



*City of Independence*

# Review of Property Code Enforcement

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City Of Independence, Missouri

**Report to the Mayor and City Council**

**By the Management Analyst**

**April 14, 2014**

**Report No. 12-05**

# City of Independence

**City Council Office**



April 14<sup>th</sup>, 2014

Honorable Mayor and Members of the City Council:

This report was assigned by the Audit and Finance Committee in August 2012 and was initiated by the City Management Analyst pursuant to Chapter 1, Article 43 of the City Code of Ordinances. The audit was designed to address questions regarding the City's enforcement of the Property Maintenance Code. Key focus areas included timeliness of the City's response from when a complaint is received until an initial inspection is conducted, enforcement actions by the Municipal Court, and effectiveness of current strategies to reduce repeat offenses.

Staff from the Community Development, Finance, Health, and Public Works Departments reviewed a draft of this report. A response from the Health Department is appended. The draft report was also reviewed by the City Manager and City Counselor, and a response from the City Counselor is also appended. Finally, members of the Audit and Finance Committee reviewed this report before it was finalized. The cooperation and courtesy of all who provided assistance is greatly appreciated.

Respectfully,

A handwritten signature in cursive script that reads "Zachary Walker".

Zachary Walker  
City Management Analyst



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# **Introduction**

## ***Audit Objectives***

This audit of nuisance and property code enforcement was conducted pursuant to Chapter 1, Article 43 of the City Code of the City of Independence, which outlines the primary duties and responsibilities of the City Management Analyst. This audit was designed to answer the following questions:

- How efficient and effective is the Property Maintenance Division in identifying, documenting, and resolving nuisance and property code violations?
- Are corrective actions effective in minimizing repeat offenses?
- What enforcement actions are imposed by Municipal Judges for cases referred to court?

## ***Scope and Methodology***

This audit was assigned by the City Council's Audit and Finance Committee in August 2012 and begun in October 2013. The audit was conducted in accordance with generally accepted government auditing standards as well as the City's audit policies and procedures. Audit methods included:

- Conducting interviews with staff from the Community Development, Health, and Public Works Departments as well as the Presiding Judge of the Municipal Court.
- Conducting a field visit with Code Enforcement Officers to observe the inspection process.
- Reviewing literature of best practices and recommended improvements for nuisance and property code enforcement.
- Researching regional and national cities to compare current practices in the City of Independence. National cities were identified using ICMA's Center for Performance Measurement Fiscal Year 2012 Code Enforcement Survey.

No information was omitted from this report because it was deemed privileged or confidential.

# **Background**

The Health Department's Property Maintenance Division is responsible for enforcing Chapter 4, Article 1 of the City Code regarding property maintenance. The purpose of the Property Maintenance Code is to protect public health, safety, and welfare by establishing minimum requirements and standards while providing for administration, enforcement, and penalties. The Division utilizes six Property Maintenance Officers to investigate and enforce correction of Property Maintenance Code violations. Officers are assigned to six different regions of the City, which have been established based upon population and caseload history. The top violations in 2012 included trash/ rubbish/garbage, weeds, non-operable vehicles, open storage, and building maintenance-related cases.

A case is opened when a complaint is registered against a property either on-line, by phone, in person, or by one of the Department's proactive programs. The case is then assigned to a Property Maintenance Officer, who schedules an inspection. The Division has developed an administrative policy (AP 3.3.4) to prioritize cases. Level 4 cases have the lowest priority while Level 1 cases receive the highest priority. Priority level is determined by a point system which considers case type, origination source, multiple cases at the same location within a 12-month period, location on a major street, active deficient property case, duplicate complaint, and inspection due date.

The Property Maintenance Officer conducts an on-site inspection, taking photographs and noting any violations of the Property Maintenance Code. If violations are observed, the property owner or occupant is notified and voluntary compliance is requested. As required by the Code, notice is issued in person, by posting a notice on the property while on site, or by sending a notice via US mail. Notices list the violations observed and provides the date for an administrative hearing and the correction deadline. Hearings are held 10 business days after the initial inspection. The purpose of the hearing is to provide an opportunity for the citizen to discuss the violations and to request an extension for the correction date. While the normal correction date is five business days after the hearing, an extension of up to two weeks may be granted without attending the hearing. The Division attempts to accommodate individual needs when considering an extension request.

Following the correction date, the Property Maintenance Officer conducts a recheck inspection to see if corrections have been made. In most cases, compliance has been met and the case is closed. If compliance has not been met, corrective action is initiated by the City. If the violation involves trash, weeds, a non-operable vehicle, or a building needing to be secured, a city contractor may be ordered to correct these violations at the property owner's expense. Municipal Court charges are filed against the occupant/owner for each violation not corrected. Guilty verdicts may result in fines from \$150 to \$500. Failure to appear in court will result in a bench warrant being issued by the judge. Between 2010 and 2012, 89% of cases were resolved through voluntary compliance, with only 11% percent of all complaints resulting in abatement, General Orders Summons, and/or tow.

Properties found to be in violation for weeds and/or trash a second time in a calendar year are considered repeat offenders. These violations are required to be corrected within seven days and are subject to a \$300 fine for a second conviction. Properties cited for a third and subsequent weed and/or trash offense during the calendar year are not provided notice, and corrective action is taken immediately by the City. These violations are also subject to a \$500 fine for a third conviction. Repeat offenders are ineligible for a hearing or an extension.

While nearly all of the Property Maintenance Code is enforced by the Property Maintenance Division, enforcement of Section 4.01.008, dealing with dangerous buildings, lies with the Community Development Department's Building Official. The Community Development Department uses a Building Inspector position to manage these cases on a part-time basis, as the full-time Dangerous Building Specialist position is currently not funded.

