



AGENDA REPORT

TO: Jestin D. Johnson
City Administrator

FROM: William A. Gilchrist,
Director, Planning &
Building Department

SUBJECT: FY 2022-2023 Quarter 4 Update on
Code Enforcement Activities

DATE: August 28, 2023

City Administrator Approval

Date: Sep 14, 2023

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report Regarding The FY 2022-23 Quarter 4 Update On The Planning and Building Department's Code Enforcement Activities.

EXECUTIVE SUMMARY

This Informational Report provides current information on the code enforcement activities of the Planning and Building Department (PBD); from April 1, 2023, through June 30, 2023, of Fiscal Year (FY) 2022-23. The PBD's Code Enforcement Division enforces compliance with building, housing, and zoning codes and regulations. It is important to note that although many other departments within the City of Oakland (City) enforce property-related regulations, such as Economic Workforce and Development Department (EWDD), Oakland Public Works Department (OPW), Fire Department (OFD), and Police Department (OPD), the data and work activities described in this report only pertain to PBD's enforcement activities under the Oakland Municipal Code (OMC).

BACKGROUND / LEGISLATIVE HISTORY

Purpose and Origin of Quarterly Code Enforcement Report

The City's FY 2015-17 Policy Budget (**City of Oakland | Mayor Schaaf Boosts Budget to Fight Homelessness...** (oaklandca.gov)) contains a directive to provide an informational report on a quarterly basis to the City Council concerning the code enforcement activities of PBD. The purpose of the report is to update the City Council and the public on the types of code enforcement work being performed, the statistics related to those categorized types of enforcement, and key initiatives underway to improve the effectiveness of the overall program. The Code Enforcement division of PBD continues to pursue the enhancement of livability in the community through the facilitation of neighborhood revitalization projects, focus on the reduction of blighted properties, and ensuring the health and safety of occupants in and around structures. PBD responds to approximately 7000 complaints per calendar year.

CED Committee
September 26, 2023

A primary goal of the City's code enforcement program is to resolve property maintenance, building maintenance and zoning code violations in a timely, effective, and efficient manner. The requirements and process for each are discussed in this report. The length of time to achieve compliance varies based upon several factors, such as the complexity of the violation, cooperation of the property owner, or the extent to which the property owner pursues appeals of code enforcement determinations. The code enforcement program is primarily complaint-driven, and the number of complaints received vary over any period. See slides 3 & 4 of **Attachment A** for the quarterly complaints received. Slide 3 is a chart, depicting the categorized complaints received in each quarter, including Quarter 4 of Fiscal Year 2022-2023. Slide 4 is a graph, depicting four years of categorized complaints by quarter, beginning in the first quarter of Fiscal Year 2020-2021 in order to contextualize Quarter 4's numbers.

Complaints are received in many ways (Oak311, on-line, phone, email, etc.) and are referred by Code Enforcement administrative staff, who examine the reported complaint and initiate its routing through the enforcement process. Depending on the nature of the complaint, the property owner may be sent a Courtesy Notice or staff will conduct a site visit, such as a first inspection, which may lead to the issuance of a Notice of Violation (NOV). See slides 5 & 6 of **Attachment A** for the quarterly volume of First Inspections conducted.

A Courtesy Notice is sent for initial reports of minor violations of blight and nuisance complaints, such as noise abatement, trash and debris left in the public view, and other non-hazardous conditions. No inspection of the property is conducted. The property owner has twenty-one days to respond to the notice and may certify that the violations are unfounded or have been corrected by returning the Property Owner Certification form with corroborating photographs.

The first inspection is the initial visit to the site once a complaint has been received. The purpose of this inspection is to verify whether the conditions reported through the complaint violate the Oakland Municipal Code (OMC). When a violation is verified through a site visit, an NOV is issued that includes a list of the violations and of the corrections that must be made. NOVs are issued for a variety of reasons, such as work performed without permits, deteriorated and unsecured empty buildings, hazardous and unsafe conditions on private property, and for repeated violations that have not been corrected.

If the case does not constitute an imminent hazard, then the City allows corrective action to be taken without the assessment of fees for a 30-day period (plus five extra days for mailing) from the date of the NOV. For persistent non-compliance, the City initiates and continues to apply fines until abatement of the violation is achieved. The City will record the NOV with Alameda County to alert potential interested parties to the existing violations. Properties that contain substandard conditions as defined by OMC 15.08.340 will escalate towards an Order to Abate or to a Declaration of Substandard and Public Nuisance.

These actions carry substantial assessments and consequences. They may be addressed through compliance plans and may entail temporary or permanent relocation of occupants, depending on the extent of the correction and its impact on habitability during construction. Receivers of an NOV are given the right to appeal the violations. Such appeals must be filed within 21 days (plus five extra for mailing) from the issuance of the NOV. See slides 7 to 10 of **Attachment A** for the average case management duration, number of enforcement actions for compliance and abatement, and total open and abated/closed cases.

ANALYSIS AND POLICY ALTERNATIVES

The PBD Code Enforcement Program directly relates to the City priorities of 1) holistic community safety and 2) housing, economic, and cultural security by providing the means and methods to verify and correct violations of the OMC as they relate to minimum maintenance standards for private property under the categories of property blight and graffiti, building maintenance, and zoning, as discussed below.

Code Enforcement Categories:

Property Blight and Graffiti: It is unlawful for any person or corporation whether as owner or occupant in possession of the property to maintain any property in a blighted condition per OMC Chapter 8.24. A blighted property (i.e., residential, commercial, or industrial properties) is one that exhibits a lack of maintenance, livability, and appearance that does not promote the health, safety, and general welfare of the community. Blight includes: abandoned or unsecured buildings and structures; abandoned construction projects; dilapidated, deteriorated buildings; broken or missing windows, doors, fencing, signs, retaining walls; defaced buildings; overgrown vegetation; trash and debris; unclean, unsanitary property; garbage bins left in public view; open storage; property that creates a dangerous condition (i.e., erosion controls); unstable soil conditions; parking and storage of trailers, campers, recreational vehicles, boats, unregistered, inoperative vehicles, appliances, furniture, etc. Per Chapters 8.24.050 and 8.10.110 of the OMC, complaints regarding blight and graffiti on residential, industrial, or commercial properties, as well as privately-owned vacant lots are inspected and issued an enforcement notice to abate. Note: that illegal dumping of items on the street and sidewalk is commonly reported to Code Enforcement Services of PBD, but it falls under the enforcement responsibility of the OPW and as such a referral is made to OPW. Graffiti on public property also falls under the enforcement responsibility of OPW.

Building Maintenance: It is unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, convert, demolish, equip, use, occupy or maintain any building, structure, portion thereof, or real property or cause or allow the same to be done in violation of this Chapter 15.08 of the OMC.

The provisions of the Code apply to real property and to all residential and non-residential buildings or portions thereof used, or designed or intended to be used, for human occupancy and habitation and all accessory buildings and structures on the same lot or parcel. Such occupancies in existing buildings may continue as provided in the Oakland Building Construction Code, except where the Building Official has issued an order to vacate after such structures are found to be substandard and public nuisance as defined in this Chapter, 15.08.030 of the OMC.

While enforcement of blight is commonly straight-forward, building maintenance issues may require extensive investigation and research, as well as coordination with other departments like OFD, EWD and Housing and Community Development (HCD) and guidance from the City Attorney to confirm the City's options under a range of enforcement scenarios. The City Attorney is an essential partner in the successful enforcement and resolution of our cases.

Zoning: It is unlawful to establish, substitute, expand, construct, alter, move, paint, maintain or otherwise change any structure, or create or change lot lines, except in conformity with the Oakland General Plan per Chapter 17 of the OMC (Section 17.010.3). Regulations related to compliance and use for residential, commercial, and industrial zone designations include unpermitted business in residential areas, excessive signage/advertising signage, fencing height, construction noise, persistent noise, and other unapproved activity. Enforcement includes the issuance of Courtesy Notices, NOVs and enforcement noticing described under Building Maintenance to gain compliance.

Abatement and Case Clearance Issues

During Quarter 4, Code Enforcement received 1,836 complaints. Slide 10 of **Attachment A** depicts the caseload in each category of complaint and describes open cases at the end of the previous quarter, new cases opened in Quarter 4, cases abated and closed in Quarter 4, as well as open cases at the end of Quarter 4. There is a tendency to think of Code Enforcement violations as a monolith, but each is different, and each requires different tools and processes to abate. **Table 1** provides just a small sample of the types of violations that come in as complaints.

Table 1. Types of complaints by category

Building Maintenance (OMC 15.08)	Property Maintenance (Blight) (OMC 8.24)	(Minor) Zoning (OMC Title 17)
Unpermitted work	Trash	Unpermitted window
Lack of adequate heat	Debris	Roofing changes
Lack of adequate water	Overgrown vegetation	Fencing height
Landslides	Graffiti	Unpermitted expansions

As further depicted in **Table 2**, open case volumes grew within the Building Maintenance and Property Maintenance categories by 6 percent and 10 percent, respectively, while case volume fell 8 percent in the Zoning category. Mitigating growth in open cases is an identified focus area.

