



DATE: April 7, 2008

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SUBJECT: FOLLOW-UP AUDIT - CODE ENFORCEMENT WARNINGS, NOTICES,
CITATIONS, AND FINES PROCESS AUDIT

Attached is the Follow-Up Audit Report with the current implementation status of the 14 recommendations made in the Code Enforcement Warnings, Notices, Citations, and Fines Audit Report issued June 6, 2007.

The Planning & Development Department – Code Enforcement Division should be commended for their concerted efforts and significant progress made towards the improvement of the overall Code Enforcement warnings, notices, citations and fines processes and related policies and procedures, specifically during the current fiscal year.

Internal Audit has concluded the Implementation Status for the 14 Audit Recommendations to be as follows:

- 9 Audit Recommendations Fully Implemented
- 5 Audit Recommendations In Progress

Thank you for your assistance during the course of this follow-up audit. If you have any questions, please contact Bob Koury, Principal Internal Auditor, at 621-7072.

Attachment

cc: Alan Autry, Mayor
Council Members
Andrew T. Souza, City Manager
Bruce Rudd, Assistant City Manager
Craig Agabashian, Administrative Manager, Planning and Development
Karen Bradley, Interim Finance Director/City Controller



Internal Audit 08-0012

**Planning and Development Department
Code Enforcement Division
Warnings, Notices, Citations, and Fines Process
Follow-Up Audit**

**Submitted By
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April 7, 2008

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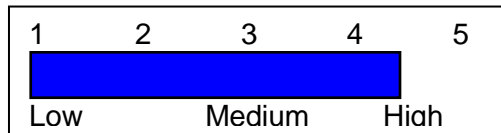
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EXECUTIVE SUMMARY

Internal Audit performed an audit of the Code Enforcement Warnings, Notices, Citations and Fines Process during the period January through April 2007. The audit objectives were to determine whether the current Warnings, Notices, Citations and Fines processes are consistent amongst the various Code Teams and Inspectors and whether the Code Enforcement Division is obtaining compliance from Property Owners through enforcing the Fresno Municipal Code (FMC) and/or Recovering the Cost of enforcing the FMC. While performing the audit, we considered whether improvements could be made to strengthen the existing process to attain Citywide compliance of Property Owner's and/or to strengthen internal controls to provide Cost Recovery of Code Enforcement's Warnings, Notices, Citations, and Fines Process.

Risk is the degree of or the lack of internal controls, management oversight and fiscal responsibility. Based upon Internal Audit's findings, Code Enforcement's risk is high.

Audit Risk



Key Findings Identified in Original Audit June 6, 2007:

- Code Enforcement lacks current, consistent and formal Policies and Procedures for Inspectors to follow when issuing Warnings, Notices, Citations, and Fines to Property Owners that violate the FMC and do not bring their property into compliance.
- The current process of issuing Warnings, Notices, Citations, and Fines is inconsistent and does not comply with the FMC, the MFS and/or formal or informal Code Policies and Procedures.
- The lack of assessing, billing and recovery of Code Enforcement Costs, as allowed by the FMC and MFS, is due to the lack of clear, concise, current, formal Code Policies and Procedures of when to issue Warnings, Notices, Citations, and Fines (especially the amount per Citation) in accordance with the FMC and the MFS.
 - Internal Audit initially estimated approximately \$500,000 in unbilled Administrative Fees. As a result of detailed testing, Internal Audit estimates the unbilled Administrative Fees to be approximately \$600,000 instead of \$500,000 for a year's period of time.
 - In addition, a Sample of 144 out of approximately 20,000 Code Cases showed an estimated \$55,000 in unbilled Citation and Other Fees.

Internal Audit has provided recommendations for Management to consider that will improve Code's Warnings, Notices, Citations, and Fines processes. Improving the Warnings, Notices, Citations, and Fines processes will create consistency amongst the Code Enforcement Inspectors that will improve fiscal responsibility (cost recovery) and customer and employee satisfaction.

Internal Audit conducted this audit in accordance with Administrative Order 1-12 (Internal Audit – Authority, Responsibilities, and Audit Reports). The Code Enforcement Warnings, Notices, Citations, and Fines Process Audit Report provides detail on the key issues identified above and 14 Audit Recommendations.

INTRODUCTION

Background

On April 16, 2007, Internal Audit issued the Final Code Enforcement Work Assignment/Work Flow Process Audit Report. The Report discussed current practices and issues related to the efficiency and effectiveness of Code Inspectors conducting their inspections to ensure citizens are complying with the Fresno Municipal Codes (FMC). Internal Audit made recommendations related to the findings identified.

The Code Enforcement Warnings, Notices, Citations, and Fines Process Audit is a continuation of Internal Audit's review of the Code Enforcement Division. As noted in the previous Audit Report, the Code Enforcement Division has approximately 50 Inspectors to cover an area of approximately 66,560 acres of land inhabited by approximately 465,000 people of various socioeconomic groups.

The power to enforce the FMC is designated in DIVISION 1 BUILDING CODE SECTION 13-100.104.1 CREATION OF ENFORCEMENT AGENCY which states: "The Planning and Development Department is hereby established in the City of Fresno as the appropriate code enforcement agency that shall be under the administrative and operational control of the Planning and Development Director."