**EXHIBIT 1: DANGEROUS BUILDINGS THREE-YEAR CASE SUMMARY**

<b>Dangerous Buildings Three Year Workload</b>				
<b>Case Type</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>Average</b>
<b>Dangerous Building (Structural)</b>	55	33	28	39
<b>Dangerous Building (Fire Call)</b>	33	28	34	32
<b>Dangerous Building (Drug House)</b>	3	3	1	2
<b>Total</b>	<b>91</b>	<b>64</b>	<b>63</b>	<b>73</b>

## **Summary**

When the Property Maintenance Division was last audited in April 2001, the Management Analyst made several findings regarding the efficiency and consistency of the Division, including:

- The Division’s written policies and procedures were out of date;
- It took an average of 21 days from the time a complaint is received to first inspection;
- There are inconsistencies in staff performance and the number of cases handled among staff;
- Customer service, with an emphasis on conflict resolution, is needed;
- Staff familiarity with the Division’s software system should be improved while enhancing the system’s functionality, and
- Code Enforcement Officers should be equipped with computers for fieldwork.

Since that time, the Property Maintenance Division has made great progress in improving the efficiency by which complaints are received and managed:

- The Division has developed a comprehensive Administrative Policies and Procedures manual that standardizes operating practices, increases accountability, and ensures that the Division continues to operate at a high level as staffing changes.
- It takes an average of 2.8 days from the time a complaint is received to first inspection, which closely approximates the median time of two days achieved by peer cities nationwide.
- Improvements have been made to balance and streamline case assignment among officers, including assigning cases according to historical trends and population distributions.
- Professional development and ongoing training requirements for Property Maintenance Division staff have been established, including conflict resolution and customer service training.
- The Division’s software system has been enhanced to allow for greater functionality and improved response capabilities.

- Code Compliance Officers have been provided tablets and other tools for more efficient inspection and enforcement capabilities. For example, officers use smart phones to photograph violations, which are uploaded instantaneously to case files.

Beyond these improvements, the Division has made progress in other areas. This includes the design and implementation of several proactive response programs, including the Neighborhood Code Compliance Program. In 2012, two cleanups collected over 71 tons of trash and brush and improved compliance rates from 46% on the pre-cleanup inspection to 98.6% compliance on the final inspection.

While these improvements have made the Division more efficient, each Property Maintenance Officer manages a higher number of cases compared to both peer cities nationally and cities within the region. The Division was also found to have the second-highest number of cases per square mile among cities in the region while having the third-highest number of square miles assigned to each officer. These factors may adversely impact the Division's ability to respond and manage cases in an even more efficient and effective manner. The report found that the majority of cases involve weed and refuse violations on owner-occupied properties and are primarily concentrated April and October. As such, a targeted response involving the use of seasonal workers should be used to manage the current caseload.

Moreover, the Property Maintenance Division currently provides several services at the request of the Municipal Court's Presiding Judge to help adjudicate cases, including preparing a sentencing recommendation form and conducting a pre-court inspection of scheduled cases. While these practices may be of some use to the Judge, they require additional work by the Property Maintenance Code Officers that restrict their ability to address new complaints. Reviewing these practices with the Presiding Judge to ensure an effective use of time is critical.

The City should seek to increase voluntary compliance among property owners. When properties do not meet voluntary compliance, this leads to an expensive and time-consuming process, both for the City and the property owner. In fact, the City currently has an uncollected balance of \$233,512 from unpaid special assessments for weed and refuse abatement activities over the last five years. Though the collection rate improves over time, the City should increase the use of proactive programs like the NCCP that have proven successful in achieving voluntary compliance.

Over the past three years, the Property Maintenance Division has closed an average of 52% of its cases as either containing no violations, having violations that were too minor to pursue, or finding these cases needed to be referred to another department because they were incorrectly routed to the Property Maintenance Division. City departments should review, document, and publicize code enforcement responsibilities to avoid such inefficiency, while the City Council should initiate a review of the current Property Maintenance Code to review current standards and promote greater awareness of the Code, perhaps tasking the Advisory Board of Health with this review.

Enforcement actions by the Municipal Court against violators could be strengthened. Over the past five years, the Presiding Judge has issued 296 Suspended Imposition Sentences each year, a total that, at minimum, would have more than doubled the amount levied by the judge in court fines in that same

period. Because the Presiding Judge has stated the need to be considerate of each violator's unique status, the City should review the current fine structure to provide greater latitude in sentencing.

Finally, the Property Maintenance Division's Administrative Policies and Procedures manual should be revised to reflect recent changes to ensure the continued success of the Division in fulfilling its mission.

**Finding:** The response time for initial inspection of code violation complaints approximates the national average, but could be improved.

- **Recommendation:** Management should examine and consider utilization of seasonal workers to help address peak investigation periods.
- **Recommendation:** The Property Maintenance Division should develop a report that compares the number of first-time offenders to repeat offenders among substantiated cases in order to further target the City's response while monitoring the effectiveness of current practices in reducing repeat offenses.
- **Recommendation:** Management should coordinate a meeting with the Property Maintenance Division and the Presiding Judge to review and determine ongoing use of the sentencing recommendation form as well as the pre-court inspection in order to ensure appropriate information is available to render a decision while helping to further improve the Division's initial response times.

**Finding:** The City has uncollected special assessments for abatement activities.

- **Recommendation:** The City should look for opportunities to increase funding for proactive programs such as the Neighborhood Code Compliance Program that help citizens achieve voluntary compliance in order to avoid costly and prolonged abatement activities if City revenues increase in the future.
- **Recommendation:** The Property Maintenance Division should list potential costs to the property owner/occupant if corrections are not made in an effort to increase voluntary compliance.

