

***Analysis
of
Code Enforcement,
S.N.A.P.
and
Code Enforcement
Citations
for
2008***

Prepared by:

Springdale City Attorney's Office

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FOREWORD

Code enforcement and SNAP have received increased attention in recent years in Springdale. While all attorneys within the City Attorney's Office work on code enforcement matters, most of the responsibility for issues related to Code Enforcement have been assigned to Ernest Cate. Ernest also has primary responsibility for handling planning, zoning, condemnation, SNAP, and real estate matters.

A few years ago, because there have been so many comments about code enforcement, I had Ernest put together a study of code enforcement related violations that were handled through court. Studies have been conducted for every year since 2003. This year's report details the enforcement and prosecution of code enforcement violations in the Springdale District Court for those offenses occurring during 2008.

However, this year's report also includes something new. This year's report also includes a discussion of those violations occurring on vacant/abandoned properties, those violations which have been referred to the City Attorney's Office because Code Enforcement was not able to locate anyone to cite into court. This is commonly known as the "clean and lien" process.

As with all legal matters, our office strives to provide the best service possible in regard to prosecution of code enforcement violations, with the goal of bringing the property into compliance with City codes. In the end, that is why we have a Code Enforcement Division and SNAP, to ensure persons keep their property in compliance with City ordinances. This enhances not only the neighborhood of the property involved, but also the City as a whole.

Jeff Harper, City Attorney

A. Overview

1. Code Enforcement Division

The City of Springdale, Arkansas, has a Code Enforcement Division which exists to ensure compliance with city ordinances such as unsightly/unsanitary conditions, inoperative/unlicensed vehicles, parking in the grass violations, property maintenance code issues, and other ordinances relating to the appearance and safety of private property.

Code Enforcement responds to complaints called in by citizens, and also monitors compliance with city ordinances by patrolling City streets and neighborhoods. Once a violation of a city ordinance is confirmed by Code Enforcement, the occupant and/or property owner is given notice that an ordinance violation exists on the property, and the owner/occupant is given the opportunity to correct the problem. In addition, the occupant and/or property owner may be cited into court for the violation as well. If the problem is not corrected, the City may correct the problem and recover its costs as restitution from the owner or occupant in the prosecution of the ordinance violation in court. The analysis and discussion of the code violations prosecuted in Springdale District Court in 2008 begins on page 21.

In 2008, the downturn in the American economy and the local housing market resulted in a sharp increase in the number of abandoned/unoccupied properties in the City of Springdale. Code violations on these properties are dealt with much differently, since there usually is no one to cite into court for these violations. As such, violations on these properties are dealt with by Code and SNAP teaming up with the City Attorney's Office to achieve compliance on these properties. In some instances, the City has to correct the violation (sometimes more than once) and then place a lien on the property to recover its costs. The analysis and discussion of the efforts taken by the City Attorney's Office on these types of properties begins on page 35.

2. 2008 Code Enforcement Division Activity

In 2008, the Code Enforcement Division issued a total of 6,689 violation notices, or an average of 129 violation notices per week. Code Enforcement subsequently rechecks the property to determine if the property owner or occupant has corrected the ordinance violation. In 2008, the Code Enforcement Division performed a total of 5,120 rechecks, or an average of 98 rechecks per week. If, after the recheck, it is determined that the ordinance violation has still not been corrected, the Code Enforcement

Officer may write the property owner or occupant a summons to appear in court on the city ordinance violation.

When considered together, the Code Enforcement Division performed a total of 11,809 violation notices and rechecks in 2008. This is an average of 227 violation notices and rechecks per week. In addition, in 2008, Code Enforcement officers also performed 75 home office inspections, and handled 240 complaints which proved to be unfounded.

In 2008, the number of violation notices increased from 6,521 in 2007, to 6,689 in 2008, and increase of 2.50%. The number of rechecks decreased from 7,852 in 2007, to 5,120 in 2008, a decrease of 34.79%. However, the number of rechecks in 2008 (5,120) is still much higher than in 2006 (3,050), an increase of 67.87%.

When looking at these numbers, it is interesting to examine the type of violations which caused these activities. For example, of the 6,689 violation notices issued by Code Enforcement in 2008, 2,891 were for "unsightly/unsanitary conditions", which includes tall grass, weeds, junk, trash, stagnant water, dead trees, etc. These numbers are similar to 2007, when 3,253 violation notices were issued for unsightly/unsanitary conditions.