There are numerous sections of the FMC that are specific to Code Enforcement's Judicial and Administrative remedies to garner Property Owners' compliance such as:

- Chapter 1 Article 5 General Administrative Hearing Procedures
- Chapter 1 Article 6 Cost and Penalty Recovery
- Chapter 9 Article 8 Public Nuisance Abatement
- Chapter 9 Article 9 Management of Real Property Ordinance
- Chapter 9 Article 14 Abandoned Shopping Carts
- Chapter 12 Article 3 General Conditions Applicable to Zoning
- Chapter 13 Article 9 Signs
- Chapter 13 Article 12 Dangerous Building Regulations

The Code Enforcement Division's 50 Inspectors work within one of nine Teams: Five Area Teams (Central, Northeast, Northwest, Southeast, and Southwest Fresno); a Conditional Use Permit (CUP) Team; a Demolition (DEMO) Team; a Fresno Against Illegal Dumping (FAID) Team; a Shopping Cart Team; a Tire Team; a Vacant Building/Housing Standards (VBO) Team; and a Weed Abatement (Weeds) Team. The Code Inspectors investigate approximately 20,000 Requests For Service ("Requests") per year.

The mission of the Code Enforcement Division is to enhance the quality of life for all the citizens of Fresno by enforcing the FMC. The FMC, while supporting this mission, does include Cost Recovery for non-compliance.

To perform this audit, the Internal Audit staff utilized information and forms obtained from the Code Enforcement Manager; Field Services Manager; Support Services Manager; the four Code Enforcement Supervisors; 32 Code Inspectors (that Internal Audit observed and Rode Along with); and various Support Staff. In addition, Internal Audit obtained information from Code Enforcement's Howard Technical Enterprise (HTE) System through direct access and from assistance by the Information Services Department.

Audit Objectives, Scope, and Methodology

The objectives of our audit were to determine whether the current Warnings, Notices, Citations, and Fines process is consistent amongst the various Code Teams and Inspectors. The audit was also to determine whether the Code Enforcement Division is obtaining compliance from Property Owners through enforcing the FMC and/or Recovering the Cost of enforcing the FMC.

Internal Audit performed the audit during the period January through April 2007, in accordance with Administrative Order 1-12.

To accomplish our audit objectives, we:

- Researched Fresno's Charter, applicable FMC and other applicable laws, regulations and standards;
- Reviewed applicable Division Policies and Procedures and Guidelines;
- Obtained HTE Databases related to Code Enforcement's Billing;
- Reviewed and analyzed a sample of Code Inspectors' HTE case documentation; and
- Conducted tests to determine the accuracy of Code Enforcement's Cost Recovery when Property Owners were noncompliant with the FMC.

During the course of the audit, Internal Audit discussed the findings and proposed recommendations with Code Enforcement Management. An Exit Conference with appropriate Department/Division Management staff is scheduled on May 11, 2007 to discuss all audit findings and recommendations in preparation to finalize the Audit Report.

Conclusion

The Code Enforcement Management and staff have professionally attempted to garner Property Owners' compliance with the FMC. However, Internal Audit noted that Code Enforcement has not effectively used the FMC and the MFS to effect compliance and to recover Code Enforcement's Costs. Areas of potential weakness or risk have been identified during the course of our audit that Code Management should address to strengthen internal controls and Cost Recovery for greater operational effectiveness and efficiencies, and more consistent application of the FMC. These areas are addressed throughout this Audit Report.

On February 13, 2008, Internal Audit met with Code Enforcement Management to discuss and obtain further clarification of Management's Follow-Up responses/status of audit recommendations, including request for additional documentation. Based on our subsequent

follow-up audit procedures, Internal Audit concluded whether the audit recommendations were adequately implemented, in progress or were not implemented.

We again want to commend the Planning and Development Department – Code Enforcement Division for their significant efforts and progress made related to the Division’s warnings, notices, and citations processes and related policies and procedures, specifically during the current fiscal year. Internal Audit believes the complete implementation of our audit recommendations by the Code Enforcement Division will aid in accomplishing the Key Objectives of Customer Satisfaction, Employee Satisfaction, and Financial Management.

AUDIT FINDINGS AND RECOMMENDATIONS

Finding 1 – Code’s Policies and Procedures for Warnings, Notices, Citations and Fines

Internal Audit obtained a copy of Code Enforcement’s Policies and Procedures (P/P) Manual. A review of the Manual for Policies and Procedures detailing the Issuance of Warnings, Notices, Citations, and Fines indicated:

- There are approximately 24 formal P/P and 16 informal documents (40 in total) that discuss Warnings, Notices, Citations, and Fines.
- The dates on these documents or P/P range from November 1997 to August 2006.
- There is conflicting language between the formal and informal documents in the P/P Manual (e.g. the Code Enforcement – “Enforcement Process” document and the Citation P/P).
- Language used within a single document is conflicting (e.g. the use of “may” and “required” within the Administrative Billing P/P).
- Informal documents and/or P/P allow or state flexibility is needed but this may lead to inconsistent enforcement of the FMC (e.g. the Citation P/P versus the Enforcement Procedure of Proposed Housing Regulations and Dangerous Building Ordinances).
- Some informal documents and P/P state clear time guidelines for action to be taken whereas other documents or P/P do not state time guidelines.
- Fourteen out of the 40 documents and/or P/P indicate management review or approval is required of the Inspectors actions/decisions.
- One formal P/P (Yard Car Finale) states, “Parking on the lawn will be enforced by P.D. only.”

Internal Audit could not conclude which documents were relevant, or which documents the Inspectors should use or were using to conduct inspections and issue Warnings, Notices, Citations, and Fines. Internal Audit observed Code Inspectors enforcing Parking on the Lawn which is a clear violation of Code’s P/P.