**Finding:** Property owner responsibilities under the Property Maintenance Code should be clarified

- **Recommendation:** City departments should document and publicize code enforcement responsibilities in order to improve accountability, avoid confusion, and reduce the number of cases being referred to other departments.
- **Recommendation:** The Property Maintenance Code should be reviewed for proposed revisions to be provided to the City Council in order to keep pace with national standards while promoting greater awareness of property maintenance responsibilities among citizens.

**Finding:** Enforcement actions by the Municipal Court against violators could be strengthened.

- **Recommendation:** The current fine structure for property maintenance violations should be reviewed to provide greater latitude in sentencing by establishing a fine range for each offense.

**Finding:** The Property Maintenance Division’s Administrative Policies and Procedures Manual has not been revised to include important adaptations.

- **Recommendation:** The Property Maintenance Division’s Administrative Policies and Procedures Manual should be reviewed and updated to address evolving operational practices.

## Findings

### ***The Response Time for Initial Inspection of Code Complaints Approximates the National Average, but Could be Improved***

It takes an average of 2.8 days from when a complaint is received by the Property Maintenance Division to when the initial inspection is conducted. This approximates the two median calendar days reported by peer cities in the ICMA Center for Performance Measurement 2012 Code Enforcement Survey.

**EXHIBIT 2: AVERAGE CALENDAR DAYS: COMPLIANT TO INVESTIGATION<sup>1</sup>**

Jurisdiction	Calendar days - complaint to investigation
City of Sioux City, IA	1
City of League City, TX	3
City of Columbia, MO	0.86
City of Surprise, AZ	0.81
City of Bellevue, WA	2
City of Mc Allen, TX	4
<b>Median</b>	<b>2</b>
<b>Independence, MO</b>	<b>2.8</b>

This response time is improved from the findings of a 2001 Management Analyst audit of nuisance and property code enforcement, when the Division averaged 21 days to initial inspection. The Division cites a highly trained and skilled staffed, standardized policies and procedures, and enhanced technology as contributing factors for this improvement.

Though this response time for Independence approximates the median response time for peer cities nationwide, there are several factors that may adversely impact the response time for the

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<sup>1</sup> The ICMA Code Enforcement survey defines this measure as being the average number of calendar days from the time the unique complaint was received to the first investigation of the complaint. Data is to exclude proactively initiated cases in complaint to response time measures, though reporting methodologies may vary across cities.

Independence Property Maintenance Division, including the number of cases per Property Maintenance Officer and inspection and documentation practices for cases referred to Municipal Court.

### Cases per Inspector

As seen in Exhibit 3, Independence manages about 220 more cases per inspector each year than the median number among inspectors in peer cities nationally.

**EXHIBIT 3: COMPARISON OF CASELOAD AMONG PEER CITIES<sup>2</sup>**

Jurisdiction	Residential population of area served	Square miles of area served	Total number of Cases	Code Enforcement FTEs	Cases Per Inspector
City of Sioux City, IA	82,967	59	3,550	3.65	973
City of League City, TX	85,652	53	2,691	5.00	538
City of Columbia, MO	110,438	64	3,709	5.00	742
City of Surprise, AZ	117,517	108	4,879	5.00	976
City of Bellevue, WA	124,600	31	960	5.57	172
City of Mc Allen, TX	133,978	50	13,703	13.00	1,054
<b>Median</b>	<b>113,978</b>	<b>56</b>	<b>3,630</b>	<b>5</b>	<b>857</b>
<b>Independence, MO</b>	<b>117,270</b>	<b>77.57</b>	<b>6,453</b>	<b>6</b>	<b>1,076</b>

Independence also has a higher number of cases per inspector than do other cities within the metropolitan region. This point is magnified when one considers that some cities in the region also use these inspectors to respond to zoning, dangerous building, signage, and certain vehicle cases in addition to the nuisance and housing cases managed by the Property Maintenance Division.

**EXHIBIT 4: COMPARISON OF CASELOAD AMONG REGIONAL CITIES**

Jurisdiction	Residential Population of Area Served	Square Miles of Area Served	Total Number of Cases	Code Enforcement FTEs	Cases Per Inspector
Lee's Summit	92,468	63.35	1,781	5	356
Blue Springs	53,014	22.27	1,121	1.5	747
Kansas City, MO	464,310	314.95	17,777	43	413
Liberty	29,811	29.03	523	1	523
Kansas City, KS	147,268	124.81	11,514	14	822
Overland Park	178,919	74.84	3,500	8	438
<b>Median</b>	<b>119,868</b>	<b>69</b>	<b>2,641</b>	<b>7</b>	<b>480</b>
<b>Independence</b>	<b>117,270</b>	<b>77.57</b>	<b>6,453</b>	<b>6</b>	<b>1,076</b>

<sup>2</sup> The ICMA Code Enforcement survey requests data for all housing, zoning, nuisance, and dangerous building complaints, regardless of whether or not the function is centralized. Data for Independence only includes 6,453 nuisance and housing related cases. FTE data includes 6 Property Maintenance Officers.

Though Independence has a higher number of cases per inspector, Property Maintenance Division staff noted that the Property Maintenance Code is based upon the International Property Maintenance Code, with minor adaptations to fit the needs of Independence. As such, they have not found the Code for Independence to be more regulatory than those of regional cities.