Table 2. Growth of open cases by category

Building Maintenance	Property Maintenance (Blight)	(Minor) Zoning
<p>Cases grew by 6 percent in Quarter 4, going from 2,973 to 3,170 open cases.</p> <p>In terms of abatement, 544 new cases were opened, while 347 cases were abated and closed.</p>	<p>Cases grew by 10 percent in Quarter 4, going from 2,979 open cases to 3,314 open cases.</p> <p>In terms of abatement, 1,069 cases were opened while 734 cases were abated and closed for blight cases.</p>	<p>Cases decreased by 8 percent in Quarter 4 going from 798 open cases to 735 open cases.</p> <p>In terms of abatement, 223 new cases were opened while 286 cases were abated and closed.</p>

While some headway has been made, vacancies and low staffing levels contribute to high caseloads and a disproportionate number of complex cases going to veteran Inspectors. Approximately one-third of the Inspector positions are vacant (12 filled positions out of a possible 19). Some of those filled positions are new hires who need additional time to acclimate to City processes. The complexity of some issues requires experience and institutional memory. A shortage of experienced building inspectors is a national problem and continues to have a disproportionate impact on the Code Enforcement Division since experience in the local context is required to most-efficiently solve the myriad problems that Code Enforcement Inspectors face.

Along with staffing shortages, there are continuous issues with property owners who fail to respond to notices in a timely manner; with the paperwork and administrative effort involved with bringing those properties into compliance being a time-consuming process. Finally, the Cybersecurity Incident of February 8, 2023, had an extended impact on Code Enforcement processes and cases. The combination of staffing issues and longer compliance timeframes, often due to reliance on other agencies and entities, results in a slowly growing backlog of blight and building maintenance cases.

To address the entire backlog, we are currently actively filling our Administrative Assistant and Office Assistant II vacancies to review prior year cases and determine whether past cases warrant follow-up from Code Enforcement. All of these backlogged cases did receive courtesy notices so that owners were made aware of reported issues. Internal data indicates that many of these cases are open due to having been transferred from Inspectors, who no longer work at the City, to current Inspectors who are only able to focus on the constant addition of new cases and the administration that surrounds each case.

Code Enforcement staff were able to examine a small subset of backlog cases at the end of Quarter 4. Specifically, Code Enforcement researched final dispositions on 380 Courtesy Notices that were sent to property owners during the quarter, and 311 of those notices concerned Blight, 59 were for Zoning, and 10 were for Property Maintenance.

Based upon the analysis of those notices:

- 182 are still considered “open” cases.
- 96 were recorded as “abated” meaning Code Enforcement received photos and confirmation that violations were rectified.
- 75 were recorded as “closed” when the property owner certified violations did not or no longer exist.
- 25 were recorded as “no response” meaning Code Enforcement received no report from the property owner by the deadline to respond.
- 2 were considered “referred”, which means closed and transferred to an existing open case.
- 13 property owners who received courtesy notices had their cases escalated (with an inspection scheduled) due to Code Enforcement’s receipt of another, similar, complaint regarding the property.

Code Enforcement Fees

Slide 11 of **Attachment A** reflects the volume of violations with associated fees. When compliance is not obtained, fees and penalties increase to encourage the property owner to mitigate code violations and to cover the cost of additional inspections and administrative services provided.

The City recovers the administrative and logistical costs of bringing property owners into compliance via these fees, ensuring a safer and more resilient City in the process. Time spent conducting field inspections, sending letters and notices to property owners, issuing fines, and abating properties that will not otherwise come into compliance can be laborious. When fees are applied, Code Enforcement has already made attempts to communicate with the property owner and exhaust the administrative process. It is an unfortunate reality that some property owners would not make needed changes and/or repairs without the imposition of fees and penalties. On the other hand, to protect property owners, there are statutory limits to fees, they are assessed incrementally to gradually disincentivize inaction, and there are appeal processes in place to dispute fees and notices.

Code Enforcement Statistics

Attachment A includes volume of Complaints received by Category (Categories described above) and volume of Inspections performed, which includes the number of 1st Inspections/site visits performed, the current average turnaround from complaint to NOV abated, and Fees Assessed for Quarters 1-4 of FY 2022-23.

Attachment B displays the Geographic Distribution of Complaints by District for informational purposes and reference.

Key Initiatives

The bullet points that follow represent a brief discussion of the key initiatives, including: methods, partnerships, technical trainings, personnel changes, and newly implemented programs and standards that will impact the Code Enforcement Division's ability to reduce the numbers of open cases, addressed in Slide 10 of **Attachment A**, in future quarters.

These bullet points include programs that will increase Code Enforcement's caseload (in the short-term) and those that are expected to reduce the number of complaints in the future. For example, successful recruitment of new inspectors decreases collective caseloads, while enforcing new Building Maintenance Code standards around lead based paint are expected to increase caseloads. Nevertheless, with increased recruitment, tighter interdepartmental coordination, and a forthcoming analysis of the previously affected IT datasets to update the numbers from Slide 10 of **Attachment A**; we remain confident that future quarterly reports will provide more precise and lower numbers of open cases. Having more Inspectors is critical. In this regard, the Planning and Building Department has been prioritized for additional hiring support from the Human Resources Department through a continuous recruitment of candidates to fill Inspector positions. The goal is to reduce the number of vacant positions and increase staffing in Code Enforcement and generally increase departmental capacity.

- **Staff Coordination, Training and Hiring**

- The Code Enforcement Division holds weekly internal staff meetings and facilitates a scheduled bi-weekly meeting with other City departments including OFD's Fire Prevention Bureau, City Attorney's Office, EWDD, and HCD to address effective and timely responses for complex cases.
- The Code Enforcement Division's Principal Inspection Supervisor and Senior Inspectors also attend numerous topic or case specific meetings joined by the Building Official, Principal Civil Engineer, and other staff on a continuous basis to consult with the City Attorney's Office, OPW, and other Departments and Divisions to clarify the action plan for compliance or escalation of enforcement depending on the issues involved.
- Code Enforcement Inspectors are also taking regular training to enhance knowledge and skills relative to their duties. For example, Inspectors are being trained in lead-based paint safe work practices.
- To increase efficiency while responding to changes in staffing, Inspectors are being cross trained in other focus areas and, in some instances, reassigned to different units (i.e. Residential Inspections, Code Enforcement, or Commercial Inspections). Along with these changes, Code Enforcement is reducing turnaround times for field inspections to 24 hours from 48 hours.
- The recruitment for Specialty Combination Inspectors to fill vacancies within the Building Bureau is now a continuous job posting until all positions are filled. Two inspectors were hired in Quarter 4, however, two inspectors also retired during that same period: highlighting the impact of attrition on current staffing levels.

- **Digital Enhancements**

- Inspections App: The Code Enforcement Division is working with other departments to enhance tools and procedures to improve customer service and inter-departmental coordination as part of the "Reimagining One-Stop Permitting" initiative. After conducting research into the various steps of the process, key changes were piloted this quarter with the expectation that full implementation will be completed in the next quarter. These changes include piloting the implementation of an Inspections App to streamline the inspection staff's work and provide more transparency to customers utilizing the app. Key features of the Inspections App pilot include:
 - Ability to view all record documents, email all record documents, print all record documents and utilize geolocation data on the backend.
 - Ability to receive notifications from Inspectors related to estimated times of arrival.
 - Ability to create favorites for common notes for staff to copy and paste their most used inspection result templates or streamline access to navigate to standard comments lists.

- **Implementing New Laws and Regulations**

Code Enforcement operations are regularly impacted by the adoption of new or revised Municipal Codes or by new State or Federal laws and new programs. This can lead to adjustments in how complaints are processed, how many complaints are received, the manner in which inspections are performed, and the level of urgency or escalation certain violations may be given. New laws and programs include:

- Lead Based Paint Hazard Abatement Standards adopted into the OMC in December 2022: require all residential properties built before 1978 to obtain permits to confirm practices consistent with federal and state regulations are followed when presumed lead-based paint is disturbed due to painting and or construction activities.
- Standards for Delayed Enforcement for Accessory Dwelling Units and Joint Live/Work Quarters (JLWQ) adopted into the OMC in December 2022: when correction of violations is not necessary for health and safety, which provides properties with non-compliant spaces to obtain a five-year delay of enforcement if the non-compliant elements are not related to necessary health and safety regulations, as required by state law.
- Proactive Rental Inspection Program: the Enforcement Division is working on a Proactive Rental Inspection Program (PRIP), which will be designed to conduct periodic inspections of residential rental units across the City to ensure the OMC-required levels of maintenance, safety, and habitability of such living spaces are met. Building Bureau staff are collaborating with the City Attorney's Office, Department of Race and Equity, Finance Department, HCD, and others to finalize a proposal. There will be significant coordination required to address the impacts due to the increased volume of case management, potential impacts on tenants during implementation of compliance plans, and the schedules for property owners to address their violations. During Quarter 4, a number of revisions were made to the program's framework based upon feedback from the CAO. At the end of Quarter 4, this developing program was put on hold due to limited staffing. However, it is anticipated that a fully revised draft program will be presented for internal review in the first quarter of FY 2023-24.

FISCAL IMPACT

There is no fiscal impact associated with the preparation of this Informational Report.

PUBLIC OUTREACH / INTEREST

No public outreach has been conducted for this informational report beyond the required posting to the City's website.

COORDINATION

This report was prepared in consultation with the City Administrator's Office.

SUSTAINABLE OPPORTUNITIES

This is an informational report, so there are no actions requested of the Council. The following areas of impact and opportunity are noted for further consideration.