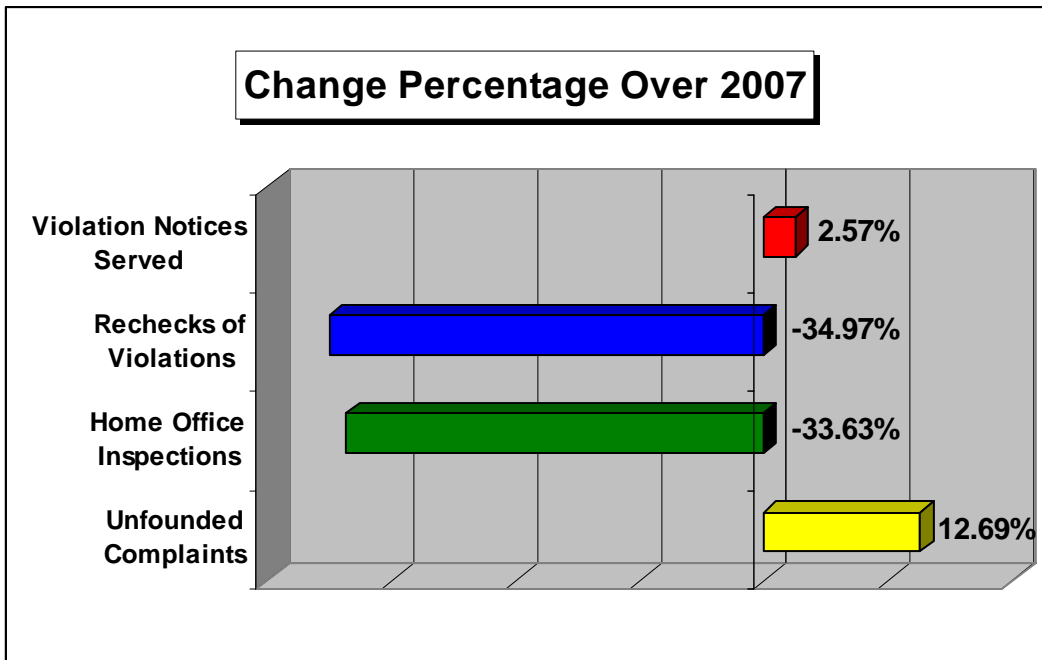
Of the 6,689 violation notices issued by Code Enforcement in 2008, 1,213 were for issues pertaining to inoperative/unlicensed vehicles, and for issues pertaining to parking in unpaved areas in residential zones. Also known as the "parking in the grass" ordinance, this ordinance places restrictions on the parking of vehicles in unpaved areas on residentially zoned property, and places restrictions on the parking of boats, trailers, RVs, and commercial vehicles. This ordinance was passed in January of 2007. These 1,213 violation notices represented a 20.24% decrease from 2007, when 1,521 notices were issued for vehicle issues.

Of the 6,689 violation notices issued by Code Enforcement in 2008, 2,585 were for other miscellaneous violations, such as no house numbers, property maintenance code issues, no business license, zoning ordinance violations, no building permit, over occupancy, and sign ordinance violations. This represented a 47.97% increase over 2007, when 1,747 notices were issued for similar type miscellaneous ordinance violations.

In sum, 2008 saw an increase in the overall number of violation notices issued by Code Enforcement. However, the number of notices issued for each type of violation shifted somewhat from previous years. These shifting numbers illustrate that Code Enforcement continues to have to deal with a wide array of violation types.

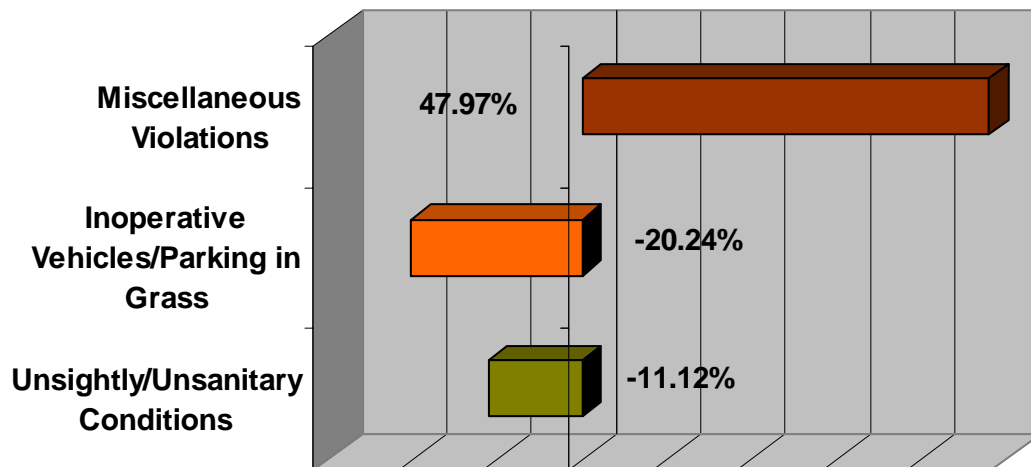
2008 CODE ENFORCEMENT ACTIVITY AND COMPARISON TO 2007 ACTIVITY

<u>Activity</u>	<u>2008</u>	<u>2007</u>	<u>% Change</u>
Violation Notices Served	6,689	6,521	+ 2.57%
Rechecks of Violations	5,120	7,852	-34.97%
Home Office Inspections	75	113	-33.63%
Unfounded Complaints	<u>240</u>	<u>213</u>	<u>+12.69%</u>
TOTAL ACTIVITY	12,124	14,699	-17.51%



