subject to abatement -Percentage of violators who pay abatements within 30 days -Percentage of violators who repeat after first abatement
Code enforcement should be prompt, consistent, predictable, and firm.	<ul style="list-style-type: none"> -Average response time to complaints, by type of complaint -Average time to closure of complaints, by type of complaint -Percentage of complaints closed, by type -Number and type of complaints, by neighborhood -Percentage of violators, by type and neighborhood, with no second violation -Percentage of violators, by type and neighborhood, with more than two additional complaints -Percentage of multiple violators who receive summons -Percentage of multiple violators, by type of violations and by neighborhood, who are fined or receive other punishments -Comparison of average fines and other punishments between those with many repeat violations and those

	<p>with fewer repeat violations -Percentage of customers satisfied with promptness, by type of violation and neighborhood -Percentage of customers satisfied with consistency, by type of violation and neighborhood -Percentage of customers satisfied by firmness and predictability of enforcement, by type of violation and neighborhood</p>
<p>Specific operational or management measures</p>	<p>If specific management or operational goals and objectives are set, then specific measurements should be developed. For example, if the City were to set a goal for improving environmental code enforcement data entered into the Land Link system to eliminate data errors showing activity prior to the receipt of a complaint, then a measure would be developed based on a review of data, to determine whether these data entry problems had actually been cleared up.</p>

Budgetary Measures—more summary level information

The following measures should provide additional information regarding the performance of the City’s environmental code enforcement efforts. Note that some of the measures may require tracking information from more than one source.

- Number of cases/complaints by type: non-vehicular noise, weeds and trash, occupancy, sidewalk snow removal, other environmental code enforcement, other land use, sign code
- Percentage of cases resulting in voluntary compliance, by type
- Percentage of residences in compliance, by neighborhood (i.e., either no complaints or cases, or all cleared by voluntary compliance)
- Response time, by type
- Cost per unit for each type of complaint/case (including only costs within the Zoning and Environmental Code Enforcement Unit’s budget in the beginning)
- Percentage of customers satisfied with timeliness of response, with outcome of complaint
- Percentage of customers reporting satisfaction with noise levels (note we are not looking for anything especially high here at first, but we will want to track whether any of our proposed actions improve this percentage)

As with the current budgetary measures, the City should set targets, to illustrate the improvements needed to get to the established standards or targets. That means that actual performance should be tracked against targets, to identify areas needing improvements. The City has many data sources that may be combined to develop a more complete performance document. For example, Portland’s Service Efforts and Accomplishments report includes results of their citizens’ survey, along with summary level service area measures. Boulder could certainly utilize some of these current measures, combine them, and produce a more powerful performance document.

Specific Operational Measures

The following examples assume specific goals which have not yet been articulated by the City. We have taken the liberty of including certain goals and outlining strategies for achieving these goals. Some goals are shorter term and others are long term approaches, intended to support outcome measurements. This

section is intended to serve as an example of the kind of approach to performance measurement which the City could take, once some of the basic policy issues, goal statements, and performance standards have been articulated:

Non-Vehicular Noise, Trash and Weeds, and Occupancy

Goal: Reduce noise and trash and weed complaints from the University Hill Neighborhood by 5%, while maintaining current levels (that is, no increases) in other areas of the City; improve customer satisfaction with noise levels and appearance from current ___% to ___%

Strategies: EEO/Police representatives participate in CU student orientations to discuss potential impacts of underage drinking, party, noise, trash/weed, and occupancy violations; Environmental Enforcement Office develops reports on past violations for each rental property on the Hill and provides for landlord/property manager, renters, University Hill Neighborhood Association at beginning of school year; Environmental Enforcement Officers work with University Hill Neighborhood Association to develop a welcome event, including information on code requirements and enforcement methods; utilize compliance agreements to achieve better compliance

Measures: percentage of change in number of complaints from the Hill and from other parts of the City; percentage of customers satisfied with noise, appearance levels in their neighborhoods; unit costs for enforcement of noise, trash and weed, and occupancy-related ordinances