Economic: Code enforcement activities have economic benefits by preserving quality of life and ensuring safety for Oakland residents, business owners, and visitors.

Environmental: Code enforcement activities have environmental benefits by enforcing codes designed to protect the environment and residents from adverse environmental impacts.

Race & Equity: Enforcement activities can have equity implications. For example, with the current complaint-based system, people with access to the system are more likely to submit complaints. Conversely, historically marginalized communities living in substandard conditions may be reluctant to submit complaints and may need outside assistance to make their buildings safer.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council receive an Informational Report regarding the FY 2022-23 Quarter 4 update on the Planning and Building Department's Code Enforcement activities.

For questions regarding this report, please contact Chris Ragland, Chief Building Official, at 510-238-6435.

Respectfully submitted,



WILLIAM A. GHILCHRIST
Director, Planning and Building Department

Prepared by:
Chris Ragland, Chief Building Official
Bureau of Building, Planning and Building
Department

Attachments (2):

A: Quarterly Code Enforcement Data and Statistics FY 2022-23, Qtr. 4

B: Geographic Distribution of Complaints for FY 2022-23, Qtr. 4



Attachment A:

Code Enforcement Summary Report

Quarter 4 (April – June 2023)

City of Oakland

Planning and Building Department (PBD)



City of Oakland
Planning & Building Dept.

Contents

- I. Fiscal Year (FY) 2022 – 2023 Statistics**
Quarterly Complaints received; Inspections performed
- II. Volume of 1st Inspections FY 2022-23 Quarter 4**
- III. Case Management Duration**
- IV. Enforcement Actions**
- V. Abated/Closed**
- VI. Total Open Cases**
- VII. Fees Assessed**
- VIII. Additional Information**



Complaints Received by Category

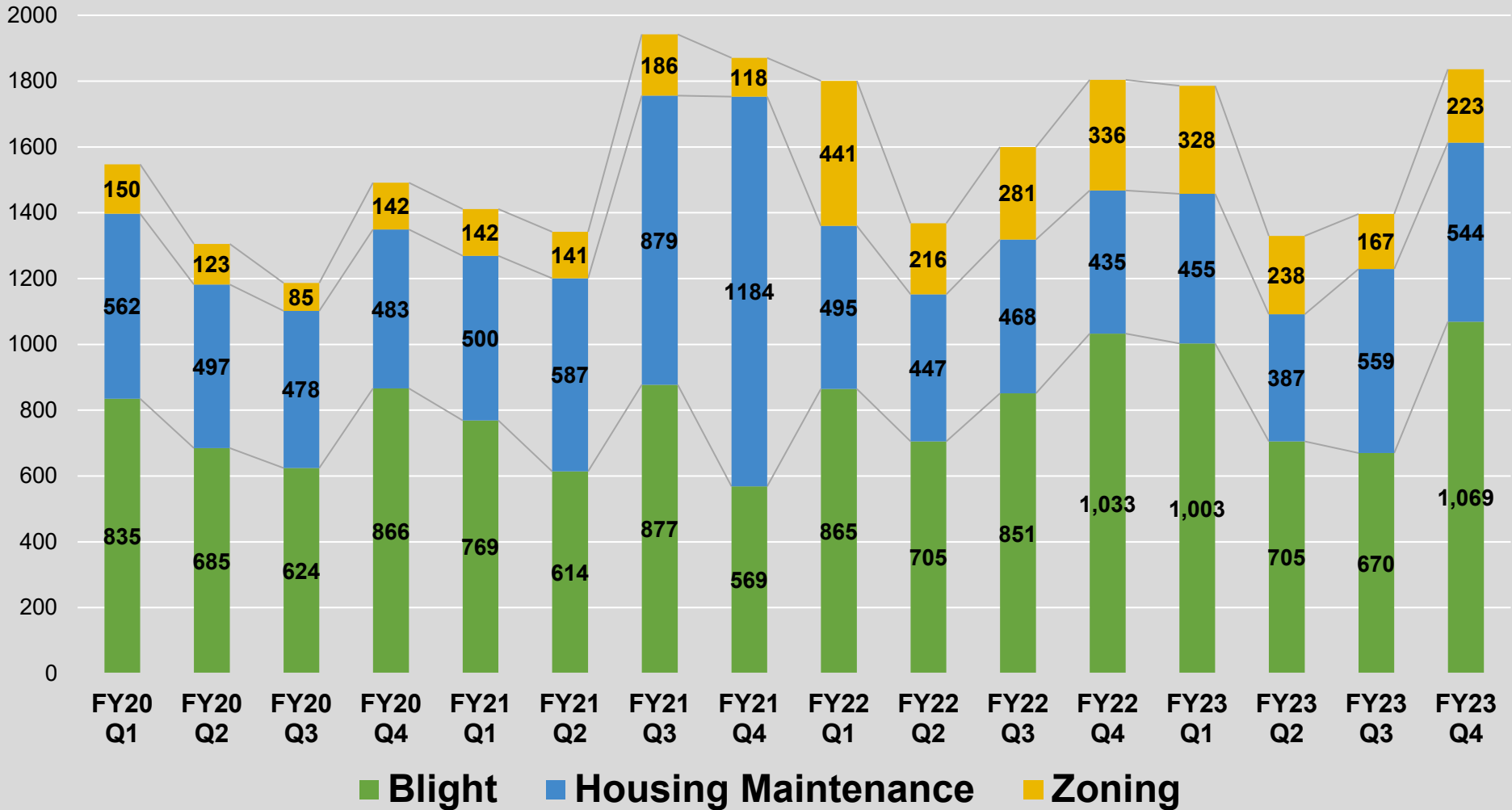
Received by phone, 311, on-line, email, etc..

Depending on the complaint the property owner may be sent a Courtesy Notice or staff will conduct a site visit which may lead to issuing a Notice of (NOV).

Quarter	Blight (Including graffiti)	Housing Maintenance	Zoning (Including Noise)	Total
Q4	1,069	544	223	1,836
Q3	670	559	167	1,396
Q2	705	387	238	1,330
Q1	1,003	455	328	1,786



Complaints Received by Category FY 2020 Q1 – FY 2023 Q4



CE Inspections/site visits

Q4 April – June 2023

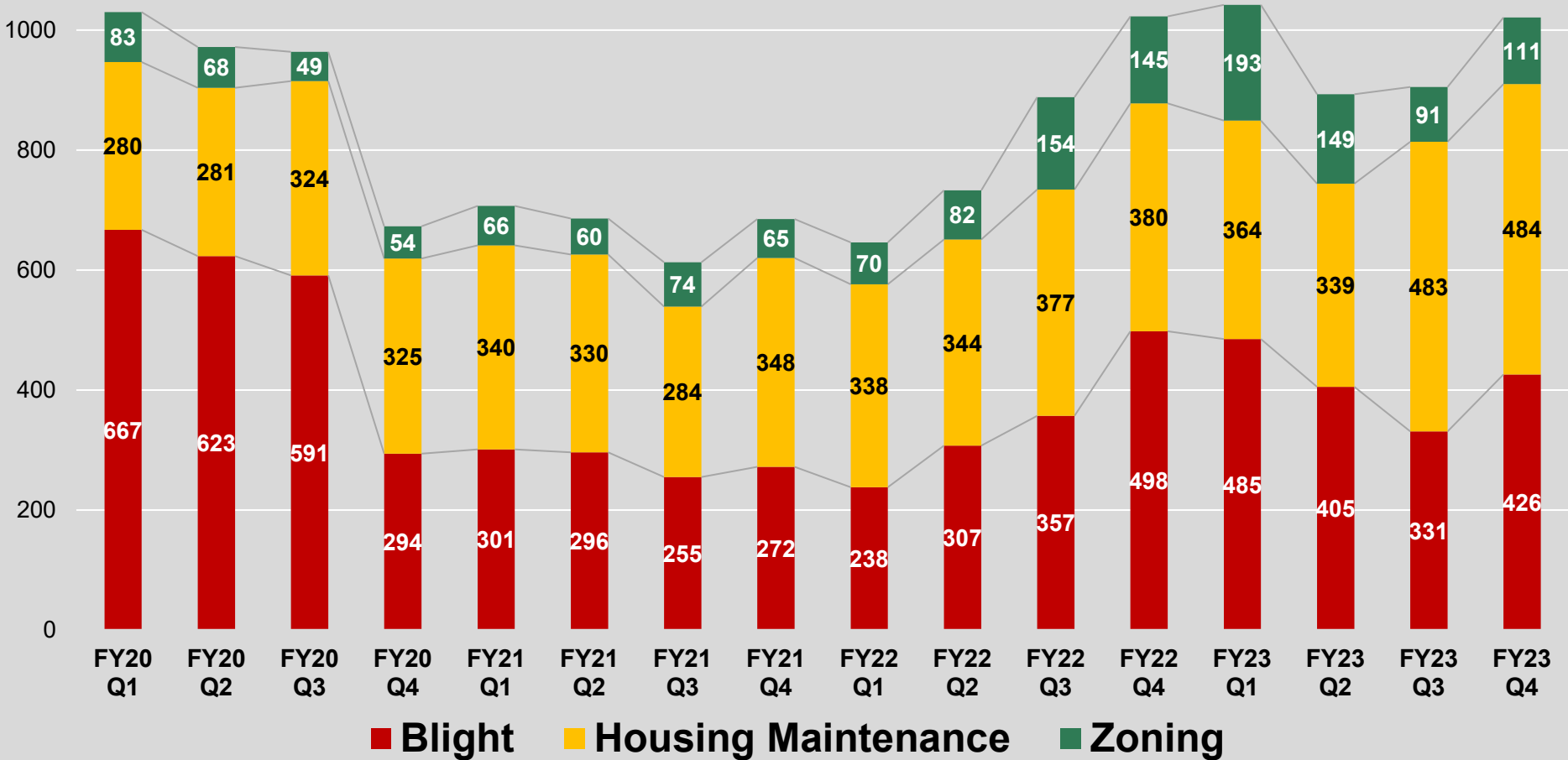
Enforcement Category	Blighted Property (Including graffiti)	Building Maintenance	Zoning (Including Noise)	Total
1 st Inspections	426	484	111	1,021
Re-Inspections & Monitoring Inspections	502	1,210	182	1,894
Total Inspections by Type	928	1,694	293	2,915