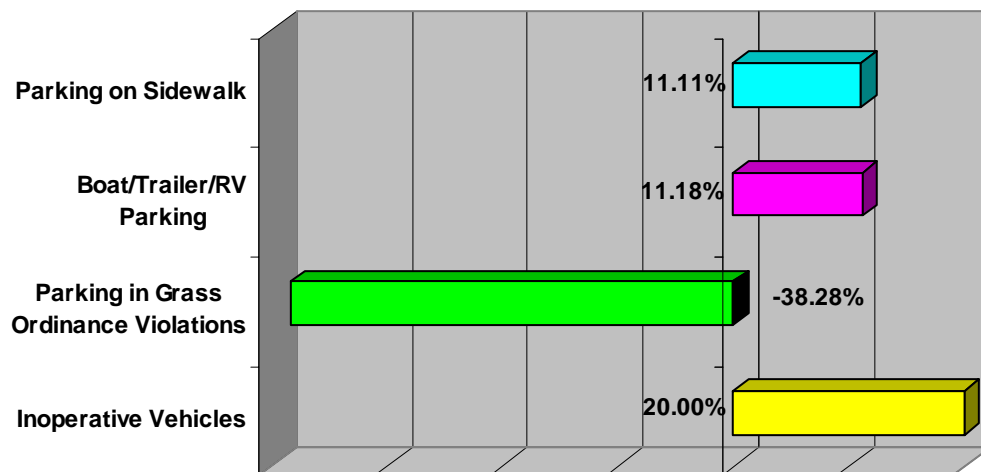
<u>Type of Violations Encountered</u>	<u>2008</u>	<u>2007</u>	<u>% Change</u>
Unsightly/Unsanitary Conditions	2,891	3,253	-11.12%
Inoperative Vehicles/Parking in Grass	1,213	1,521	-20.24%
Miscellaneous Violations	<u>2,585</u>	<u>1,747</u>	<u>+47.97%</u>
TOTAL VIOLATIONS	6,689	6,521	+ 2.57%

Change Percentage Over 2007



<u>Inoperative Vehicles/Parking in Grass</u>	<u>2008</u>	<u>2007</u>	<u>% Change</u>
Inoperative Vehicles	360	300	+20.00%
Parking in Grass Ordinance Violations	634	1,024	-38.28%
Boat/Trailer/RV Parking	179	161	+11.18%
Parking on Sidewalk	<u>40</u>	<u>36</u>	<u>+11.11%</u>
TOTAL INOP VEH/PARK IN GRASS	1,213	1,521	-20.24%

Change Percentage Over 2007



<u>Unsightly/Unsanitary Conditions</u>	<u>2008</u>	<u>2007</u>	<u>% Change</u>
Tall Grass/Weeds	1,440	1,689	-14.74%
Junk/Trash	1,442	1,553	- 7.14%
Stagnant Water	<u>9</u>	<u>11</u>	<u>- 1.81%</u>
TOTAL UNSIGHTLY	2,891	3,253	- 11.12%

<u>Miscellaneous Violations</u>	<u>2008</u>	<u>2007</u>	<u>%Change</u>
No House Numbers	259	169	
Building/Property Maintenance Issues	172	130	
No Business License	119	63	
Over Occupancy	13	42	
No Trash Service	1	88	
Refrigerator Violations	44	89	
Zoning Ordinance Violations	32	37	
No Pool Fence	21	16	
No Building Permit	30	30	
Other Misc. Violations	62	132	
Sign Ordinance Violations	1,832	951	
Political (36)			
Temporary (150)			
Off-Premises (235)			
Garage Sale (1411)			
TOTAL MISCELLANEOUS	2,585	1,747	+ 47.97%

3. SNAP (Springdale Nuisance Abatement Partnership)

In March of 2006, the Springdale Police Department created SNAP (Springdale Nuisance Abatement Partnership). SNAP is made up of representatives from several City departments, including the police department, fire department, code enforcement, building inspection, planning department, and city attorney's office. The goal of SNAP is to enhance the exchange of information between City departments, in order to make these departments more efficient. The members of the SNAP team hold monthly meetings to discuss and exchange information on specific properties and problems within the City. The SNAP team has met on a monthly basis since March of 2006. Representatives from the State of Arkansas Alcohol Beverage Control (ABC) and the State of Arkansas Department of Health often attend these monthly meetings.

Thanks to the commitment by Chief O'Kelley, SNAP became a full-time position in the Springdale Police Department in late 2006 when Sgt. Billy Turnbough became the City's first full-time SNAP officer. In January 2008, Officer Travis Monson joined Sgt. Billy Turnbough as a full-time SNAP officer. Officer Jason Renfrow also devoted countless hours to the SNAP program in 2008, and became the third full-time SNAP officer in January 2009. In addition, many other officers worked to assist the SNAP

program in 2008, in addition to their other duties with the Police Department. In 2008, these officers managed to address problems and issues related to numerous properties in the City.