All Other Business Processes

Goal: Maintain current level of complaints, while working on reduction of complaints from University Hill Neighborhood; improve customer satisfaction related to other elements of environmental and zoning code enforcement from current ___% to ___%

Strategies: begin with obtaining baseline data, including the following measures: complaints by type by neighborhood; current levels of customer satisfaction by neighborhood; reporting information to neighborhood associations

General Policy Issues

Goal: Determine whether neighborhood specific approaches seem appropriate

Strategies: begin with obtaining baseline data by neighborhood, if possible: complaints, by type; historical growth trends, by type; percentage of residences in compliance; percentage of customer satisfaction by neighborhood.

Goal: Determine whether efficiency improvements could allow for more proactive work and whether that is an appropriate management approach

Strategies: begin with obtaining and monitoring certain baseline data: percentage of cases resulting from complaints as opposed to proactive efforts, by type; percentage of cases/complaints resulting in summons, by type; percentage of cases/complaints resulting in fine or other penalty, by type; average fine per case adjudicated, by type; elapsed time before completion of investigation, by type; elapsed time before voluntary compliance, by type; elapsed time through adjudication, by type.

Goal: Using causal analysis, determine the impacts of elements of enforcement upon long-term improvement in customer satisfaction with the appearance and peacefulness of their neighborhoods.

Strategies: begin to determine those elements of such an approach and focus citizen survey and other surveys on those elements which clearly relate to customer satisfaction.

APPENDIX I: RESEARCH REGARDING OCCUPANCY

INTRODUCTION

As with everything else related to this review of environmental code enforcement, there is a wide variation in opinion regarding regulating the number of unrelated people living together in a residence. We do not assume to state that we are able legal researchers, or legal experts; we have simply provided background data on some other cities' uses of occupancy limitations, as we have been able to find this information. In addition, we have summarized any court cases which we have been able to find which relate specifically to occupancy. This work was completed prior to the receipt of the detailed memorandum on the occupancy issue prepared by the City Attorney.

Prior to reviewing the following information, it is important to note that there is some indication that planning practitioners are considering alternatives to "zoning districts that were designed to keep incompatible land uses from occurring in proximity to each other."⁵² There is a sense that "over time, many zoning codes have become institutionalized and rigid..."⁵³ and are not always appropriate to our changing society, where the definition of family has changed, more people are working at home, and mixed use and higher density might reduce the need for automobile travel.

Legally, according to a summary of an ACLU amicus brief filed in *City of Edmonds v. Washington State Building Code Council, et.al.*, we may have been using the term occupancy incorrectly. According to this summary, "'use' restrictions are embodied in zoning codes enacted to 'divide the land into different districts, and to permit only certain uses within each zoning district,' whereas 'occupancy' restrictions are generally set forth in housing codes and among other things regulate 'minimum space per occupant...to prevent overcrowding and the blighting of residential dwellings.'"⁵⁴ We will leave it to the legal minds to determine whether this distinction has relevance to Boulder's situation. However, the ACLU appears to believe that Congress intended to exempt occupancy restrictions, not use restrictions, from the Fair Housing Act, under 42 U.S.C. section 3607(b)(1). If that were the case, then use restrictions would not be exempt and would, therefore, be unenforceable. Obviously, this issue is open to debate.

COURT CASES

The following sections summarize a few of the court cases we have found during our research on the occupancy issue:

Athens, Georgia Ordinance

According to an article in the Athens Daily News (obtained from the on-line Athens, Georgia newspapers), in the City of Athens, Georgia, a limit on occupancy "survived a court challenge claiming it violated people's freedom of association, among other claims." In Athens-Clarke County, zoning limits more than

⁵² Gregory Dale and Michael Chandler, "Zoning & Changing Lifestyles," Planning Commissioners Journal, Number 44, Fall of 2001 (obtained from www.plannersweb.com)

⁵³ Ibid.