Internal Audit did not note management review or approval of Inspectors’ actions/decisions as required in some formal P/P and informal documents. Internal Audit did not find documentation of Code Management’s review or approval in Code’s HTE System for individual case documentation during the numerous tests that were conducted on these Public Records.

Internal Audit was informed by Code Management that a Code Enforcement Policy and Procedure Committee was convened to address outdated P/P. Subsequent to the issuance of the Code Enforcement Work Assignment/Work Flow Process Audit Report, Internal Audit has been informed that the Code Enforcement Managers will be reviewing, revising and/or drafting new Code P/P.

Recommendation 1:

Code Enforcement Management should ensure that all newly revised or drafted P/P are clear and concise and communicated to all Code Staff to improve consistency and effectiveness in garnering Property Owners' compliance with the FMC. Internal Audit recognizes that enforcement of the FMC may require some flexibility but that flexibility must be consistent in the application of the FMC throughout the City and to every citizen.

MANAGEMENT RESPONSE TO RECOMMENDATION 1

Department Management will review all newly created P/P's and ensure clarity and consistency of approach.

CURRENT STATUS OF RECOMMENDATION 1 - IMPLEMENTED

Finding 2 – Review of Applicable Code Enforcement FMCs in Conjunction with the MFS and Code's P/P for Consistency of Issuing Fines to Property Owners for Noncompliance

Code Enforcement's ability to levy fines against Property Owners who do not comply with the FMC is codified in the laws of the City - The Municipal Code and Charter for the City of Fresno, California which is enacted by the City Council.

FMC ARTICLE 4 CODE ENFORCEMENT: JUDICIAL AND ADMINISTRATIVE REMEDIES AND PROCEDURES SECTION 1-401 DECLARATION OF PURPOSE states "..... Code enforcement is vital to protection of the public's health, safety, and quality of life. The Council recognizes that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative enforcement hearings and judicial proceedings....." Other chapters/sections of the Municipal Code that are applicable to Code Enforcement can be found in: a) Chapter 9 Health and Safety; b) Chapter 12 City Planning; and c) Chapter 13 Buildings and Signs.

The City Council also reviews, discusses and approves the fees to be charged to the citizens of the City by various City Departments/Divisions, which are stated in the City's MFS.

Internal Audit conducted a review of the FMC related to Code Enforcement, the FY 2006-2007 MFS and the Code Enforcement's P/P Manual formal and informal documents. Internal Audit was also informed by Code Inspectors and received a written copy of the Citation Fee Guideline constructed by Code Enforcement as a result of a Prior Hearing Officer's Appeals Hearings Citation Rulings. This review showed:

- The FMC has approximately 28 stated fees related to Code Enforcement.
- The MFS for Planning and Development Code Enforcement Division has 32 fees listed.
- The Code Enforcement P/P Manual has 31 formal and informal documents that list fees to be assessed.

- The Prior Hearing Officer’s Ruling Guideline included First, Second and Third Citation fees for approximately 15 types of FMC violations.

The results of Internal Audits comparison of documents for consistency of Code Enforcement issuing fines are:

1. The Fee language in some FMCs indicated the appropriate fees to be paid to the City are those set forth in the Master Fee Resolution of the FMC, whereas other FMC sections do not contain the preceding language (e.g. Chapter 13 Article 8 Dangerous Building Regulations Section 13-1200.401 Fees versus Chapter 9 Article 9 Management of Real Property Ordinance Section 9-909 Violation).
2. Some FMC contain confusing and/or conflicting language such as:
 - Chapter 1 Article 4 Code Enforcement: Judicial and Administrative Remedies and Procedures Section 1-405 Infractions states “Any person convicted of an infraction under provisions of this Code herein shall be punishable by (1) a fine not exceeding one hundred dollars (\$100) for a first violation...”
 - Whereas Chapter 1 Article 4 Code Enforcement: Judicial and Administrative Remedies and Procedures Section 1-406 (g) Penalty states “Except as otherwise set forth in this Code , or by the Master Fee Resolution, the City Council established the following base schedule for determining the amount of the civil penalty...”
3. The violation amounts listed in the FMC do not correspond to the Citation Fees listed in the MFS. Chapter 9 Article 9 Management of Real Property Ordinance Section 9-909 Violation states “...(1) First violation, up to One Thousand Dollars (\$1,000), plus any abatement, actual administrative and enforcement costs and administrative expenses incurred;” whereas the Planning and Development Code Enforcement Fees section states “Code Citation Penalties 1st citation for non compliance of code violation up to or maximum \$200”.
4. The language up to or a maximum of in the FMC and/or MFS creates a vast flexibility of assessing fines by Code Inspectors and a significant inconsistency of fees assessed to Fresno’s Property Owners for a similar or same type of violation. For instance, an Inspector may decide not to penalize a Property Owner for noncompliance even after numerous re-inspections; whereas another Inspector may penalize a Property Owner \$50 after a third re-inspection; whereas another Inspector may penalize a Property Owner \$200 after the first inspection.
5. The Code Inspectors actions performed and inconsistent fee assessments may lead to Property Owners appealing Citations and enforcement of the FMC. In addition, the Hearing Officer’s independent decision to accept the action taken by Code Enforcement, but not the fee amount assessed, has created even further confusion for future fee assessments by the Code Inspectors.