In addition, SNAP strives to educate City departments, private and civic organizations, property owners, and the general public regarding ordinance violations, nuisance properties, quality of life issues, and crime prevention in the City of Springdale. Specifically, during 2008, SNAP provided numerous training sessions on these vital issues, and provided training on the goals of SNAP.

Sgt. Turnbough and Officer Monson have also initiated several facilitation meetings with the owners and operators of bars and apartment complexes. These meetings allow the City to communicate its concerns regarding activities taking place at these businesses, such as fights, possible gang activity, noise, etc. The meetings have resulted in better communication between business owners and the City. Better yet, these meetings have, more often than not, resulted in improved conditions at these businesses.

The calls for police service at Springdale bars in 2008 stayed about the same as 2007, with one notable exception. Specifically, in 2007, there were 164 total calls for service at Springdale bars. In 2008, that number

increased to 226, an increase of 62 calls. However, one bar (Club Kongo) was entirely responsible for this increase in calls for service. In 2007, Club Kongo had 6 calls for service, but in 2008, that number exploded to 70, an increase of 64 calls for service.

To remedy the situation at Club Kongo, SNAP utilized the business license revocation ordinance which had been passed by the City Council in 2007. This ordinance provides a mechanism whereby a nuisance business may have its business license suspended or revoked. SNAP utilized this ordinance to address the increased number of calls for service and other problems at Club Kongo. Ultimately, Club Kongo's business license was suspended by the City Council for ninety (90) days. Before the license could be reinstated, however, the owners of Club Kongo were required to comply with several SNAP recommendations, such as increased security, better lighting, improved staff training, etc. Club Kongo eventually complied with these recommendations and their license was ultimately reinstated. As a footnote to this story, so far in 2009, Club Kongo only has 6 calls for service (as of September 1, 2009).

Due in large part to the efforts of the SNAP program, and the training and services they provide, the number of calls for service at all other Springdale bars in 2008 remained about the same as in 2007.

Calls for Police Service at Springdale Bars

<u>Name of Bar</u>	<u>2008</u>	<u>2007</u>	<u>Change</u>
Club Kongo	70	6	+64
Club Zabana	49	42	+7
Civic Center	38	26	+12
Rio Bravo	28	37	-9
El Mesquite	13	20	-7
El Tenampa	13	16	-3
Last Call	8	7	+1
Wellhouse Tavern	3	5	-2
Sunset Saloon	2	4	-2
The Bar	<u>2</u>	<u>1</u>	<u>+1</u>
Total (with Club Kongo)	226	164	+62
Total (without Club Kongo)	156	158	-2

In addition, SNAP assists with State of Arkansas Alcohol Beverage Control (ABC) compliance checks, and conducts a complete background check on any applicant for a liquor license. During 2008, SNAP conducted 21 investigations and background checks for the ABC, up from 11 in 2007, a 90.91% increase.

Since SNAP deals with all permitted alcohol locations in the City of Springdale, SNAP also participates in checks to ensure that businesses are not selling alcohol or tobacco to minors. In 2008, SNAP conducted 18 such compliance checks, compared to 2 in 2007. These compliance checks resulted in 13 arrests for furnishing alcohol to a minor, compared to only 5 in 2007. SNAP also made 23 arrests for minor in possession of alcohol in 2008.

In fact, in 2008, thanks to the efforts of SNAP, the Springdale Police Department applied for and was awarded an Enforcing the Underage Drinking Laws (EUDL) grant from the State of Arkansas. This grant money was used to:

- 1) purchase lights for patrol officers to help spot fake IDs at clubs;
- 2) purchase stickers which were placed at all permitted alcohol locations warning those under the age of 21 that alcohol laws are strictly enforced at that location;
- 3) purchase educational pamphlets on the dangers of underage drinking;
- 4) provide training to permitted alcohol businesses on spotting fake IDs; and
- 5) purchase ID guides for patrol officers.

Another huge benefit for SNAP is the fact that 3 Springdale police officers (Sgt. Billy Turnbough, Travis Monson, and Jason Renfrow) have completed training in Crime Prevention Through Environmental Design (CPTED). CPTED is "the proper design and effective use of the built environment that can lead to a reduction in the fear and incidence of crime and an improvement in the quality of life." The goal of CPTED is to reduce opportunities for crime that may be inherent in the design of structures or in the design of neighborhoods. This CPTED training is being put to use by these officers in the planning process, and SNAP is in attendance at all

technical plat and Planning Commission meetings to review all new subdivision plats and large scale developments proposed in the City. During 2008, SNAP conducted 18 CPTED evaluations, compared to 12 in 2007, an increase of 50.00%.

In 2008, SNAP was responsible for obtaining administrative search warrants on several properties in the City of Springdale. These administrative search warrants resulted in the discovery of over occupied properties, resulted in the discovery of many property maintenance code violations, and resulted in the discovery of information leading to structures being deemed unsafe and/or uninhabitable. In one such instance, 23 people were discovered living in one structure. At least 12 of these residents were children under the age of 18. Thanks to the intervention of SNAP, these children no longer had to endure such living conditions and the adults were prosecuted.