⁵⁴ "Summary of Argument in ACLU amicus brief, No.94-23, City of Edmonds v. Washington State Building Code Council, et. al., (obtained from the ACLU website).

two unrelated people from living in single family residential zones. According to the article, students feel that the occupancy ordinance is simply "...an artful way to exclude students from nice neighborhoods."⁵⁵

East Lansing, Michigan Ordinance

According to an article in the State News (obtained from the State News website), the Michigan Court of Appeals "let stand a lower court decision upholding a 1997 East Lansing ordinance restricting rental properties from being licensed to more than two unrelated people."⁵⁶

State of Nebraska Supreme Court Opinion

In a 1997 opinion, the Supreme Court of Nebraska stated that:

"To successfully challenge the validity of a zoning ordinance that does not affect a fundamental right or a suspect classification, a litigant must prove that the conditions imposed by the city in adopting the ordinance were unreasonable, discriminatory, or arbitrary, and that the regulation bears no relationship to the purpose or purposes sought to be accomplished by the ordinance."⁵⁷

The issue in this case was the appellant's conviction for violating the City of Lincoln code that limits occupancy to no more than three unrelated people. The County District Court and State Court of Appeals had already affirmed the City's actions before the appellant appealed to the State Supreme Court. The Nebraska Supreme court upheld previous court decisions, that there is no "constitutional defect" in the City's ordinance related to defining families; in addition the Court stated that the appellant was not deprived of use of his property. Since the Court also found that:

"...it is clear that a city may designate certain areas as residential districts and limit such areas to specific uses pursuant to its police powers...Thus, having the authority to designate an area as a residential neighborhood, it necessarily follows that a city then has the authority to regulate living conditions it finds inimical to its concept of a residential neighborhood. Limiting the use of residences within such districts to single-family and two-family dwellings is clearly such a living condition which the city may regulate to effect its concept of a residential neighborhood."⁵⁸

Supreme Court of South Dakota Opinion

In an opinion filed on October 30, 1996, by the South Dakota Supreme Court, the Court found that the zoning ordinances under which the appellant, Bradley Winkler, was convicted of violating the limit on the number of unrelated adults who may live together in one residential unit, were valid. The Court stated that:

"The validity of a zoning provision must be tested according to the particular facts of each case. The considerations for the community which prompt the enactment of a zoning ordinance are

⁵⁵ Greg Martin, "Court upholds 2-person housing ordinance," Athens Daily News, February 20, 1999 (obtained from the on-line Athens, Georgia newspapers),

⁵⁶ Jennifer Meese, "Rental statute stands in court," The State News, September 9, 1999 (obtained from the State News website).

⁵⁷ Opinion of the Supreme Court of Nebraska, State of Nebraska v. Steven M. Champoux, filed July 3, 1997, No. 95-958.

⁵⁸ Ibid.

often the same considerations which sustain it. Brookings is a college town and has unavoidable problems with population density. Therefore, we think the ordinance 'bears[s] a real and substantial relation to the objects sought to be attained. It is neither arbitrary nor capricious to draw this line at the number of unrelated persons who may reside in the same household to maintain control over population density problems."⁵⁹

Boulder City Attorney's Research

The City Attorney's memorandum contains many other legal references, and we found it redundant to include others. The cases which we discussed above were simply examples showing that the language of these cases is generally the same and the overall approach seems very similar. Only California's experience seems to be different from that experienced in other states.

HOW PREVELANT ARE OCCUPANCY LIMITATIONS?

We were able to quickly locate the following cities with occupancy limitations similar to those in Boulder. We have not attempted to review the ordinances in detail, but have simply reported from their websites, or from news articles, the basic limitations we could find. It is obvious that such occupancy limitations are quite common; however, there is some indication that not every city enforces these limitations.