6. Internal Audit noted inconsistencies in fee assessments stated in Code Enforcement's P/P Manual compared to the FMC and MFS. For example: Code's P/P titled "Procedures for Housing Cases Where No Life Hazards Exist" states the citation amounts are \$100, \$250, and \$500 when the violation(s) have not been removed, whereas the MFS states up to \$200, \$500, and \$800.
7. Internal Audit noted the FMC and MFS list a fee amount for three Citations only. Code's Issuing Administrative Citations Policy states "...Issuance of additional citations after the 3rd citation requires a supervisor's approval. Issuance of a citation after the 4th citation requires the Division Managers approval..." Other Code P/P list a fee amount for three Citations but do not list additional Citation fee amounts when the Property Owner has not complied with the FMC after three Citations have been assessed against the Property Owner. Currently, there is no Code/FMC/MFS protocol about increasing the amount of successive Citations after the 3rd Citation.

Recommendation 2:

The Planning and Development Director or his designee should meet with the City Attorney to discuss amending the language and fees in the FMC that are inconsistent with the MFS to provide accuracy and clarity not only for the Code Enforcement Division but also for Property Owners of the City.

MANAGEMENT RESPONSE TO RECOMMENDATION 2

Concur: Management staff will analyse existing inconsistencies between The Master Fee Schedule and the Fresno Municipal Code and proceed with appropriate changes. Completion 12/31/07

CURRENT STATUS OF RECOMMENDATION 2– IN PROGRESS

Some efforts to review and pursue appropriate revisions to either FMC and/or MFS for consistency purposes by Code Enforcement were noted by Internal Audit. However, these issues will need to be continually reviewed and revised, as appropriate, on an ongoing basis by Code Management.

Recommendation 3:

The Planning and Development Director should propose amending the FMC and MFS Citation/Penalty language from up to a maximum of \$X to a flat rate, and to consider lowering the first three Citation amounts to the current language in Chapter 1 Article 4 Code Enforcement: Judicial and Administrative Remedies and Procedures Section 1-405 Infractions to the City Attorney and the City Council. A flat rate for each Citation amount would prevent inconsistencies in the amount assessed by the Code Inspectors.

MANAGEMENT RESPONSE TO RECOMMENDATION 3

Concur: Appropriate codes shall be revised to reflect flat rate citation amounts. Completion 12/31/07

CURRENT STATUS OF RECOMMENDATION 3– IN PROGRESS

Some efforts by Code Enforcement to implement this recommendation were noted by Internal Audit. However, the areas of FMC and MFS citations/penalties language and related rates will need to be continually reviewed and revised on an ongoing basis by Code Management for consistency and compliance purposes.

Recommendation 4:

The Planning and Development Director should propose amending the FMC and MFS with two additional Citations and amounts above the current 3rd Citation to the City Attorney and the City Council. The amount of the 4th and 5th Citations should be sufficient to deter a Property Owner's continual non compliance with the FMC. Cases involving Property Owners who do not comply with the FMC after the 5th Citation should be referred to the City Attorney for review and possible legal action.

MANAGEMENT RESPONSE TO RECOMMENDATION 4

Concur: Citations after the third will require supervisor or management approval and any subsequent action will be referred to the City Attorney. Completion 12/31/07

CURRENT STATUS OF RECOMMENDATION 4– IN PROGRESS

Some efforts by Code Enforcement to implement this recommendation were noted by Internal Audit. However, the areas of FMC and MFS related to citation amounts will need to be continually reviewed and revised on an ongoing basis by Code Management for consistency and enhanced enforcement/compliance purposes.

Recommendation 5:

The Code Enforcement Manager or his designee should revise or draft new Code Enforcement P/P with the amended Citation fee amounts and/or language from the FMC and/or MFS if recommendations 3 and 4 are implemented.

MANAGEMENT RESPONSE TO RECOMMENDATION 5

Concur: Upon completion of citation revisions a new P/P will be written. Completion 12/31/07

CURRENT STATUS OF RECOMMENDATION 5– IN PROGRESS

This will be an ongoing process by Code Management based on the results of recommendations 4 & 5 above.

Recommendation 6:

The Planning and Development Director should meet with the City Manager and Hearing Officers to discuss upholding the Citation fees per the FMC and/or the MFS if the Property Owner had been found to be in violation of the FMC. This would prevent further confusion of Citation/Fee Assessments by the Code Inspectors and bring consistency to this process for all citizens of Fresno.

MANAGEMENT RESPONSE TO RECOMMENDATION 6

Director will meet with CMO to discuss this finding. Completion 12/31/07

CURRENT STATUS OF RECOMMENDATION 6 - IMPLEMENTED

Finding 3 – Review of Code Enforcement’s Forms for Consistency with the FMC, MFS and Code Enforcement P/P

Internal Audit conducted a review of 12 Code Enforcement Forms, 17 Letters and 12 Informational Brochures/Flyers (41 total documents) to determine if the language in these documents was consistent with FMC, MFS and Code P/P especially for Warnings, Notices, Citations, and Fines. Internal Audit’s review noted:

- Numerous FMC (e.g. Chapter 9 Article 8 Public Nuisance Abatement Section 805 Proceedings for Enforcement) states, “...the Director may commence any of the following proceedings, to cause the abatement of the public nuisance:
 - (1) Issue a notice of violation; and/or
 - (2) Issue a notice and order; and/or
 - (3) Summarily abate; and/or
 - (4) Issue an administrative citation; and/or
 - (5) Request the City Attorney to institute legal action.”