In all, 2008 was a very successful year for the SNAP program. In fact, SNAP continues to draw interest from other jurisdictions who are interested in emulating the success of the Springdale Nuisance Abatement Partnership. This success has continued into 2009, and SNAP continues to be on the cutting edge of nuisance abatement, quality of life issues, and crime prevention through environmental design.

4. Issues Addressed in 2008

In 2008, Code Enforcement and SNAP played a key role in addressing several issues of importance to the citizens of the City of Springdale. For example, during 2008, the Springdale City Council adopted ordinances amending the regulations pertaining to off-premises and free standing signs, adopted ordinances further revising and clarifying the "parking in the grass ordinance", and amended the temporary open air enterprise ordinance to prohibit the sale of animals.

Code Enforcement and SNAP were instrumental in identifying the need for such regulations and were of valuable assistance in getting these ordinances approved by the City Council. The adoption of these new regulations and ordinances have had a positive impact in the City.

As mentioned earlier, another milestone event which took place in 2008 was the first utilization of the business license revocation ordinance. This ordinance was passed in 2007, and created a mechanism whereby a nuisance business could have its business license revoked or suspended by the City Council. In 2008, this ordinance was utilized for the first time, resulting in the suspension of a business license in January 2009. The business eventually complied and the business license was reinstated at the end of the suspension period. This ordinance proved to be another

valuable tool for Code Enforcement and SNAP to address nuisance businesses.

These examples clearly illustrate the impact and leadership demonstrated by Code Enforcement and SNAP in 2008. This trend has continued into 2009.

B. Types of Ordinance Violations

This survey examines city ordinance violations encountered by Code Enforcement and SNAP that pertain to the appearance, cleanliness, and safety of property within the City of Springdale. The most common examples of these violations are unsightly/unsanitary conditions, inoperative vehicle/parking in the grass violations, and what will be referred to as “miscellaneous ordinance violations”, which includes Property Maintenance Code violations. This survey will examine the number and type of these ordinance violations that were actually referred to court in 2008, and will examine the results of the prosecution of these ordinance violations.

Also, for the first time, this survey will discuss and analyze those violations referred to the City Attorney's Office during 2008 which involved vacant, abandoned, or unoccupied properties, those violations for which a citation to court could not be issued.

1. Unsightly/Unsanitary Conditions

From 2003 to 2007, the most common type of ordinance violation encountered by Code Enforcement and SNAP in the City of Springdale was the “unsightly/unsanitary condition” violation. This type of violation encompasses tall grass, junk, trash, etc. “Unsanitary” means that a place, condition or thing is unsanitary when it might become a breeding place for flies, mosquitoes and germs harmful to the health of the community. “Unsightly” means that a place, condition or thing is unsightly when it is in public view and offends the then-prevailing standard of the community as a whole. The specific ordinance can be found in Sec. 42-76 and 42-77 of the Code of Ordinances of the City of Springdale. However, in 2008, the number of unsightly/unsanitary conditions citations was eclipsed in number by citations for inoperative vehicle/parking in the grass violations.

2. Inoperative Vehicle/Parking in the Grass

In 2008, the most common ordinance violation encountered by Code Enforcement and SNAP was the “inoperative vehicle/parking in the grass” violation. This type of violation generally pertains to junk cars being parked or stored on property, and pertains to the parking of vehicles on unpaved areas of residential property. “Inoperative” means an item which, by mechanical or physical defect, can no longer be used for its intended

purpose and which is not serving a functional purpose. “Inoperative vehicle” refers to any motor vehicle which is inoperable, dismantled, damaged or is unable to start or move under its own power. A vehicle shall be presumed to be inoperative when certain conditions exist, such as when the vehicle is missing a tire, a door, if weeds have grown up around the vehicle, or if the vehicle does not have current tags or registration. The specific ordinance can be found in Sec. 42-76 and 42-77 of the Code of Ordinances of the City of Springdale.

The "parking in the grass" ordinance can be found at Sec. 114-57 and 114-58, and not only includes the parking of vehicles on unpaved areas, but also governs the parking of recreational vehicles, trailers, ATVs, and commercial vehicles on residential property.