Volume of 1st Inspections

FY2020 Q1 – FY2023 Q4

The first step in **verifying** a complaint

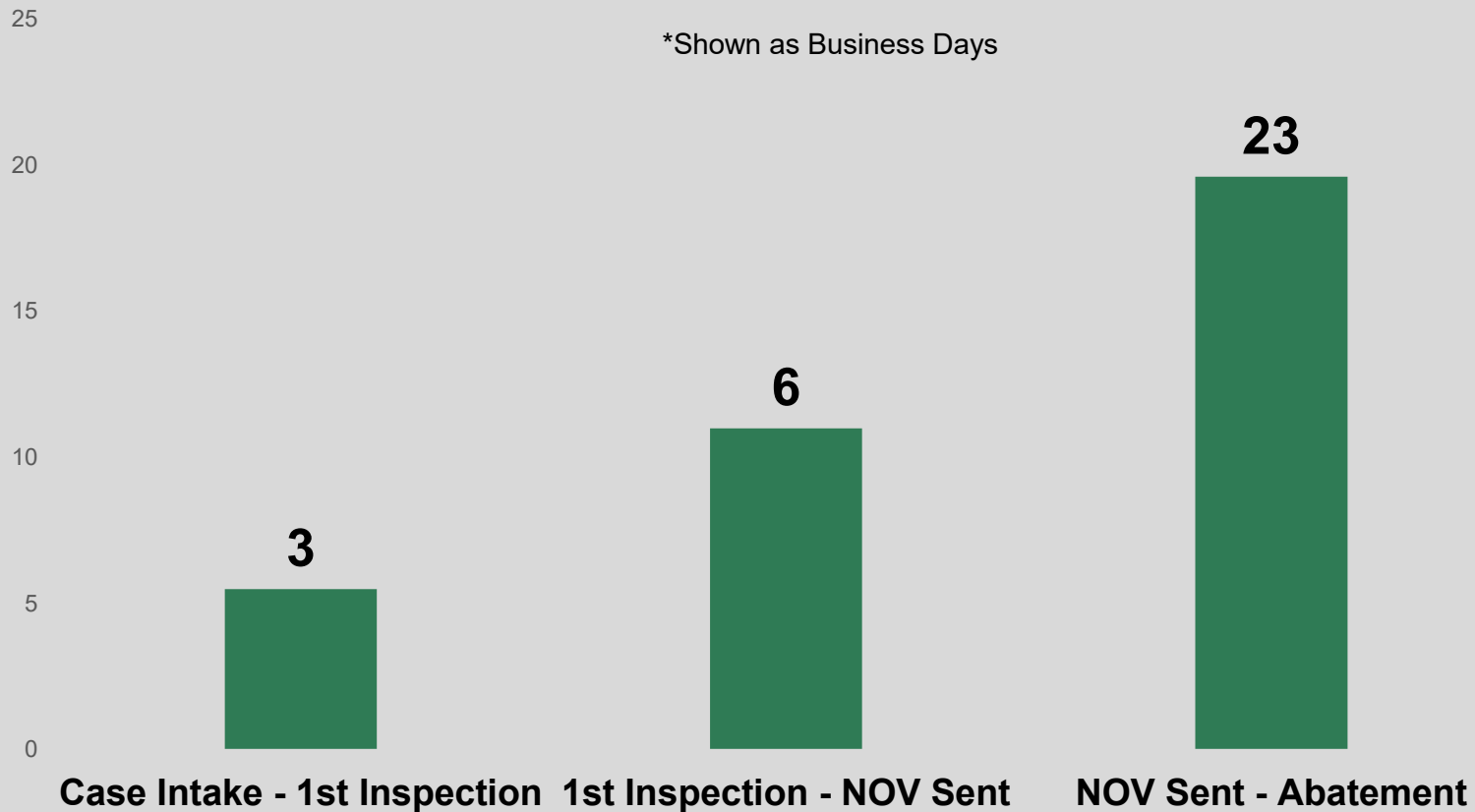


Current Case Management Duration

Q4 April – June 2023

This is the average turn around time from complaint received, 1st inspection performed, NOV Sent, and violation abated

Total of 32 days from complaint to violation corrected





Enforcement Actions for Compliance or Abatement

Q4 April – June 2023

Enforcement Action	Definition	Cases Processed
Clean-up Contract	An agreement to allow the City to Secure and/or Clean-up Blight on private property with the owner agreeing to pay the cost of the Clean-up.	2
Notice of Repeat Violation	The same or similar violation has been verified within 24 months. The property owner is immediately assessed a fee and allowed 10 days to correct the violations.	9
Stop Work Order	Stops unpermitted work or work beyond scope	45
Compliance Plan	Plan made with owner about fees and Abatement	4



Abated & Closed*

Q4 April – June 2023

Q4	Total
Blight	734
Housing Maintenance	347
Zoning	286
TOTAL	1,367

Includes non-actionable and referred*



Total Open Cases

Q4 April – June 2023

Type	Open Cases - Previous Quarter	New Cases Current Quarter	Abated & Closed	Open Cases - End of Quarter
Blight	2,979	1,069	734	3,314
Maintenance	2,973	544	347	3,170
Zoning	798	223	286	735
Total	6,750	1,836	1,367	7,219



Enforcement Fees Assessed

FY 2023 Q1 – Q4

Quarter	Cases Invoiced	Fees (Includes Bonds)	Bonds for Compliance Plan
Q4	216	\$273,694	\$9,000
Q3	166	\$273,440.50	\$7,008
Q2	235	\$358,602	\$16,500
Q1	194	\$305,624	\$3,000



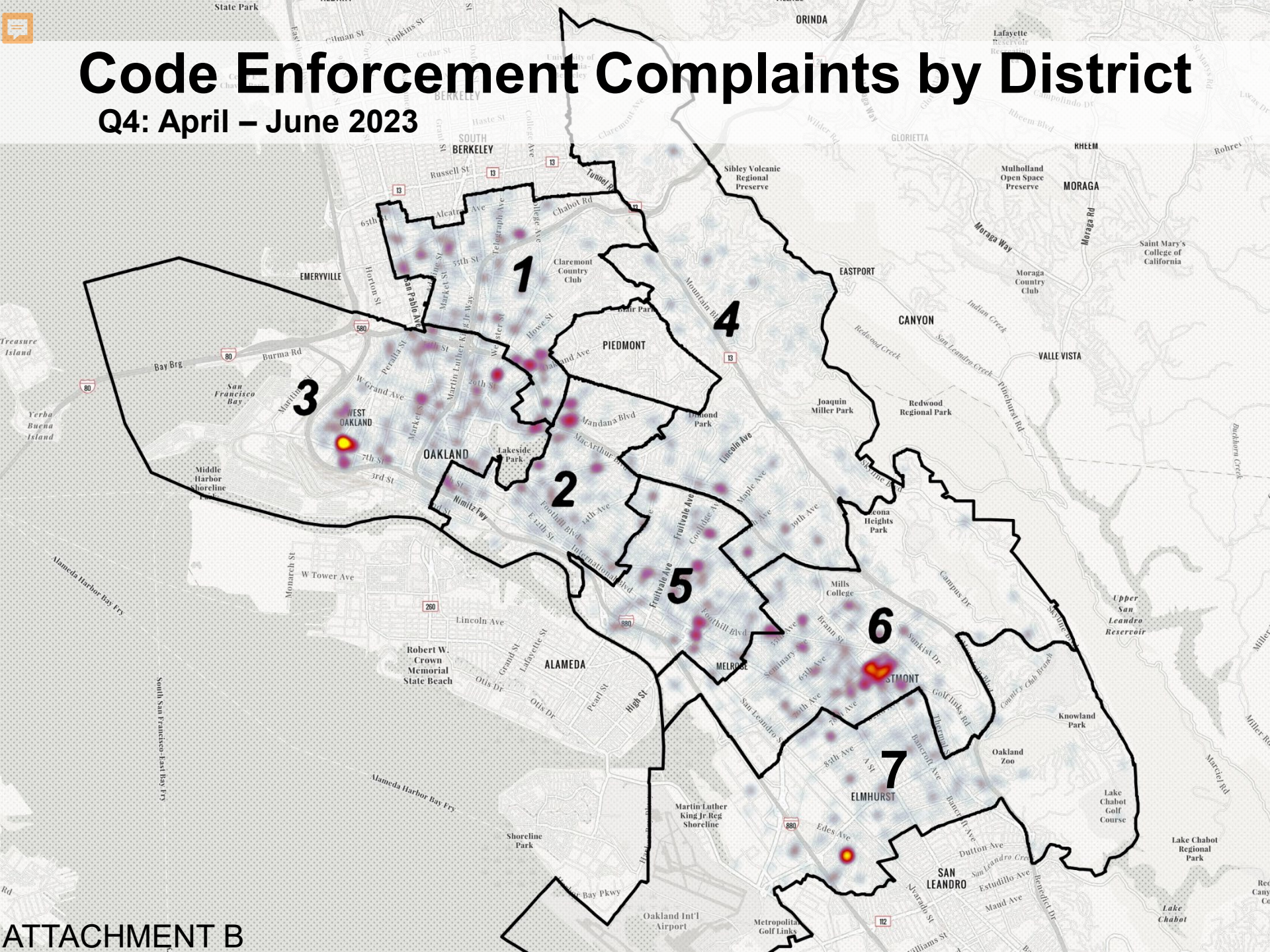
Additional Information

- Notice of Violations available to public at <https://aca.accela.com/OAKLAND/Cap/CapHome.aspx?module=Enforcement&TabName=Enforcement>
- Previous Code Enforcement Reports are available at <https://www.oaklandca.gov/documents/city-of-oakland-quarterly-building-code-enforcement-reports>