The above types of proceedings are used in other FMC sections that Code Enforcement uses for enforcement. Internal Audit did not find any mention in the FMC of using Courtesy Notices and/or a Preliminary Notification Letter to garner Property Owners’ compliance. Code Enforcement issuance of Courtesy Notices and Preliminary Notification Letters are in violation of the FMC.

- Language used in the Courtesy Notice, Preliminary Notification Letter and the Notice of Violation letter differed from Code Enforcement’s P/P.
- Only ten out of 41 forms, letters, and brochures/flyers had an effective date. Documents with dates ranged from April 1997 to January 2005.
- The majority of the Forms and Letters required additional information to be inputted to the standardized preprinted text.
- The telephone number for the Development Department was invalid on two of the Informational Brochures/Flyers.
- One Informational Brochure/Flyer has invalid Council information.
- Internal Audit noted Code Inspectors issuing a Code Enforcement Division Notice and Order Correction Notice to Remove All Municipal Code Violation(s) which did not always state the Citation amount for failure to comply. If the Code Inspector did state the Citation amounts, both the FMC and the MFS fee amounts were listed.

Recommendation 7:

The Code Enforcement Manager or his designee should review all Code Forms, Letters, and Brochures/Flyers to revise conflicting or inaccurate language with the FMC, MFS and/or Code

P/P. The Code Enforcement Manager should consider not listing individuals' names on the Forms which requires revision and reprinting when individuals change position and/or leave the City.

MANAGEMENT RESPONSE TO RECOMMENDATION 7

Concur: All documentation will be reviewed and revised as necessary. Completion 12/31/07

CURRENT STATUS OF RECOMMENDATION 7– IN PROGRESS

Some efforts by Code Enforcement to implement this recommendation were noted by Internal Audit. However, this is an ongoing process and will need to be continually reviewed and revised on an ongoing basis by Code Management for consistency and documentation purposes.

Finding 4 – Property Owners' Compliance with Fresno Municipal Code

FMC Chapter I Article 4 Code Enforcement: Judicial and Administrative Remedies and Proceedings Section 1-406 (g) (iii) Penalty states "Third or subsequent occurrence of the same violation within a rolling twelve-month period, five hundred dollars (\$500)." Other FMC sections have similar language.

Code Enforcement's non-titled chart of actions (an informal document) to be instituted by Inspectors for categories of violations states "◆ = Rolling 12 month period (Attractive Nuisance all sources and Hazardous conditions). Reoccurring violations within 12 months of the last violation will get an inspection for verification and upon verification a Notice and Order (N&O) or Notice of Violation (NOV) is issued with the \$347 enforcement fee." Internal Audit was informed by Code Management that the repeat violation at an address does not need to be for the exact same previous violation but for the same category(s) of violations within the rolling 12 month periods as it applies. Internal Audit was informed by Code Enforcement staff that they attempt to get Property Owners' compliance with the FMC versus penalizing the Property Owner.

Internal Audit attempted to test Code's mission "i.e. to gain compliance with the FMC versus penalizing Property Owners' especially for repeat offenses within a rolling 12 month period". Thirty-two out of 144 Ride Along cases (22%) reviewed had one or more violations at the same address (two violations - 19, three violations - 9, and four violations - 4) within FY 2007. Internal Audit was not able to conclude whether Code Inspectors were complying with the FMC language and/or the informal Code Chart document due to inconsistencies in fining and not fining and number of inspections conducted prior to issuing a fine.

Recommendation 8:

Code Management should instruct and monitor Inspectors' issuance of fines to repeat violators of the FMC to ensure consistency of fining Property Owners in accordance with the FMC.

MANAGEMENT RESPONSE TO RECOMMENDATION 8

Concur: Revisions to the billing and collection process are currently underway. Estimated completion 7/31/07

CURRENT STATUS OF RECOMMENDATION 8 - IMPLEMENTED

This is an ongoing training issue and as such, is routinely stressed during regularly scheduled Area Team meetings. Supervisors and Seniors customarily conduct “ride-alongs” with Inspectors where monitoring of the Inspectors’ issuance of fines takes place. This is also stressed in regular monthly Area Team Meetings and during Division in-house training. These sessions, along with “ride-alongs,” Area Team Meetings, and the City’s employee evaluation process, are opportunities for Management to respond to specific issues, perform quality reviews of an Inspector’s work, and discuss with the Seniors and/or individual Inspectors their work that meets expectations or requires improvement. These sessions have resulted in additional training opportunities to re-direct when needed.

Documentation of the above Area Team meetings and in-house training specific to the issuance of fines to repeat violators of the FMC by Code Inspectors must be maintained for management and/or audit trail purposes.

Finding 5 - Calculation of Code Enforcement’s Current Hourly Administrative Enforcement Fee

For Fiscal Year 2004, the Planning and Development Department performed an analysis to determine the “Standard Hourly Rate” to process a Code case. This analysis resulted in the “Standard Hourly Rate” increasing from \$72 to \$85 effective July 1, 2003. The Standard Hourly Rate of \$85 was approved by the City Council in the MFS.

Code Enforcement’s Management has not performed a current analysis of the Standard Hourly Rate to process a case although wages and benefits have increased during the last four years. Nor has Code Management determined whether the previously listed components of processing a case and/or applicability to the various types of Code Inspections are still valid. Therefore, the current \$85 hourly rate may not be sufficient for cost recovery purposes.

Recommendation 9:

The Code Enforcement Manager or his designee should perform a current analysis of the “Standard Hourly Rate” for the processing of Code Enforcement cases and submit the results to the Planning and Development Director for review and approval for amendment of the MFS.