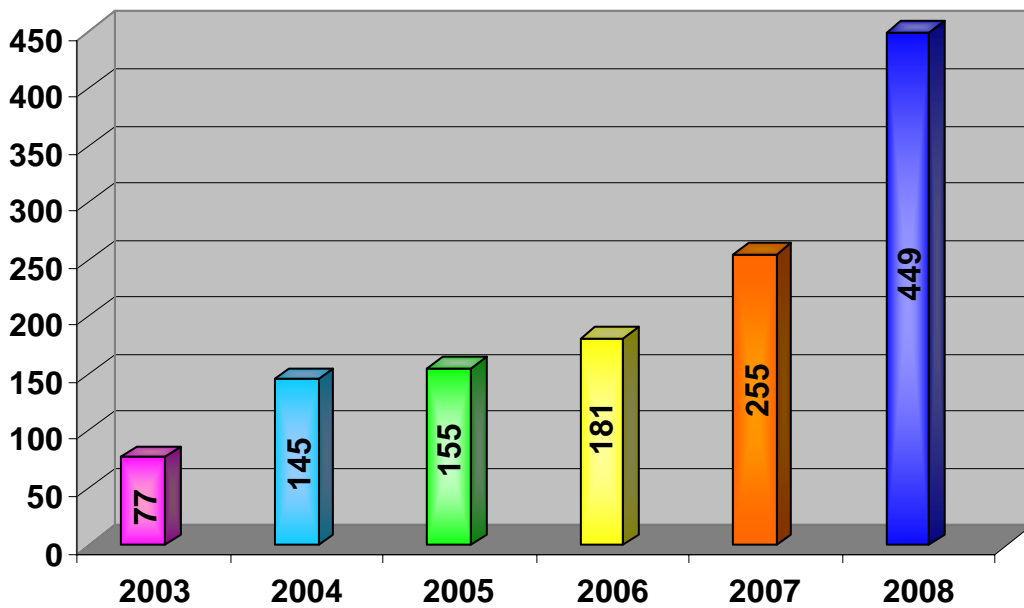
3. Miscellaneous Ordinance Violations

Code Enforcement and SNAP often encounter other types of violations which likewise affect the appearance and safety of property in the City of Springdale. In 2008, these “miscellaneous ordinance violations” ranged from violations of the City’s Property Maintenance Code, zoning ordinance violations, no house numbers, no building permit, over occupancy violations, violations of the City’s sign ordinance, and no business license.

C. Number of Citations Issued

In 2008, there were a total of 449 criminal citations issued for ordinance violations, a 76.08% increase from the 255 citations written in 2007, and an increase of 148.06% over the 181 citations written in 2006. In fact, the number of criminal citations written has increased every year since 2003.

**Number of Ordinance Violations Prosecuted
(Total Violations for 2003-2008 = 1,262)**



In 2008, the 449 citations can be broken down into the following categories:

Breakdown of Ordinance Violations 2008		
Type of Violation	No. of Violations	Percentage
Unsightly/Unsanitary Conditions	158	35.19%
Inoperative Vehicles/Park in Grass	164	36.53%
Misc. Ordinance Violations	<u>127</u>	<u>28.28%</u>
Total	449	100%

Of the 158 unsightly/unsanitary conditions citations issued during 2008, 94 (59.49%) of them were issued by Code Enforcement and 64 (40.51%) were issued by SNAP or the Police Department. Similarly, of the 164 citations issued for inoperative vehicle/parking in the grass during 2008, 85 (51.83%) were issued by Code Enforcement and 79 (48.17%) were issued by SNAP or the Police Department. More specifically, of the 138 citations issued for parking in the grass during 2008, 77 (55.80%) were issued by SNAP or the Police Department, and 61 (44.20%) were issued by Code Enforcement. These numbers clearly indicate how these departments work together to achieve a common goal: compliance.

D. Criminal Prosecution of Ordinance Violations

Once the Code Enforcement Division, SNAP, or the Springdale Police Department issues a citation to a property owner or occupant, the ordinance violation is then prosecuted through the Springdale District Court. In 2008, the Code of Ordinances for the City of Springdale provided that a violation of these types of city ordinances were punishable by up to a \$500 fine and up to a \$250 fine for each additional day the same violation continues. Thus, a violation of one of these ordinances could result in substantial fines to the owner or occupant of the property.

However, little has been accomplished if the property owner is fined, but the property is not cleaned up or brought into compliance with city ordinances. As such, the primary goal of prosecuting these ordinance violations is compliance, not just collecting fines. Therefore, gauging the success of prosecution of code violations should not be based solely upon conviction rates and the amount of fines assessed or collected. Rather, success is reflected in the number of properties that are cleaned up or are otherwise brought into compliance with city ordinances.

With this goal in mind, it is informative to examine not just the conviction rate for these ordinance violations, but it is important to also examine the “compliance rate” for these various types of ordinance

violations. The compliance rate is determined by adding the number of cases resulting in a guilty disposition or a conviction with the number of cases that were otherwise disposed of due to compliance with city ordinances.

E. Disposition of Ordinance Violation Cases for 2008 (all cases)

Of the 449 total citations issued in 2008, 410 of those resulted in a conviction, 21 cases were dismissed, and 18 persons failed to appear and currently have active failure to appear warrants. As such, of the 449 total citations written in 2008, 431 of those have been disposed of as of the date of this publication.

1. 2008 Conviction Rate (all cases).