City	Limitation on Number of Unrelated Persons Who Can Live in a Single-Family Zone
Ann Arbor, Michigan	Limits include: (1) one or more persons related by blood, marriage, adoption, or guardianship living as a single housekeeping unit, in all districts; (2) Four persons plus their offspring living as a single housekeeping unit, in all districts; (3) six persons living as a single housekeeping unit in R4 districts; (4) a functional family living as a single housekeeping unit which has received a special exception use permit..
Bethlehem, Pennsylvania, and Counties of Lehigh and Northampton	Limit is 3 because there is a greater incidence of code violations, problems with maintenance and upkeep, and disturbances when owners do not reside for rental properties
Boise, Idaho	Assume the limit is 6, since the city website says code enforcement cannot address "5 or less unrelated persons living in a single family house."
Chapel Hill, North Carolina	Assume the limit is two unrelated persons, as a news article related to candidates for City Council referenced this as an issue.
Charlottesville, Virginia	Assume 4, based on a newspaper article which refers to an "obscure law now on the books" ⁶⁰ ; there was additional discussion about lowering the limit to 3 in later articles.
Evanston, Illinois	Assume 3, based upon info on Northwestern University's website—"International Student's Handbook and Division of Student Affairs—Off Campus Housing Office"
Fairfax, Virginia	3 unrelated, according to info on the City's website—"Common violations-overcrowding"
Gainesville, Florida	3 in some neighborhoods, based upon info on Gainesville' online "Apartment & Condominium Guide" and on the University of Florida's website—"Student Legal Services"
Madison, Wisconsin	Assume 2-3, based upon info on University of Wisconsin's website—"Choosing the Right Landlord"

⁵⁹ City of Brookings v. Bradley Winker, #19499—Affirmed, Opinion filed October 30, 1996 (Obtained from sdbar.org/opinions/1996)

⁶⁰ Daniel Rubin, "City to examine off-Grounds housing," Cavalier Daily, November 5, 1997 (obtained from Cavalier Daily website)

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Pittsburgh, Pennsylvania	No more than three, as reported by the online "Graduate Student Guide for Carnegie-Mellon University"; there is also an indication that this ordinance is stringently enforced now.
St. Louis, Missouri and surrounding areas	Specific limit number not reported in "Washington University, Olin School of Business, website," but the limits are identified as an issue for students at Washington University
Tempe, Arizona	Assume 3, based upon a letter to the editor written by a student not in favor of the limitations
University Park, PA and surrounding areas	Assume 3, based upon info on Penn State's website-"Student Affairs Off Campus Living"

THE REAL ISSUE

The real issue is not whether others have occupancy limitations—clearly they do—or whether the occupancy limitations should be enforced. Rather, the issue is whether occupancy limitations actually relate directly to the goals intended by the limitations, and whether enforcing the occupancy limitations actually furthers those goals. That is, is there a nexus between the goals of the zoning code and the occupancy limitations? If there is not, then enforcing the limitations, with no proof that they are effective, would be foolish. If there is, then the occupancy limitations should be retained and they should be enforced. The approach to enforcement should be specifically articulated in City Council's review of code enforcement.

APPENDIX J: ISSUES TO BE INCLUDED IN A CODE ENFORCEMENT POLICY

Based upon our review of the issues associated with environmental and zoning code enforcement, we have summarized the policy issues which we believe need to be addressed. We have based our own recommendations upon the following sets of policy-related questions.