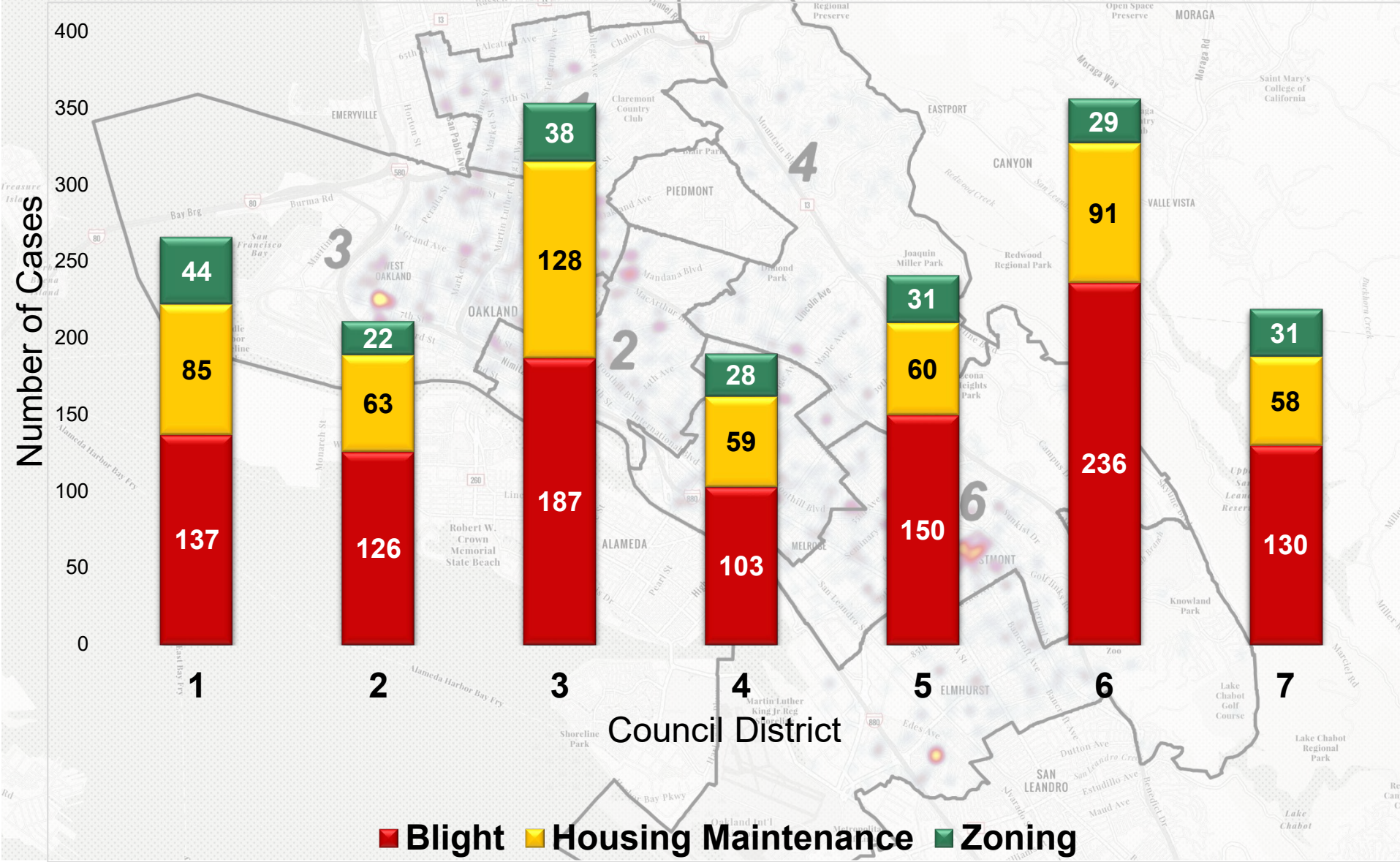
Code Enforcement Complaints by District

Q4: April – June 2023

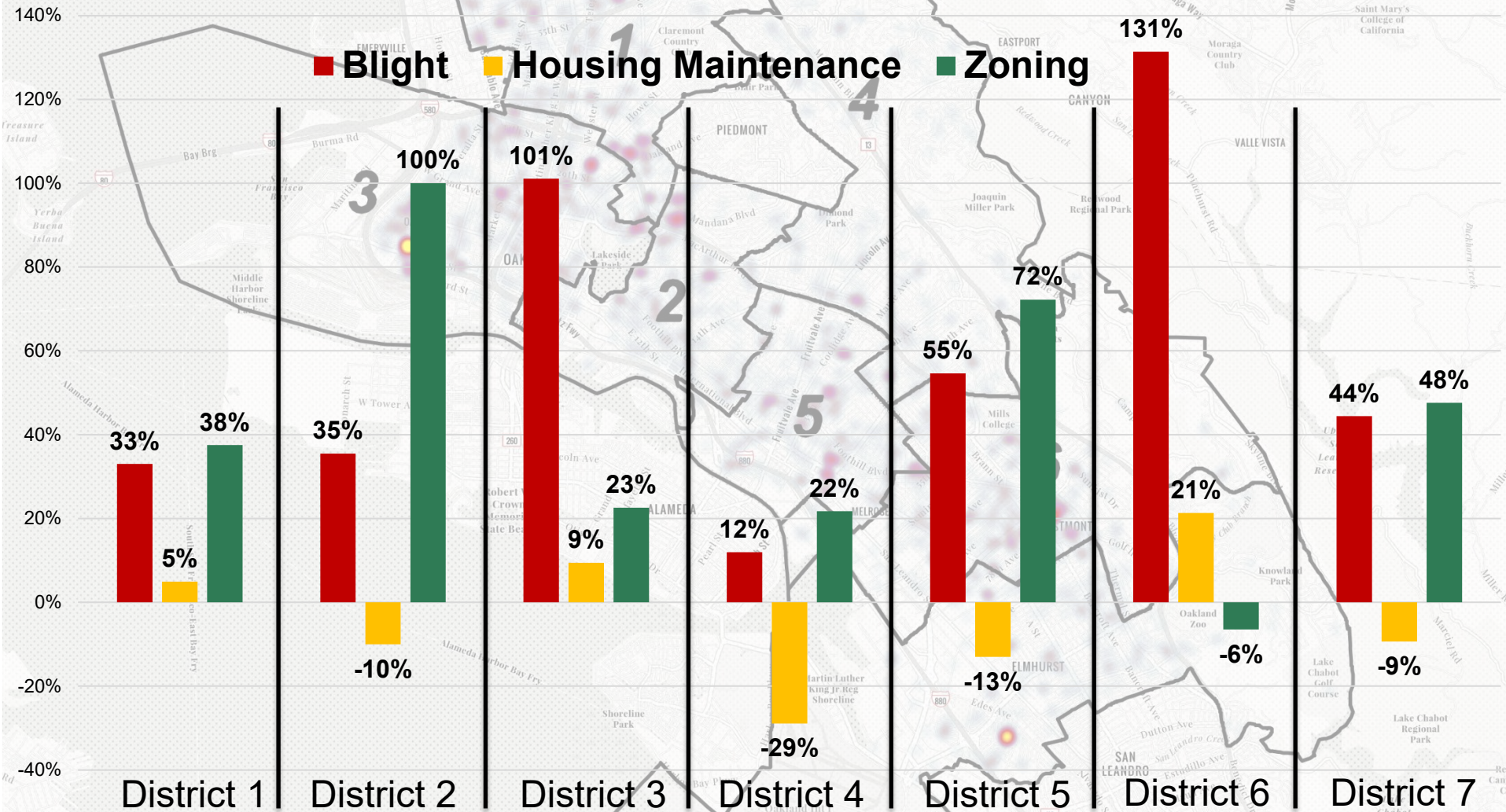


Code Enforcement Complaints by District

Q4: April – June 2023

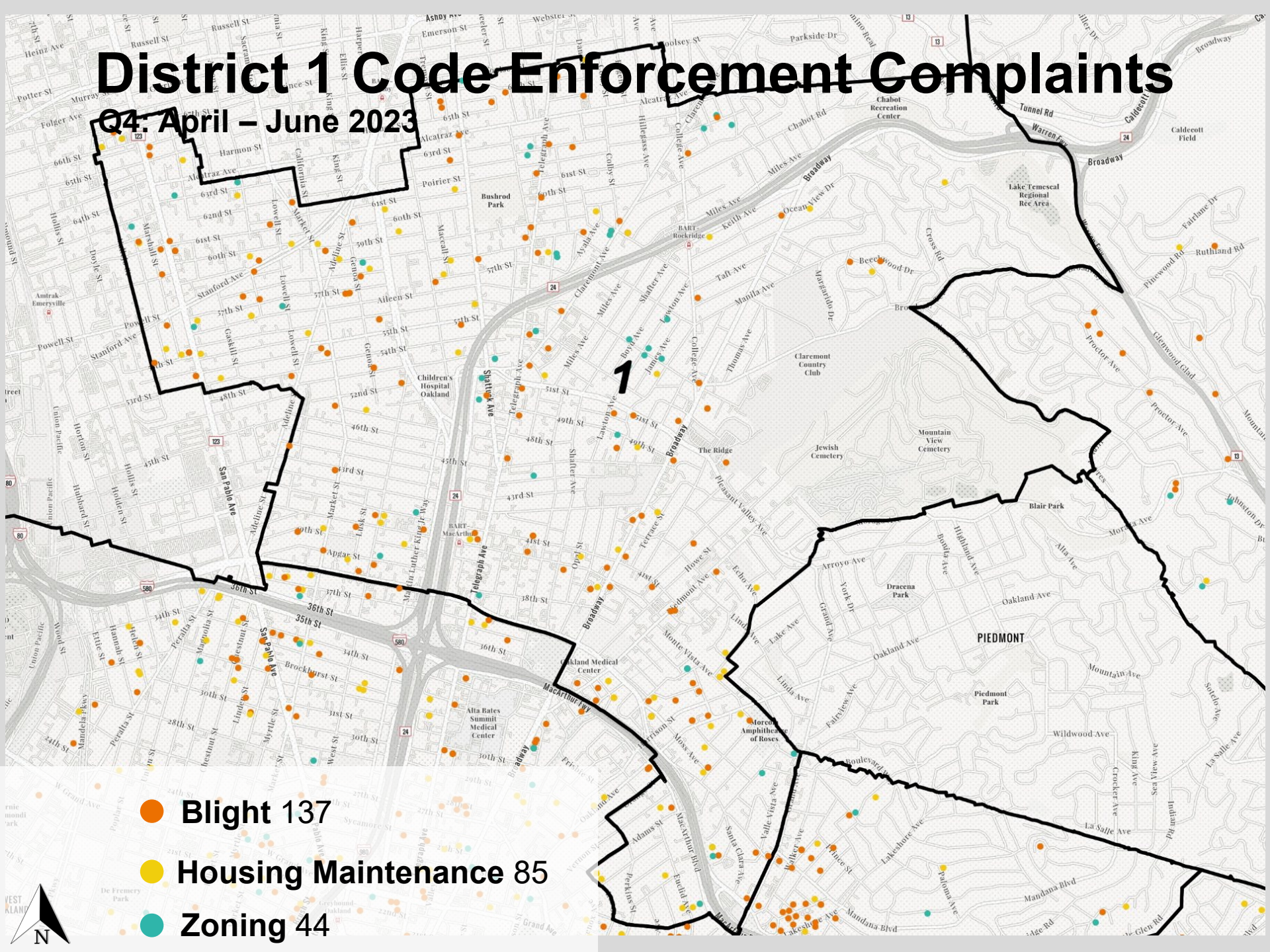


PERCENTAGE CHANGE IN COMPLAINTS RECEIVED BY CATEGORY AND DISTRICT FROM Q3 TO Q4



District 1 Code Enforcement Complaints