MANAGEMENT RESPONSE TO RECOMMENDATION 9

Concur: Manager is considering a formula revision to the MFS that will automatically update with costs. Similar to consulting services fee for Building and Safety. Completion 12/31/07

CURRENT STATUS OF RECOMMENDATION 9 - IMPLEMENTED

Finding 6 – Review of Code’s Current Assessment of Fees for Noncompliance

To review and analyze Code’s current billing practices, Internal Audit used the following information:

- Internal Audit used the sample of Inspector Ride Along cases selected for the Code Enforcement Work Assignment/Work Flow Process Audit. One hundred thirty-two (92%) out of 144 of the cases were opened in Calendar Years 2006/2007. The remaining 12 cases were from 2001 through 2005.
- Direct access to Code’s HTE System, especially the Case Action and Penalty Inquiry Screens.

The sample of 144 Ride Along cases selected for HTE review included: a) Area Team I (SW) – 25 cases; b) Area Team II (CEN) – 22 cases; c) Area Team III (SE) – 15 cases; d) Area Team IV (NE) – 27 cases; e) Area Team V (NW) – 19 cases; f) Conditional Use Permit (CUP) Team – 1 case; g) Demolition (DEMO) – 9 cases; h) Illegal Dumping (FAID) – 6 cases; i) Tire Team – 5 cases; and j) Vacant Building/Housing Standards Team (VBO) – 15 cases.

Code Enforcement’s Housing Notice and Order Policy; Housing Standards Team Case Referral and N&O Process Policy; Posting Properties Against Occupancy Policy; and the DBO Demolition Notice and Order Action Steps (informal document) requires a Policy of Insured Record Title (PIRT) to be ordered. Per Code Management, photos are billed on Summary Abatement cases.

Internal Audit reviewed not only the Case Action Inquiry screen but also the Inspectors’ individual case notes. Seventy-four out of 144 cases (51%) required more than one re-inspection. Forty out of the 144 (28%) cases were still open at the time of this review (March 2007). The review noted the following actual billing practices by Code Inspectors:

Fee Description	# of Inspectors Who Assessed	# of Cases Assessed	Timing of Assessment	Range of Amount Assessed	Total Assessed
Notice and Order Fee Assessed	2	2	After 3 rd and 8 th re-inspections	\$347 and \$528	\$875
Issuance of 1st Citation	12	17	After initial inspection up to 4 th re-inspection	\$50 to \$200	\$1,750
Issuance of 2 nd Citation	7	9	After initial inspection up to 10 th re-inspection	\$100 to \$500	\$1,750
Issuance of 3 rd Citation	2	2	After 4 th and 5 th re-inspections	\$350 and Unknown	\$350+
Required Administrative Fee Assessed	5	8	From initial inspection up to 3 rd re-inspection	Amounts varied	\$1,998
VBO Citation	1	1	After 2 nd re-inspection	\$1,000	\$1,000
Administrative Time Billed	7	10	From initial inspection up to 30 th re-inspection	Amounts varied by time spent on case	\$3,454
PIRTs Billed	5	8	From initial inspection up to 3 rd re-inspection	\$100 each (One case had two PIRTs billed)	\$900
Contractors Fee Assessed	5	9	From initial inspection up to 28 th re-inspection	Amount varied by work performed	\$49,028
Fence Rentals Assessed	3	4	Varied by case	Varied by # of months fence required	\$6,451
VBO Annual Inspection/ Registration Fee Assessed	2	2	After 3 rd and 5 th re-inspections	\$170 and \$1,000	\$1,170
Lien Release Assessed	2	2	After initial inspection and 9 th re-inspection	\$26 each	\$52
Photos Assessed	1	1	After 8 th , 20 th and 28 th re-inspections	Varied by number of photos taken	\$140
Total Amount Assessed By Code Inspectors					\$68,918

Recommendation 10:

To ensure consistency, Code Management should revise and/or develop new P/P to clarify and streamline when fees should be assessed based on Inspectors' time spent to obtain Property Owners' compliance.

MANAGEMENT RESPONSE TO RECOMMENDATION 10

Concur: New procedures are currently being created that will ensure consistency in the assessment of fees. Completion 7/31/07

CURRENT STATUS OF RECOMMENDATION 10 - IMPLEMENTED

Finding 7 – Internal Audit’s Calculation of Assessing One Hour of Administrative Time for Each Case

Internal Audit obtained a HTE database with all FY 2004 through FY 2007 established Code Enforcement cases from the Information Services Department as of February 28, 2007. See table below.

	Actual FY 2004	Actual FY 2005	Actual FY 2006	As of 2/28/07 FY 2007	Total # of Cases
Number of Cases in HTE	23,504	21,457	20,932	14,259	80,152

Internal Audit also obtained an HTE database of all Code Enforcement Fees assessed for FY 2004 through 2007 to obtain the total amount of all Fee assessed including the Administrative Time assessed. See table below.

	Actual FY 2004	Actual FY 2005	Actual FY 2006	Projected FY 2007	Total Amount
Total Fees Assessed	\$694,124	\$735,184	\$667,229	\$673,797	\$2,770,334
Administrative Fees Assessed	\$9,691	\$11,290	\$42,526	\$44,050	\$107,557

Code Enforcement’s Administrative Billing Policy dated October 12, 2005 Procedure number 5 states, “Minimum billing of \$85.00 is required on all cases...” Procedure number 6 Guideline states, “...Unapproved Billing items are:...Case Staff times less than one (1) hour...compliance deadline met...” The MFS states the hourly Code Inspectors fee is \$85 per hour.