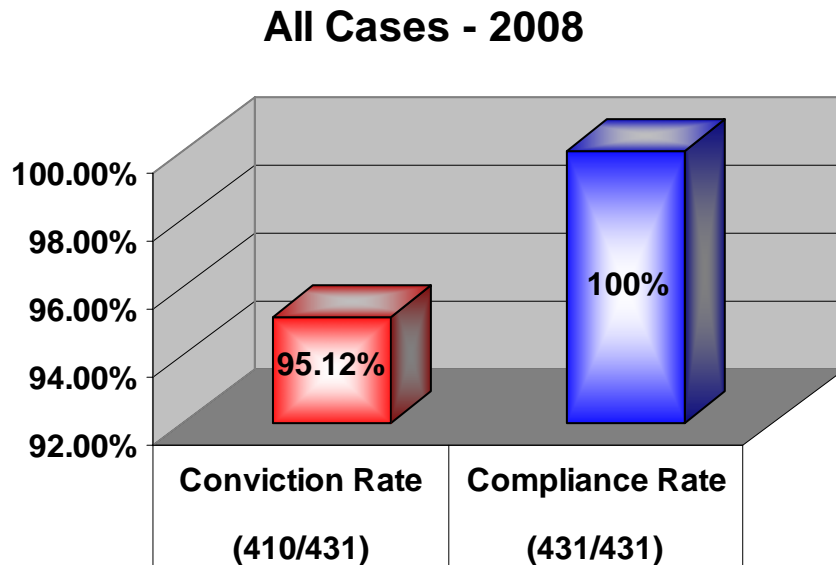
Of the 431 disposed of cases in 2008, 410 of them resulted in a conviction, for a conviction rate of 95.12%. The conviction rate for 2008 is higher than either 2003 (87.67%), 2004 (87.20%), 2005 (90.58%), 2006 (92.45%), or 2007 (94.67%). Out of the 449 total citations issued in 2008, none of them resulted in a finding of not guilty.

Of the 21 dismissals, 1 was dismissed due to bankruptcy (but owner still paid restitution to City for clean-up costs), 15 were dismissed by the City Attorney's office (6 due to compliance, 4 due to owner being incapacitated, 3 due to duplicate charges or the wrong person being cited,

and 2 due to juvenile being cited), 4 were dismissed by the Judge (due to compliance), and 1 was dismissed due to the defendant no longer being employed by the company in violation.

2. 2008 Compliance Rate (all cases).

Of the 431 disposed of cases in 2008, all of those cases resulted in the property ultimately complying with city ordinances. In each of the 21 instances where a case was dismissed in 2008, the property was nonetheless brought into compliance. As such, the compliance rate for 2008 was 100%. In some instances, however, individuals did have to be cited on more than one occasion before the property was finally brought into compliance.



3. Restitution.

In some instances, the City was required to take action to bring the property into compliance. In other words, public funds were used to remedy ordinance violations on private property. In those instances, the City requested that the person cited be ordered to pay restitution to the City for its clean-up costs, and these costs were paid through the court in the prosecution of the ordinance violation. In 2008, the Springdale District Court ordered property owners and occupants to pay \$5,268.08 in criminal restitution to the City, and \$3,031.14 of that amount was actually collected and paid back to the City before the end of 2008.

F. Disposition by Type of Ordinance Violation

1. Unsightly/Unsanitary Conditions

Of the 158 citations issued for unsightly/unsanitary conditions during 2008, 142 resulted in a disposition of guilty, 10 were dismissed, and 6 failed to appear. As such, of the 158 total citations written in 2008, 152 of those have been disposed of as of the date of this publication.

a. 2008 Conviction Rate (Unsightly/Unsanitary Conditions).

Of the 152 disposed of cases, 142 of them have been convicted, for a conviction rate of 93.42%. The conviction rate for 2008 is lower than 2007 (94.96%), but is higher than either 2003 (84.78%), 2004 (85.45%), 2005

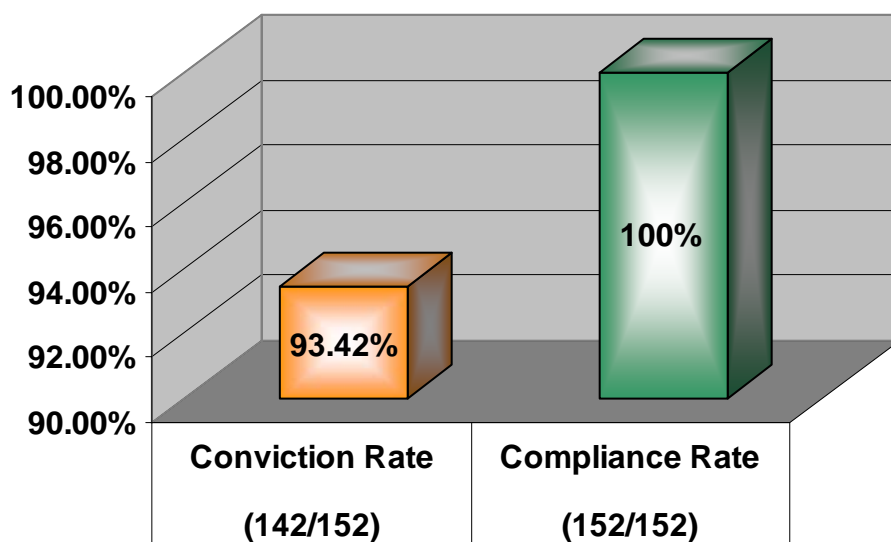
(91.23%), or 2006 (92.19%). Out of the 158 total citations issued in 2008, none of them resulted in a finding of not guilty.