Q4: April – June 2023



● **Blight** 137

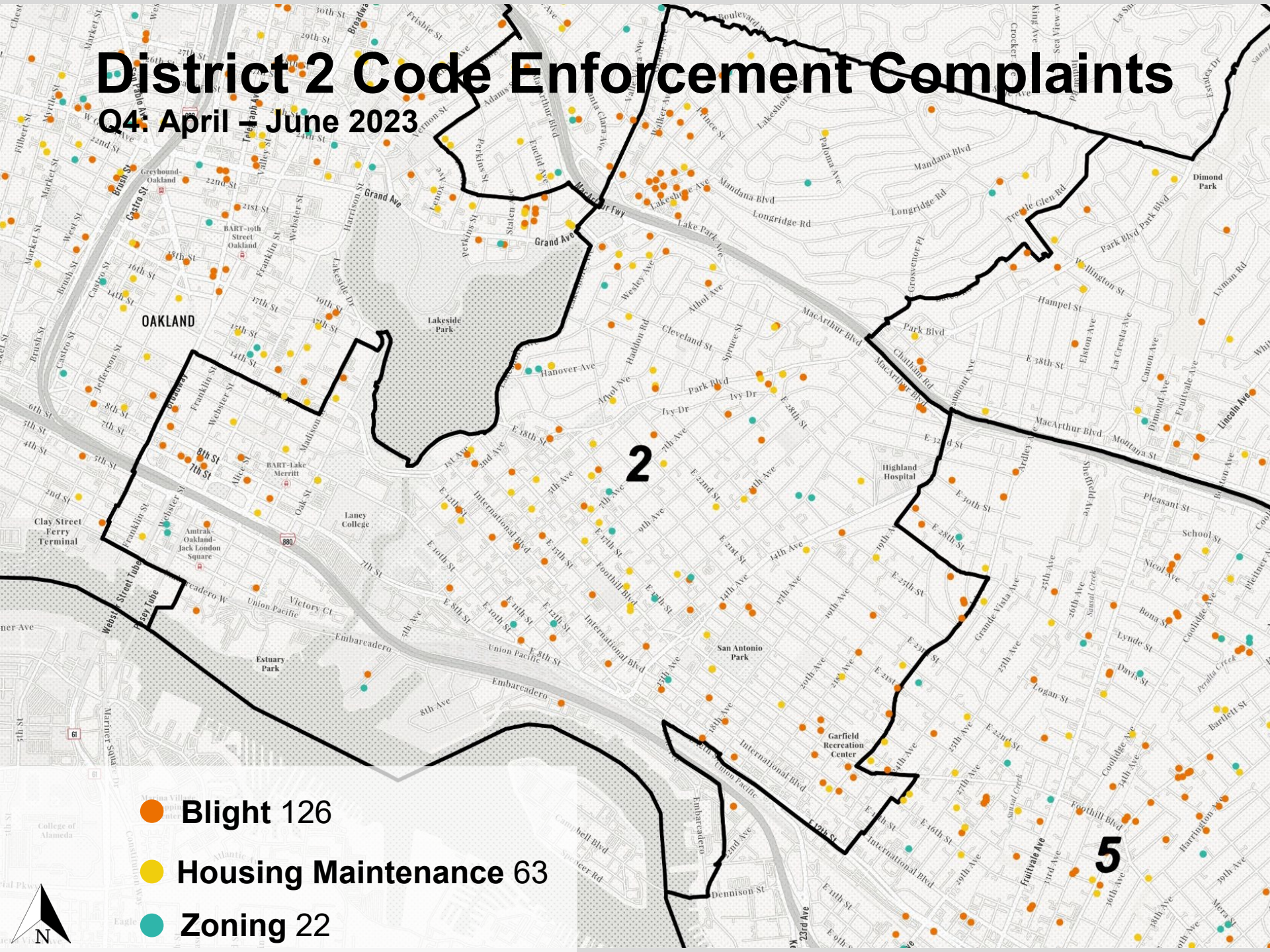
● **Housing Maintenance** 85

● **Zoning** 44



District 2 Code Enforcement Complaints

Q4: April - June 2023



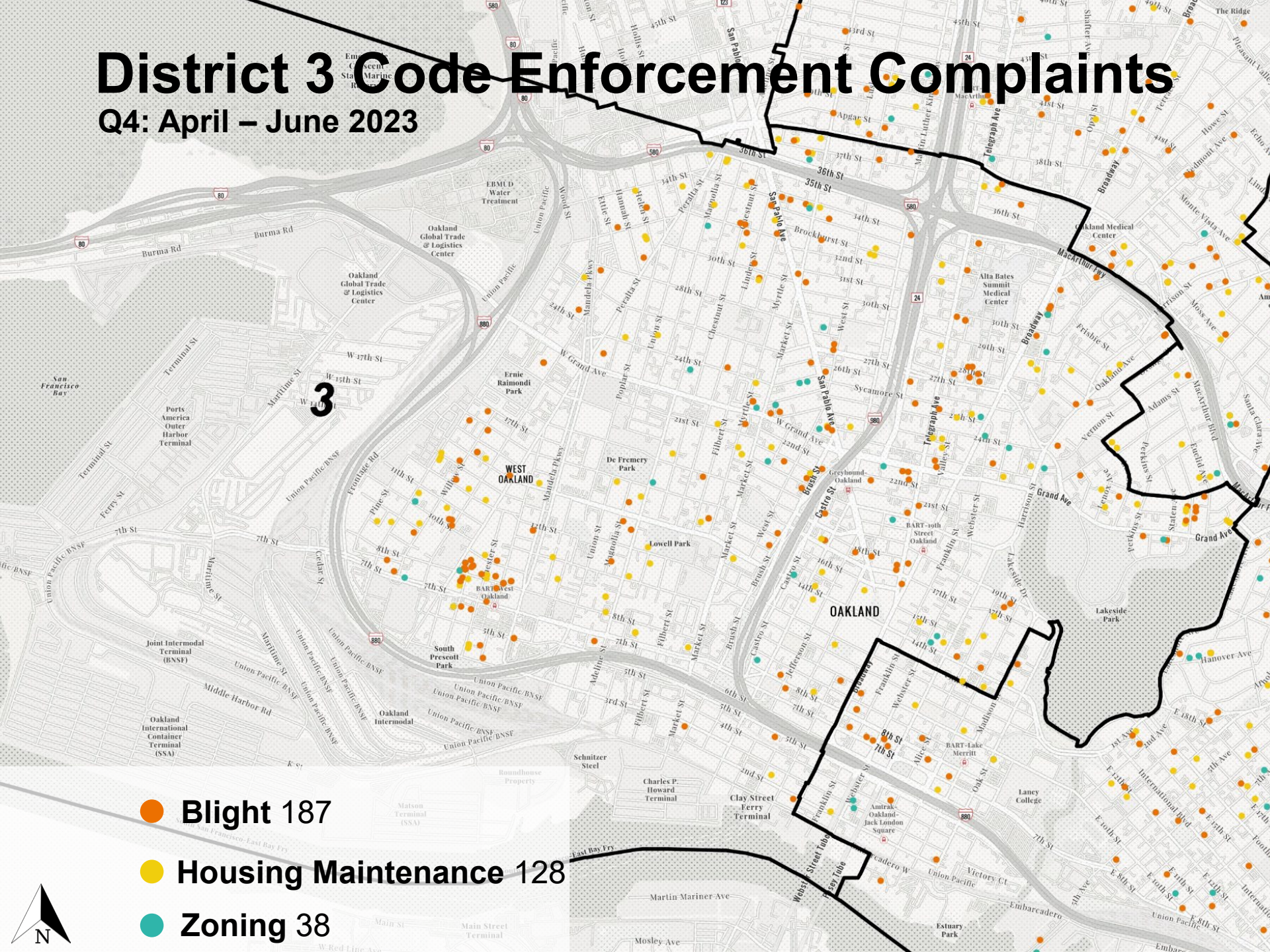
 **Blight 126**

 **Housing Maintenance 63**

 **Zoning 22**

District 3 Code Enforcement Complaints

Q4: April – June 2023