Internal Audit conservatively calculated the total amount of Administrative Time that could have potentially been assessed based upon Code’ actual case numbers and billing pattern to date. Internal Audit divided the actual number of Code cases as of February 28, 2007 by eight (months to date) and multiplied the figure by 12 (for one year). See tables below.

Actual Code Cases as of 2/28/07	Actual Invalid “Request” Cases	Actual Code Cases Assessed Admin. Time	Code Cases Closed within 30 Days (Minus Invalid Cases 1,564)	Total # of Cases Not Assessed	Total Amount of Admin. Time Assessed as of 2/28/07
14,259	1,564	152	7,424	5,119	\$29,367

Projected Number of 2007 Code Cases	Minus Projected Invalid "Request" Cases	Minus Projected Code Cases with Admin. Time Assessed	Minus Projected Code Cases Closed within 30 Days and (Minus Invalid Cases 2,346)	Total # of Cases Not Assessed	Total Amount of Admin. Time Unbilled for 2007
21,388	2,346	228	11,136	7,678	\$652,630

Therefore, the FY 2007 estimated Administrative Time unbilled between what Code Enforcement could potentially have billed for and will have billed is approximately \$608,580 (\$652,630-\$44,050).

Recommendation 11:

Code Enforcement Management should immediately revise or rewrite the Administrative Billing Policies and Procedures to clarify how and when Inspectors time should be billed. Upon formalization of the new Billing Policy, all Code Inspectors should be instructed on proper billing of Administrative Time. Code Supervisors should monitor Administrative Billing for a minimum of six months to ensure Inspectors' compliance with the new Billing Policy for consistency and enhanced cost recovery.

MANAGEMENT RESPONSE TO RECOMMENDATION 11

Concur – The division has rewritten the policy and procedure for billing and will be implementing the training portion of the new policy immediately.

CURRENT STATUS OF RECOMMENDATION 11 - IMPLEMENTED

Finding 8 – Internal Audit's Calculation of Potential Code Billing for Administrative Time, Citations and N&O/NOV Fee from a Sample of Ride Along Cases

Internal Audit utilized the following documents/information to calculate potential non-billed Code revenue.

1. The Code Enforcement "Enforcement" Process (informal document) that details the process for Code Inspectors to follow upon receiving a "Request".
2. Code Enforcement's Administrative Billing Policy dated October 12, 2005 including Exhibit B showing calculation of time by Action Steps performed.
3. Code Enforcement's HTE System (specifically the Case Action Inquiry Screens, Individual Case Notes' Entries, and the Penalty Inquire Screen).

4. The sample of 144 Inspector Ride Along cases used in the Code Enforcement Work Assignment/Work Flow Process Audit. The sample included the following number of cases per Calendar Year (CY): a) CY 2001 – 1; b) CY 2003 -2; c) CY 2004 – 3; d) CY 2005 – 6; e) CY 2006 – 128; and f) CY 2007 – 4.

Internal Audit used the HTE Case Action Inquiry Screen, Individual Case Entry Notes and the Code Enforcement Enforcement Process document to calculate the potential N&O/NOV fee and First, Second and Third Citation amounts that Code Enforcement could have possibly assessed. Internal Audit used Code’s Administrative Billing Policy to calculate the minimum \$85 **required** on each case and the additional Administrative Time that should be billed to Property Owners for non-compliance. Internal Audit used the lowest amount of duty time shown on Exhibit B for Time Conversion attached to the Administrative Billing Policy to calculate Inspectors’ additional Administrative Time only. Internal Audit did not include Clerical time (Courtesy Notices, Service Request, Inspectors’ Notes to Council, and Closure of Council Cases) in calculating Inspectors’ time. Internal Audit calculated the potential Code Billing as:

Description of Fee	Fee Used by IA for Calculation	IA’ s Calculated Amount of Potential Fee for Assessment	Code Enforcement’s Actual Fee Assessment **	Difference
Notice and Order and Notice of Violation Fee	\$347	\$22,555	\$694*	\$21,861
Required Case Administrative Time Fee	\$85	\$12,155	\$1,318*	\$10,837
1 st Citation	\$100	\$4,900	\$1,750	\$3,150
2 nd Citation	\$250	\$7,500	\$1,750	\$5,750
3 rd Citation	\$400	\$10,400	\$350	\$10,050
Additional Administrative Time	\$85	\$8,408	\$4,953	\$3,455
Total		\$65,918	\$10,815	\$55,103

** Internal Audit used the actual fees assessed by Code Inspectors as noted in the Finding 6 Table on page thirteen of this report.

* Money amount beyond the stated fee amount appeared to be Additional Administrative Time. The excess amount was removed from the original entry and added to the Additional Administrative Time amount.

Internal Audit noted the following during the calculation of potential fee assessments:

- Code Inspectors issue N&O or NOV letters without a fee which does not comply with the Code Enforcement Process document.
- Code Management informed Internal Audit that the \$347 in the N&O letter is currently not billed due to an Appeals Hearing challenge. Management has not corrected the

language in the Letter and/or revised the P/P so the \$347 fee can be billed and not challenged in a Hearing.