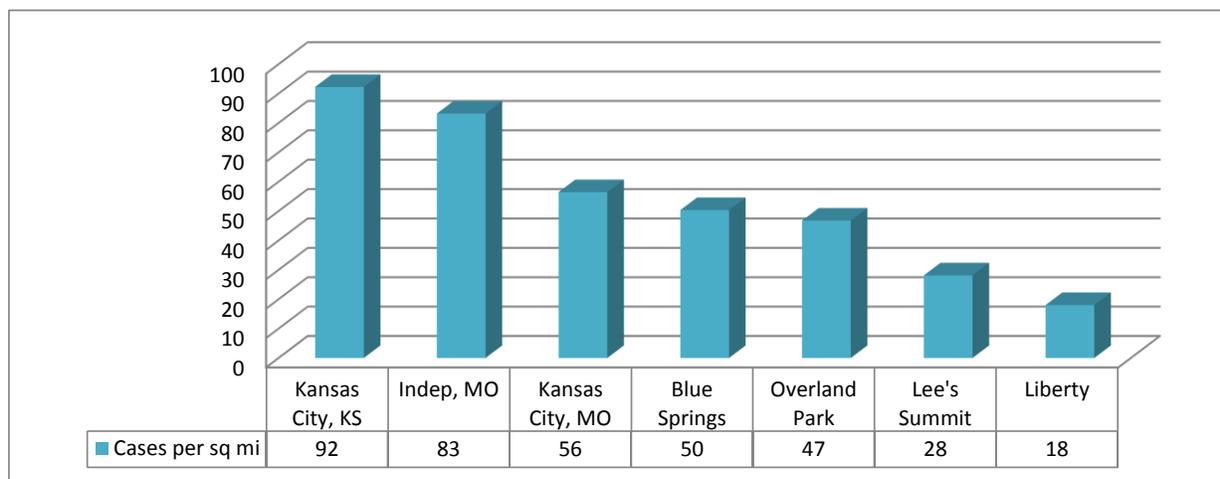
Instead, literature reviewed for this report found that several factors may contribute to a city’s caseload. One such factor is the age of the housing stock in a community, as older homes and the surrounding property may be more inclined to present a potential code violation. Indeed, Independence is one of the oldest communities in the region and has an older housing stock. According to data from the U.S. Census Bureau, only Kansas City, Kansas and Kansas City, Missouri, have more homes built in an earlier period than does Independence.

**EXHIBIT 5: HIGHEST CONCENTRATION OF HOMES BY PERIOD**

City	Highest Concentration of Homes by Period	Percent of Homes
Lee's Summit	1990 to 1999	26.9%
Overland Park	1990 to 1999	22.5%
Liberty	1990 to 1999	20.5%
Blue Springs	1970 to 1979	29.8%
Independence	1960 to 1969	20.4%
Kansas City, KS	1950 to 1959	22.5%
Kansas City, MO	1939 or Earlier	23.1%

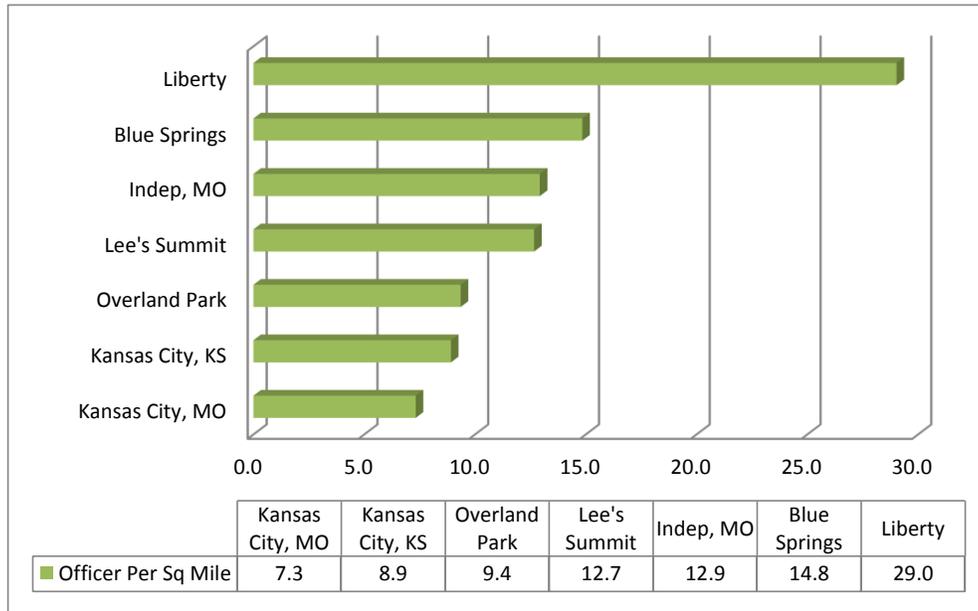
Factors such as this may impact the number of code compliance cases dealt with each year. To illustrate this point, consider the number of cases per square mile among regional cities. Independence has the second-highest number of cases per square mile among cities in the region.

**EXHIBIT 6: CODE ENFORCEMENT CASES PER SQUARE MILE**



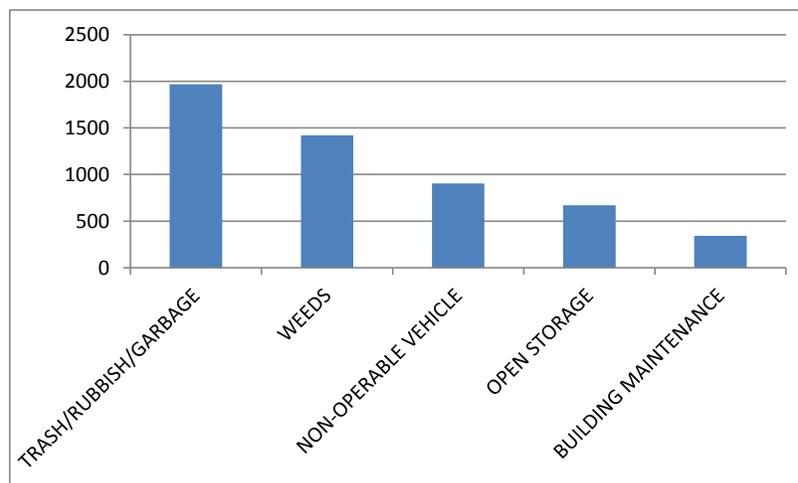
Despite having the second-highest number of cases per square mile, Independence currently has the third-highest number of square miles assigned to each officer.