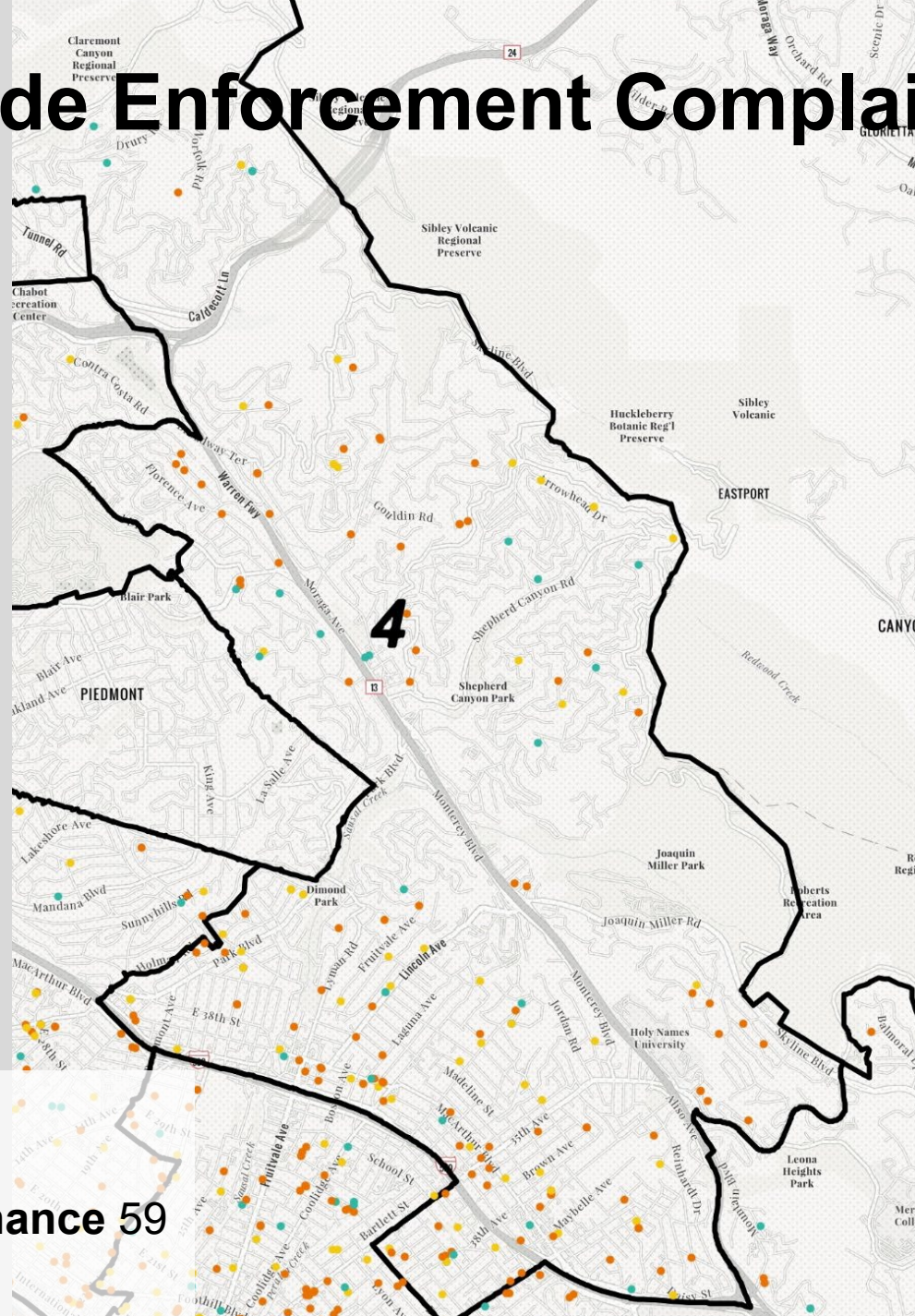


-  **Blight 187**
-  **Housing Maintenance 128**
-  **Zoning 38**



District 4 Code Enforcement Complaints

Q4: April – June 2023



● Blight 103

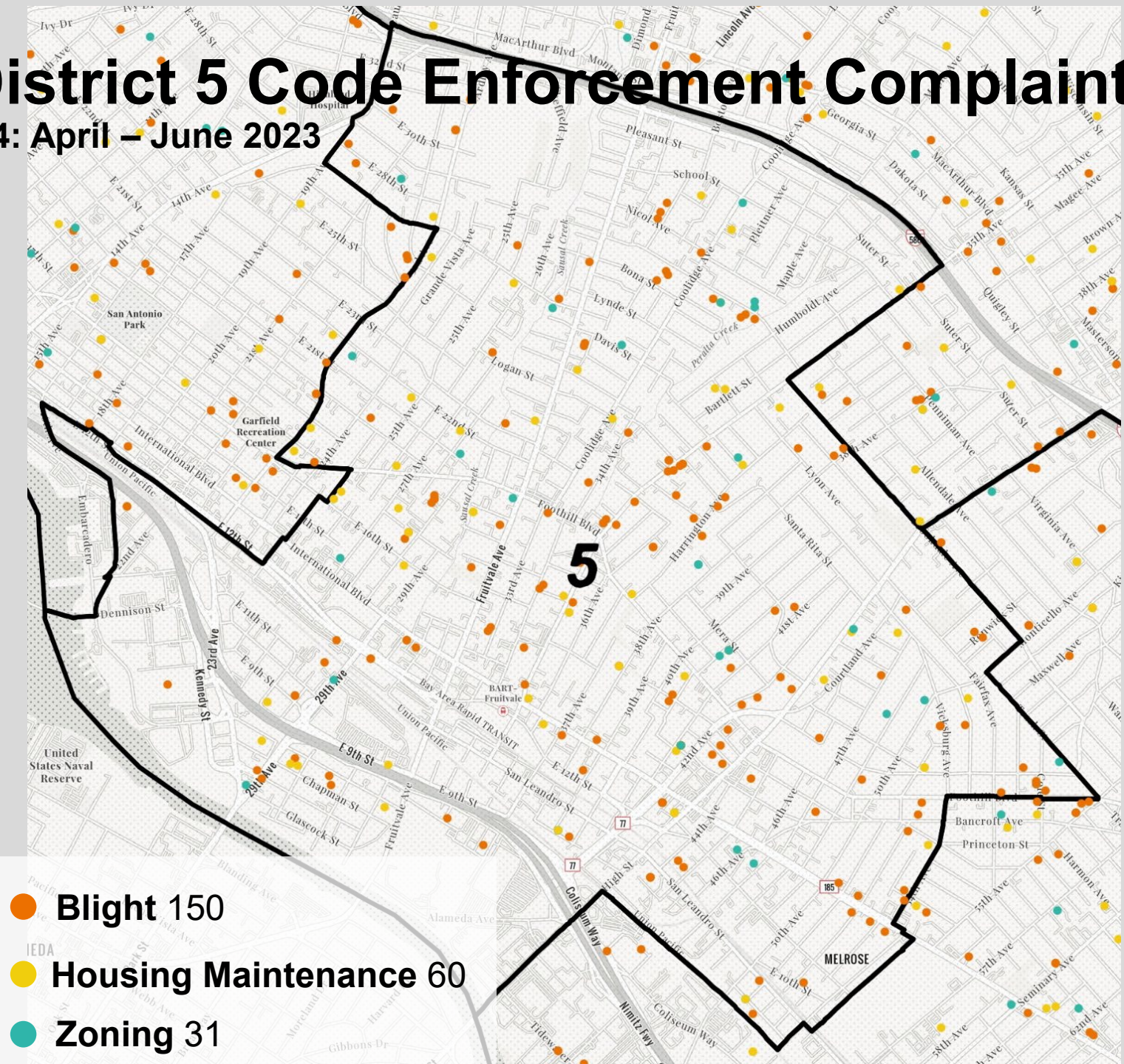
● Housing Maintenance 59

● Zoning 28



District 5 Code Enforcement Complaints

Q4: April – June 2023

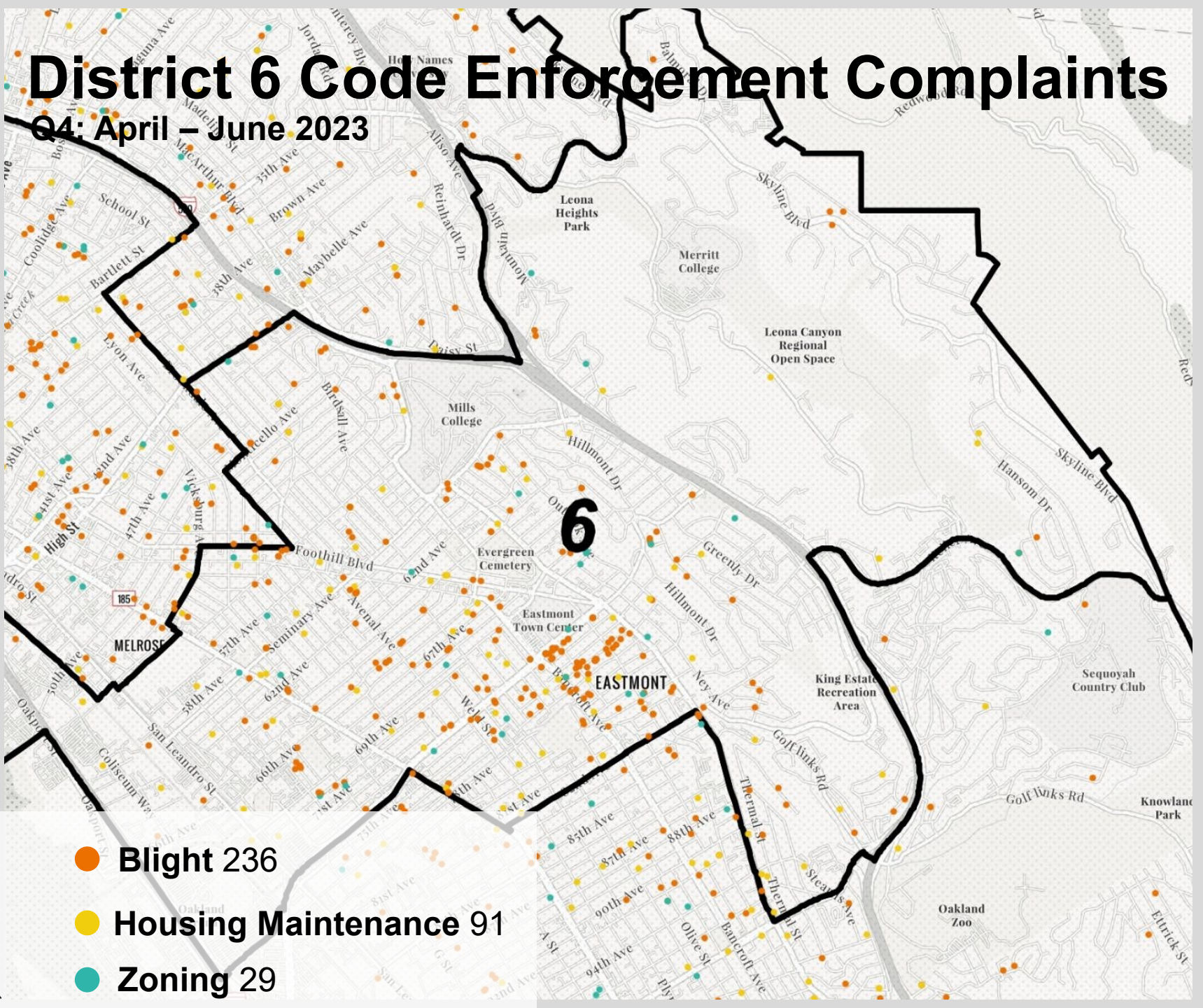