- First Citation amounts varied from \$50 to \$200 and were assessed starting with the initial inspection and after the first, second, or third re-inspections.
- Second Citation amounts varied from \$100 to \$500 and were assessed starting with the initial inspection and after the first, second, third, fourth and tenth re-inspections.
- One 3rd Citation was assessed at \$350 after the fourth re-inspection. An Inspectors HTE notes indicated another case was issued a 3rd Citation but Internal Audit could not locate the amount assessed or billed if assessed.
- Six out of the 144 Ride Along cases sampled were VBO cases opened during FY 2007. Internal Audit noted only one VBO Citation assessed in the sample selected for review. Internal Audit identified a second VBO Citation issued in FY 2007 in the HTE database obtained from ISD that was billed but not in Internal Audits review sample. Internal Audit can not conclude that Inspectors are properly using FMC Chapter 9 Article 9 Management of Real Property Ordinance Section 9-909 (b) Violations to assess Property Owners.
- Cases were initially inspected and not re-inspected (if applicable) before closing the case.
- One Property Owner was assessed three Citations without any re-inspections prior to the case being closed.
- The sample included 24 DEMO and VBO cases. Only seven DEMO and VBO cases had PIRTs billed. The eighth PIRT billed was by an Area Team for a Housing case.

Code Enforcement receives approximately 20,000 Requests For Service each year. Due to the nature of each Code case and the compliance or lack of compliance by Property Owners, Internal Audit can not extrapolate/project a yearly amount for the fees discussed above in the table. However, Internal Audit considers the \$55,103 (on only 144 Cases) to be a very conservative estimate of unbilled fees for cost recovery of Code Enforcement's services and on an annual basis this is very likely significantly higher.

Recommendation 12:

Code Management should immediately revise and/or develop a new formal Code Enforcement Process Policy that concisely states Fees/Penalties to be assessed based upon Inspection and Re-Inspection schedules for consistency and enhanced cost recovery. The new Policy should include flexibility to deviate from the Policy upon review/approval and documentation by Code Management.

MANAGEMENT RESPONSE TO RECOMMENDATION 12

Concur: New policy in place.

CURRENT STATUS OF RECOMMENDATION 12 - IMPLEMENTED

Recommendation 13:

Upon formalizing the new Code Enforcement Process Policy, Code Management should conduct a mandatory training class for all Code Staff (including Clerical) to discuss and implement the new Policy.

MANAGEMENT RESPONSE TO RECOMMENDATION 13

Concur – Training committee will schedule and complete this training ASAP.

CURRENT STATUS OF RECOMMENDATION 13 - IMPLEMENTED

Recommendation 14:

Code Managers should monitor all Code Billing on a monthly basis to ensure all Cost Recovery Fees are being assessed and assessed consistently to all Property Owners in violation of the FMC either per the MFS and/or the FMC.

MANAGEMENT RESPONSE TO RECOMMENDATION 14

Concur - Staff is currently working on developing new reports that will allow management staff to conduct spot checks of inspectors billing steps for accuracy and completeness. Estimated completion 6/30/07

CURRENT STATUS OF RECOMMENDATION 14 - IMPLEMENTED

Finding 9 – Documentation of Code Inspectors Fees Assessed/Billed/Paid

Internal Audit utilized the following information to attempt to verify the assessment, billing and payment of Code Fees from Code Inspector to Code's Cost Recovery.

1. The sample of 144 Inspector Ride Along cases used in the Code Enforcement Work Assignment/Work Flow Process Audit.
2. Code Enforcement's HTE System - specifically the Case Action Inquiry Screens, Individual Case Notes' Entries, and the Penalty Inquire Screens.

Internal Audit noted the following:

1. Internal Audit could not conclude that the amount of Fee(s) to be assessed to the Property Owner was correct in the Penalty Inquiry Screen because the majority of Inspectors do not document the Citation number and amount(s), Contractor(s) Invoice number and amount(s), and calculations of Administrative Fee including time spent for billing in their case notes.

2. Thirty-nine out of the 144 Code cases sampled had Fees assessed. Of the 39 cases, four Inspectors' case notes had at least partial documentation in their case notes of the Fees to be assessed to the Property Owner.
3. One out of 39 cases sampled, the Inspector appeared to document all Fees to be assessed to the Property Owner in the HTE Case Action notes.
4. Internal Audit noted one instance where the Citation amount documented in the Inspector's HTE Case Action note did not match the amount assessed in the HTE Penalty Inquiry Screen.
5. Internal Audit noted two cases where the Fee amount(s) documented in the Inspectors' HTE Case Action note did not appear in the HTE Penalty Inquiry Screen as assessed and billed.
6. Internal Audit could not verify \$1,903.50 of Fees documented in one Inspector's HTE Case Action notes with the Fees assessed/billed in the HTE Penalty Inquiry Screen due to lumping of Fee amounts in the Penalty Inquiry Screen.
7. Internal Audit noted numerous differences in the Penalty Inquiry Screen between the amount Assessed and the amount Billed or Not Billed.
8. Internal Audit noted numerous instances where the amount Assessed was Partially Paid or Paid in Full although no amount showed as Billed.
9. Internal Audit noted instances of the amount Assessed/Billed was Partially Paid but no documentation existed in HTE Case Action notes to show installment payments were approved, the amount was written off with management's approval or any attempt to collect the balance was being pursued.

Internal Audit can not conclude that all Code Fees assessed by the Inspector are being Billed and Paid in full by the Property Owners.

Internal Audit was informed by Code Management that Code does not utilize the services of an In-house or Outside Collection Agency to collect Accounts Receivable prior to requesting a Lien on the Property Owner's Tax Bill.

As a result of the findings noted above, Internal Audit will be conducting a separate audit to examine Code Enforcement's Accounts Receivable processes, internal controls, and the collection of Accounts Receivable.