**EXHIBIT 7: SQUARE MILES PER OFFICER**



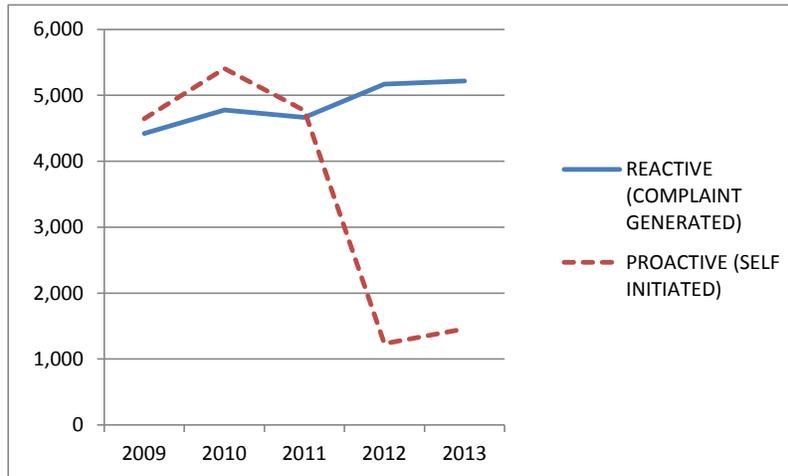
While the caseload is sizeable, it is important to better understand the nature of these cases in order to appropriately target the City’s response to the caseload. Key to this consideration is identifying the primary type of violations. Of the violations in 2013, cases involving non-building maintenance issues represented the top-four violation types and represented about 85% of the total violations in this period.

**EXHIBIT 8: VIOLATIONS BY TYPE**



Also important to consider is the trend in caseload. Over the five-year period from 2009 to 2013, the number of reactive cases (complaint-initiated) has steadily increased, while the number of proactive cases (self-initiated) has decreased. The decrease in proactive cases is explained by the fact that funding has been reduced for proactive programming such as the Neighborhood Code Compliance Program.

**EXHIBIT 9: SUMMARY OF PROACTIVE AND REACTIVE CASE TREND**



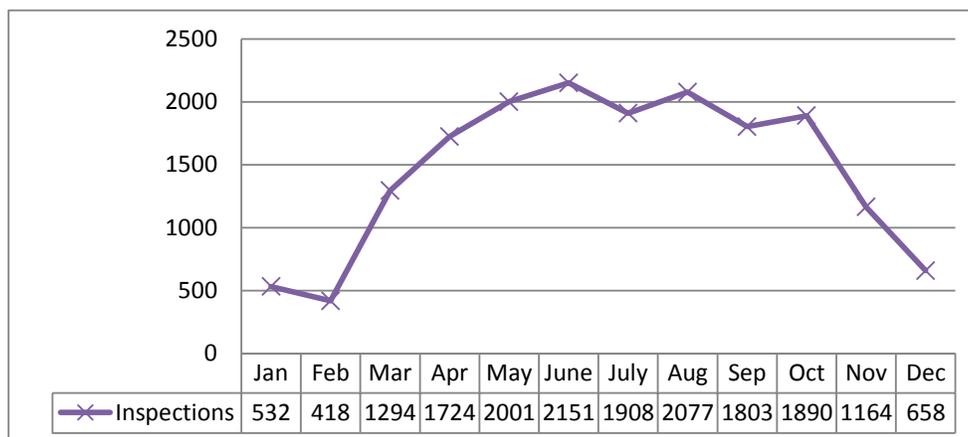
Next, consider that in the average year over the five year period from 2008 to 2012, owner-occupied properties represented 65% of the total cases while 34% of cases were rental properties.

**EXHIBIT 10: HOUSING STATUS**

Housing Status		
	Total for Year	
Owner Occupied	<b>1,057</b>	65%
Landlord	<b>180</b>	11%
Tenant	<b>377</b>	23%
Other	<b>19</b>	1%
<b>Total Cases</b>	<b>1,633</b>	

Finally, consider the case distribution during the calendar year. The Property Maintenance Division experiences an increase in the number of inspections performed in April, and this level of work continues through October before easing. In fact, April through October represents 58% of the calendar year, but accounts for 77% of the total inspections performed by the Division during the average year.

**EXHIBIT 11: THREE-YEAR AVERAGE PROPERTY MAINTENANCE DIVISION INSPECTIONS BY MONTH**



Given that number of reactive cases continues to rise, some additional assistance may be warranted to help the Division maintain, if not improve, the current initial response time. However, a high percentage of the cases continues to be related to non-building maintenance issues, primarily dealing with weed and refuse violations. Moreover, these cases are concentrated to a limited period of time in a calendar year. As such, seasonal workers should be considered to help with the current caseload during peak inspection periods. The exact number of seasonal employees would need to be studied further, but this practice would provide additional help when most needed without committing additional resources on a permanent basis.

Adding seasonal workers to meet peak inspection periods is a common practice for many cities. Sioux City, Iowa, for example, hires two seasonal workers to patrol city neighborhoods and respond to citizen complaints regarding properties in violation of the city's weed ordinance. Columbia, Missouri will utilize two temporary "Weed Inspector" position to help enforce that city's weed ordinance through October 1<sup>st</sup>, 2014. Wentzville, Missouri, meanwhile, will use a "Seasonal Code Compliance Inspector" position from April 2014 through September 2014 to "enforce zoning, nuisance and health and safety codes during the peak season."<sup>3</sup> In these and other cities that were surveyed, seasonal employees were used only for a focused purpose, usually investigating complaints of tall weeds and grass. Given that weeds ranked as the second-highest violation type for Independence in 2012, such a practice seems warranted.