- **Blight 150**
- **Housing Maintenance 60**
- **Zoning 31**



District 6 Code Enforcement Complaints

Q4: April – June 2023



● Blight 236

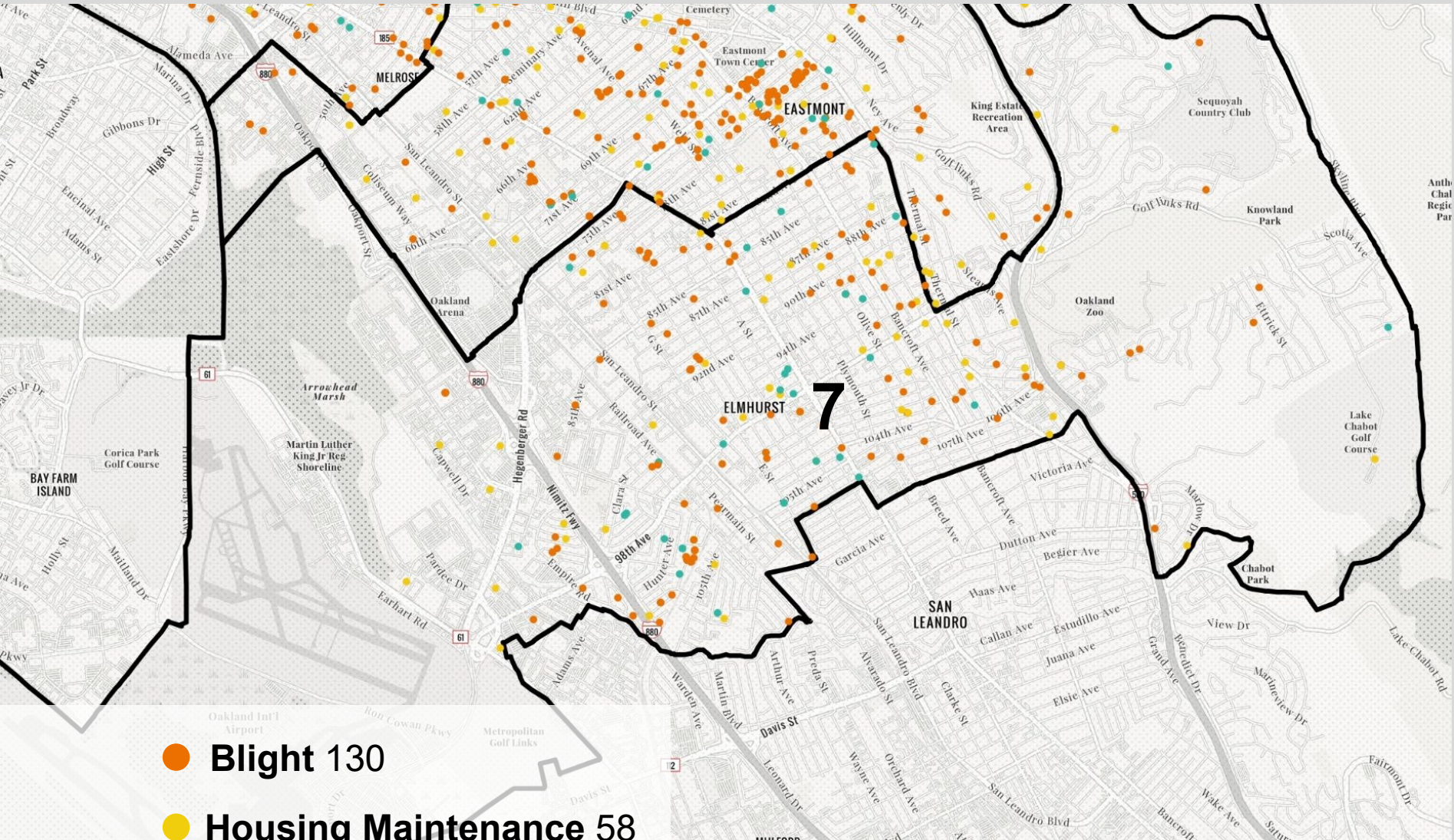
● Housing Maintenance 91

● Zoning 29



District 7 Code Enforcement Complaints

Q4: April – June 2023



● **Blight 130**

● **Housing Maintenance 58**

● **Zoning 31**