Policy Issue	Characteristics of the Discussion	Expected Decisions
Basic goals of environmental code enforcement	<ol style="list-style-type: none"> 1. Why do we enforce land use and environmental codes? 2. What would constitute “good” code enforcement? 3. How would we know that we have accomplished our goals—or have made positive steps toward accomplishing our goals? 	<ol style="list-style-type: none"> 1. Articulation of basic goals, e.g., achieve a general feeling that the City’s neighborhoods are reasonably physically safe (as opposed to safe from crime), clean, attractive, and peaceful. 2. Determination of how the accomplishment of these goals—or the movement toward accomplishment of these goals-- would be measured.
Determination of the desired approaches to code enforcement—guiding principles that will constitute a strategic framework for discussing more detailed operational approaches	<ol style="list-style-type: none"> 1. Do we believe that the code enforcement does involve balancing the public good and private interests? 2. Do we believe that there is an identifiable balance that is achievable, or do we believe that maintaining this balance is a continuing responsibility? 3. Do we believe that the object of code enforcement is compliance? 4. If the object of code enforcement is compliance, how do we move toward achieving greater compliance? 5. Is there an appropriate level of compliance? 6. Do we believe that abatement is an end in itself (or do we want to punish those who do abate violations)? 7. Do we believe that good code enforcement is firm, prompt, consistent, and predictable? 8. How would we like to include various stakeholders, including the University, City residents, City employees, landlords and property-managers, students, neighborhood business owners, etc. in this discussion? What roles would we like these stakeholders to play in this discussion? 	<ol style="list-style-type: none"> 1. Articulation of the general guiding principles for the City’s code enforcement approach, based upon the questions identified, as well as others we may not have considered.
Detailed operational approaches to code enforcement. These are some of the issues which develop from the discussion of our overall strategic	<ol style="list-style-type: none"> 1. Do we wish to continue with a largely complaint driven system, or should we consider a more proactive system, particularly for non-noise 	<ol style="list-style-type: none"> 1. Determination of how to fund potential increases in code enforcement—at least

<p>framework.</p>	<p>violations? How does this decision fit with the goals and strategic framework we articulated? What are the advantages/disadvantages of proactive enforcement?</p> <p>2. Does the Council wish to continue to limit occupancy? How does this decision fit with the goals we articulated and with our strategic framework? What are the advantages and disadvantages of limiting occupancy?</p> <p>3. Should the City's enforcement efforts focus on those who actually violate ordinances, or upon property owners and/or managers? How should staff approach first time violators versus repeat violators? How effective are alternatives for approaching these groups? How does this decision fit with the goals we articulated and with our strategic framework?</p> <p>4. Should the standards for code enforcement be consistent across the City, or should they be neighborhood specific? What role should neighborhood associations play in shaping this discussion? Are all elements of the land use and environmental code to be treated in the same way, across the City? How does this decision fit with the goals we articulated and with our articulated strategic framework?</p> <p>5. Should we continue to use the basic current business process—educate, warn, ticket, adjudicate—or move to a more comprehensive set of enforcement tools? How effective are the various alternative enforcement tools? How does this decision fit with the goals we articulated and with our articulated strategic framework?</p> <p>6. What performance measures will adequately describe to various groups of stakeholders the efforts and accomplishments of the City's code enforcement efforts? What measures should be reported to each group of stakeholders? What support (staffing/technology) will be necessary to provide the performance monitoring and reporting required to support both our general goals and the specific operational goals we have all agreed upon? What decisions will be based</p>	<p>temporarily-- if more proactive approach is taken.</p> <p>2. Determination as to whether to continue to limit occupancy and whether to use a proactive approach—or whether to wait for complaints. Determination as to other elements of enforcement related to occupancy—such as requiring a specified number of parking spaces before allowing over-occupancy. Determination as to whether we want to continue to grandfather downzoned properties and whether we have the legal option not to grandfather.</p> <p>Determination of the standards which will be used to remove a property from the list of grandfathered properties and the methods used to maintain legal records on all grandfathered properties. Determination as to how to monitor downzoned properties.</p> <p>3. Determination of the ways to define and work with violators and the approaches staff are expected to use for various categories of offenses and offenders.</p> <p>4. Determination as to whether to use a single set of standards, or neighborhood specific standards; determination as to how to plan, control, and monitor neighborhood-specific standards, if these are to be used.</p> <p>5. Decision as to the alternative enforcement tools to be made available and description of the situations under which to use each tool.</p> <p>6. Determination of a general method for reporting performance for various stakeholder groups; determination of the budgetary requirements necessary to develop appropriate performance reporting.</p> <p>7. Ordinance revisions.</p>
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	upon the performance reporting system developed? 7. What changes in ordinances will be required to support the decisions we have made?	
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APPENDIX K: BIBLIOGRAPHY

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