Upon reviewing a draft of this report, the City Manager inquired as to whether data was available to compare the number of cases involving first-time offenders to repeat offenders. The Property Maintenance Division indicated that such data is not immediately available, but that they could work with the Technology Services Department to develop such a report. This information would be valuable in further targeting the City's response efforts as well as in assessing the effectiveness of current practices in reducing repeat offenses.

## **Court Documentation and Inspections Process**

When a case does not obtain voluntary compliance from a property owner or occupant, Municipal Court charges are filed. In these instances, the Presiding Judge has asked the Property Maintenance Division to complete a sentencing recommendation form to help him quickly assess the facts of the case and provide him with a recommendation for sentencing based on these facts. While the Presiding Judge has stated that he continues to find these forms helpful, Property Maintenance Division staff noted that they are not regularly asked to submit these.

In addition to the time required to complete the sentencing recommendation form, the Presiding Judge has asked the Property Maintenance Officer assigned to the case to perform a pre-court inspection to determine if any corrections have been made since the recheck inspection. This inspection follows the initial inspection in response to the complaint as well as the recheck inspection to see if the violations have been corrected. As such, these inspections occur after the violator has received notice of the violation and been given an opportunity to correct it. Thus, the pre-court inspection appears to be

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<sup>3</sup> [www.wentzvillemo.org/job-listing.aspx](http://www.wentzvillemo.org/job-listing.aspx)

redundant and further increases the caseload. Exhibit 12 illustrates that, on average, the staff has completed 727 pre-court inspections over the past three years. While this is only four percent of the total inspections completed during that time, this amount exceeds the average monthly number of total inspections for January, February, and December of this same period.

**EXHIBIT 12: INSPECTIONS BY TYPE**

Inspections By Type					
	2010	2011	2012	Avg	Pct
Initial	10,071	9,379	6,262	8,571	49%
Recheck	10,252	8,825	5,522	8,200	47%
Pre-Court	750	712	719	727	4%
Total	21,073	18,916	12,503	17,497	

The Presiding Judge commented that he is open to meeting with the Property Maintenance Division to discuss these issues in order to ensure the appropriate level of information is available to the Presiding Judge without unnecessarily adding to the Property Maintenance Division’s workload.

***The City has Uncollected Special Assessments for Abatement Activities***

Over the last five years, the City of Independence issued special assessments for weed and refuse abatements totaling \$846,460, of which \$612,948 has been collected. This left an uncollected balance of \$233,512, or a collection rate of about 72% for the five-year period. As illustrated in Exhibit 11, this collection rate improves over time as these costs begin to appear on property tax bills.

**EXHIBIT 13: CODE ENFORCEMENT ABATEMENT COLLECTION RATE**

Year	Net Billed	Adj_Paid	Unpaid	Coll Rate
<b>2008 Total</b>	\$ 138,672	\$ 130,169	\$ 8,503	93.87%
<b>2009 Total</b>	\$ 170,545	\$ 147,784	\$ 22,761	86.65%
<b>2010 Total</b>	\$ 195,333	\$ 147,860	\$ 47,472	75.70%
<b>2011 Total</b>	\$ 168,233	\$ 110,490	\$ 57,743	65.68%
<b>2012 Total</b>	\$ 173,678	\$ 76,644	\$ 97,034	44.13%
<b>Grand Total</b>	<b>\$ 846,460</b>	<b>\$ 612,948</b>	<b>\$ 233,512</b>	<b>72.41%</b>

When property owners do not voluntarily correct code violations, corrective action is started. A city contractor may be ordered to correct these violations at the property owner’s expense. Once the cleanup has been completed, a city invoice is prepared and sent to the property owner. This invoice reflects the contractor’s costs as well as administrative costs incurred by the Property Maintenance Division in managing the case. If this bill is not paid within 30 days, it becomes a tax bill. In late August each year, the Finance Department provides Jackson County with a list of assessments that are added to a property’s tax bill. If the tax bill is not paid in full, it can be sold at auction or sent to Land Trust, though this is a multi-year process.

When asked if the City ever fully recovers what it bills for these abatements, the Finance Director noted that particular item has never been specifically measured. The Finance Director stated that if a property

has value, the City will get paid when the property is eventually sold. If the property has no value to match the amount of the tax bill, the City may be at a loss. The City’s assessment is often the last item that the County applies the proceeds of the sale towards, and the City does not abate taxes. Despite this risk, however, both the Finance Director and the Property Maintenance Division staff were quick to point out that a municipality will always have properties that are not maintained, for one reason or another. The City will continue to be responsible for ensuring properties meet the standards set forth in the Property Maintenance Code, and the city cannot become consumed by the risk of lost resources.

Literature that was reviewed regarding code enforcement stated that achieving voluntary compliance is always best. Giving violators an incentive to comply can prove useful in meeting this goal. For example, both the Finance Director and Property Maintenance Division staff commented that proactive programs like the Neighborhood Code Compliance Program were essential in helping properties reach voluntary compliance, thus decreasing the need for abatement activities and the associated risk of lost resources. In seven years, this program has removed over 3.6 million pounds of trash and brush from 17,988 addresses. Voluntary compliance increased from 56% to over 98% in these areas, and assistance has been provided to over 819 residents who are disabled, elderly, or unable to move their own items.

Another method that some cities have utilized to increase voluntary compliance is to list all potential costs a property owner may be subject to on the first notice that is posted. These costs include the court fines, fees, and administrative costs that may be imposed if a property has not met voluntary compliance at the next inspection. One municipality reported seeing a 60%-70% increase in voluntary compliance after the initial inspection when these costs were made known to the property owner. This strategy should be further researched to determine the appropriateness of its use in Independence.

***Property Owner Responsibilities Under the Property Maintenance Code Should be Clarified***

Property owner responsibilities under the Property Maintenance Code should be clarified. On average, 52% of cases in the past three years have been closed after initial inspection or referred to another department by the Property Maintenance Division, meaning less than half of the cases opened by the Division had a substantiated complaint or were the responsibility of the Division.

**EXHIBIT 14: CASE RESOLUTION**

	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>Average</b>	<b>Percent</b>
Cases Opened	10,217	9,493	6,453	8,721	
Cases Closed Upon Initial Inspection or as Referral	5,532	5,290	2,763	4,528	<b>52%</b>
Cases with Substantiated Complaints	4,685	4,203	3,690	4,193	<b>48%</b>
Substantiated Cases Resulting in Abatement, GOS, and/or Tow	1,064	958	897	973	<b>23%</b>

The Division investigates complaints that either prove not be a violation of the Property Maintenance Code or are too minor to pursue. These cases must still be inspected, however, to document investigation and confirm no violations exist. In order to make better use of the Division’s resources, code enforcement responsibilities should be reviewed, documented and publicized among City staff and to the public. Additionally, given the elapsed time since the Property Maintenance Code was last updated, it is appropriate to conduct a review to ensure its effectiveness, recommend any amendments or replacements, and publicize an updated list of code violations for the public. This review may be an appropriate activity for the City’s Advisory Board of Health, who could then provide any recommended updates to the City Council. The City of Columbia, Missouri, for example, recently adopted the 2012 International Property Maintenance Code to ensure its standards were current.

***Enforcement Actions by the Municipal Court Against Violators Could Be Strengthened***

Enforcement actions by the Municipal Court against violators could be strengthened. When a defendant is found guilty, they may be subject to a fine plus court costs, which become more punitive with each offense. Fines for the first conviction are \$150, \$300 for the second conviction, and \$500 for third and subsequent convictions. Moreover, the Property Maintenance Code provides that “each day a violation continues after due notice has been served shall be deemed a separate offense and a separate citation may be filed for said offense.”<sup>4</sup>

In spite of these punitive measures, it does not appear the Municipal Court is making as aggressive use of these options as may be possible. According to data compiled by the Property Maintenance Division, an average of 296 Suspended Imposition Sentences annually have been issued by the Presiding Judge over the last five years. Suspended Imposition Sentences occur when the judge finds the defendant guilty but does not issue a fine. Had these 296 cases been given only the minimum fine of \$150, this would have totaled \$44,400 in fines annually and would have more than doubled the amount in fines assessed in the average year.

**EXHIBIT 15: MUNICIPAL COURT SENTENCING DATA (FIVE-YEAR AVERAGE)**

Sentences					
	July 1 - Dec. 31		January 1-June 30		Total for Year
Suspended Imposition Sentences	170		126		296
Fines	\$	23,363	\$	20,830	\$ 44,193
Court Costs	\$	8,423	\$	6,730	\$ 15,153
Revenue Generated	\$31,786		\$27,559		\$59,346

The Property Maintenance Division noted that by the time a case has reached Municipal Court, it has been subject to an initial inspection during which the officer explains the nature of the violations, a potential administrative hearing at which a time extension may be granted to reach compliance, and a recheck inspection to see if corrections have been made. In their estimation, the Division feels the Property Maintenance Code has afforded these violators a great deal of leniency to achieve compliance.

<sup>4</sup> City Code of Independence, Missouri: Section 4.01.006(C)

As such, the Code has been designed to be punitive to those who have not achieved voluntary compliance. Granting these individuals a Suspended Imposition Sentence may send the wrong message that the City isn't serious about enforcing the Code.

When discussing this matter with the Presiding Judge, however, it was explained that the Judge considers a wide range of factors, including the age, health, and potential socioeconomic status of the individual. The Presiding Judge does not want to be overly punitive or insincere, nor does he want to create a burden for the City by issuing a fine to someone who appears they may not be able to pay, which would result in administrative efforts to issue a warrant for their arrest. Indeed, data from January 2<sup>nd</sup>, 2014 shows 772 individuals had a warrant resulting from a property maintenance case, of which 348 individuals had two or more warrants.

Given these considerations, it is imperative that the Presiding Judge and appropriate Property Maintenance Division staff meet to review how these cases are handled. In light of the concerns expressed by the Presiding Judge, the existing fine structure should also be reviewed to consider amending the current fine structure to allow for more latitude in sentencing by establishing a range of fines for each offense. In doing so, the Presiding Judge would be able to account for unique factors in each case while still issuing some level of fine.

### ***The Property Maintenance Division's Administrative Policies and Procedures Manual Has Not Been Revised to Include Important Adaptations***

The Property Maintenance Division's Administrative Policies and Procedures Manual should be updated to reflect current practices. Following recommendations from a 2001 audit, the Division has standardized its operating practices and documented them accordingly. However, the Division has continued to refine its practices, especially with design and implementation of several technological improvements that bring added efficiency to the Division's capabilities. During the course of this review, it was determined that five of the 31 policies may need to be updated to reflect revised operating procedures. In order to ensure that the Division continues to operate at a high level, these revisions should be incorporated into the policies and procedures manual.

## **Recommendations**

1. Management should examine and consider utilization of seasonal workers to help address peak investigation periods.
2. The Property Maintenance Division should develop a report that compares the number of first-time offenders to repeat offenders in substantiated cases in order to further target the City's response while monitoring the effectiveness of current practices in reducing repeat offenses.
3. Management should coordinate a meeting with the Property Maintenance Division and the Presiding Judge to review and determine ongoing use of the sentencing recommendation form

as well as the pre-court inspection in order to ensure appropriate information is available to render a decision while helping to further improve the Division's initial response times.

4. The City should look for opportunities to increase funding for proactive programs such as the Neighborhood Code Compliance Program that help citizens achieve voluntary compliance in order to avoid costly and prolonged abatement activities if City revenues increase in the future.
5. The Property Maintenance Division should include potential financial charges to the property owner/occupant if corrections are not made in an effort to increase voluntary compliance.
6. City departments should document and publicize code enforcement responsibilities in order to improve accountability, avoid confusion, and reduce the number of cases being referred to other departments.
7. The Property Maintenance Code should be reviewed for proposed revisions to be provided to the City Council in order to keep pace with national standards while promoting greater awareness of property maintenance responsibilities among citizens.
8. The current fine structure for property maintenance violations should be reviewed to provide greater latitude in sentencing by establishing a fine range for each offense.
9. The Property Maintenance Division's Administrative Policies and Procedures Manual should be reviewed and updated to address evolving operational practices.

## **Appendix A: Health Department's Response**

# City of Independence

## MEMORANDUM

Health Department

DATE: March 4, 2014

TO: Zachary Walker, Management Analyst

THROUGH: Larry D. Jones, MPH, Health Director *Larry Jones*

FROM: Andrew Warlen, MPH, Assistant Health Director *Andrew Warlen*



**SUBJECT: Response to Audit 12-05: Review of Property Code Enforcement**

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This memo is response to the draft report for Audit 12-05: Review of Property Code Enforcement.

**Finding #1:** The response time for initial inspection of code complaints approximates the national average but could be improved.

**Audit Recommendation:** Management should examine replacing some full-time Property Code Enforcement Officer positions when they become open with additional seasonal workers to help address peak investigation periods.

**Response to #1:** The report identifies several communities that utilize seasonal workers to assist enforcement efforts during peak demand periods. As you are aware, appropriate adaptations have been required in each of these communities to accommodate this strategy. These alterations include creation of new and/or revised job descriptions to reflect position qualifications and responsibilities, modified training programs, and changes necessary to ensure consistency with the City Charter, City Code, and State Statutes.

The Division will consider and research the impact and utilization associated with seasonal workers as a potential staffing solution to the current caseload identified in your report.

Additionally, the report highlights the progress achieved by the Division through pursuit of increased technological enhancements. Please be aware that we continue to research further cost-effective improvements in this area, including faster computer tablets, integration of Geographic Information Systems and potential e-ticketing capabilities.

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**Finding #2:** The City has uncollected special assessments for abatement activities.

**Audit Recommendation:** The City should look for opportunities to increase funding for proactive programs such as the Neighborhood Code Compliance Program (NCCP) that help citizens achieve voluntary compliance in order to avoid costly and prolonged abatement activities if City revenues increase in the future.

**Response to #2:** The Division has previously operated with the assumption that a significant portion of abatement expenses are eventually recouped by the City. However, the Division also supports the larger findings that highlight the value of proactive programs such as the Neighborhood Code Compliance Program.

**Division Recommendation:** A 5-year longitudinal analysis should be conducted to determine the exact expense and recovery amounts for abatements. We support any efforts that allow for increased utilization or resumption of proactive programs.

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**Finding #3:** Clarification of property owner code enforcement responsibilities should be strengthened.

**Audit Recommendation:** The Code Compliance Division should include potential financial charges to the property owner/occupant if corrections are not made in an effort to increase voluntary compliance. City departments should document and publicize code enforcement responsibilities in order to improve accountability, avoid confusion, and reduce the number of cases being referred to other departments.

**Response to #3:** The Division agrees that awareness of enforcement responsibilities could be improved and supports these efforts through brochures, presentations at community meetings, and the NCCP. The current notice issued to the responsible parties does include a paragraph that explains enforcement actions that may be taken if voluntary compliance is not received. This paragraph explains the fine amounts (\$150-\$500) but does not give amounts for abatement actions. Abatement actions may include vehicle tows or contractor clean-ups, therefore, these amounts may vary widely due to the situation and range from approximately \$100 to an unlimited amount.

**Division Recommendation:** The use of the Online Property Maintenance system for making complaints is the most direct and efficient method. Those wanting to make a complaint using the Online Action Center should be redirected to the Online Property Maintenance system. In the past, CityScene articles have been utilized to communicate the Division's responsibilities. This method should continue to be used and bolstered.

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**Finding #4:** Enforcement actions by the Municipal Court against violators could be strengthened.

**Audit Recommendation:** The Code Compliance Division staff should meet with the Presiding Judge to review and determine ongoing use of the sentencing recommendation form as well as the pre-court inspection in order to ensure appropriate information is available to render a decision while helping to further improve the Division's initial response times.

The current fine structure for property maintenance violations should be reviewed in order to allow the Presiding Judge to consider increased utilization of court fines as a punitive measure.

**Response to # 4:** The Division is available to meet and has met the Presiding Judge and prosecutor regarding property maintenance related matters. The Division fully supports the strict imposition of fines and fees in accordance with City Code. Additionally, the Division is open to adapting policy to only take cases to court when there is no other recourse or if violations on the property are ongoing.

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**Finding #5:** The Code Enforcement Division's Administrative Policies and Procedures Manual has not been recently revised to include important adaptations.

**Audit Recommendation:** The Code Compliance Division's Administrative Policies and Procedures Manual should be reviewed and updated to address evolving operational practices.

**Division Recommendation:** It is concurred that the identified out of date policies be updated. Work on updates has commenced and will be completed shortly.

## **Appendix B: City Attorney's Response**

# City of Independence

## MEMORANDUM

Law Department

DATE: March 12, 2014

TO: **Zach Walker, Management Analyst**

FROM: Dayla Bishop Schwartz, City Counselor *DBS*



**SUBJECT: Report No. 12-05  
Review of Licensing and Permitting Process**

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I have reviewed the draft report for Report No. 12-05, Review of Property Code Enforcement. I am of the opinion that there is nothing contained within the draft report that would expose the City to a lawsuit. Furthermore, it is my opinion that the draft report would not qualify for an executive session discussion before either the Council Audit and Finance Committee or the City Council.

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