Of the 10 dismissals, 1 was dismissed by the Judge (due to compliance), 2 were dismissed by the City Attorney's Office (due to compliance), 3 were dismissed due to incapacitation of the owner (plus compliance), 1 was dismissed due to a juvenile being cited, 1 was dismissed due to being a duplicate charge, 1 was dismissed due to the defendant no longer being employed by the company in violation (and a new citation was issued to the new employee), and 1 was dismissed due to bankruptcy (but owner still paid restitution in full to the City for clean-up costs).

b. 2008 Compliance Rate (Unightly/Unsanitary Conditions).

Of the 152 disposed of unsightly/unsanitary condition cases in 2008, all 152 cases resulted in the property ultimately complying with city ordinances. In each of the 10 instances where an unsightly/unsanitary condition case was dismissed in 2008, the property was nonetheless brought into compliance. As such, the compliance rate in 2008 for unsightly/unsanitary condition cases was 100%.

Unightly/Unsanitary Conditions - 2008



2. Inoperative Vehicle/Parking in the Grass Violations

As mentioned earlier, there were 164 citations issued for inoperative vehicle/parking in the grass during 2008. Of these 164 citations, 138 were issued for violations of the parking in the grass ordinance. The remaining 26 citations were issued for inoperative/unlicensed vehicles. In other words, 84.15% of the inoperative/parking in grass citations written in 2008 were for parking in the grass violations, while only 15.85% were for inoperative/unlicensed vehicles.

An interesting fact about the 138 parking in the grass citations is that 51 of those were committed by the owner of the property on which the violation took place. In other words, 36.96% of parking in the grass

violations were committed by the owner of the property where the vehicle was parked, and 63.04% of the parking in the grass violations were committed by someone other than the owner of the property where the vehicle was parked.

Of the 164 citations issued for inoperative vehicle/parking in the grass during 2008, 151 resulted in a disposition of guilty, 7 were dismissed, and 6 failed to appear. As such, of the 164 total inoperative vehicle/parking in the grass citations written in 2008, 158 of those have been disposed of as of the date of this publication.

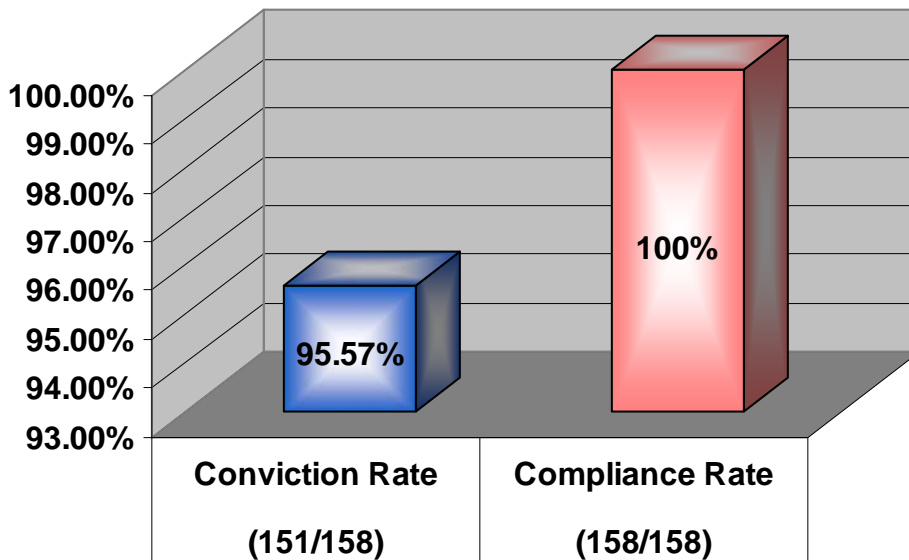
a. 2008 Conviction Rate (Inoperative/Parking in the Grass).

Of the 158 disposed of cases, 151 of them have resulted in a conviction, for a conviction rate of 95.57%. This conviction rate is lower than either 2004 (97.67%), 2005 (95.83%), or 2007 (98.18%), but higher than 2003 (94.44%) and 2006 (90.48%). Out of the 164 total inoperative vehicle/parking in the grass citations issued in 2008, none of them resulted in a finding of not guilty. Of the 7 dismissals, 6 were done by the Judge (due to compliance), and 1 was dismissed due to a juvenile being cited (and the correct person was ultimately cited).

b. 2008 Compliance Rate (Inoperative/Parking in the Grass).

Of the 158 disposed of inoperative vehicle/parking in the grass cases in 2008, all 158 cases resulted in the property ultimately complying with city ordinances. In the seven (7) instances where an inoperative vehicle/parking in the grass case was dismissed in 2008, the property was nonetheless brought into compliance. As such, the compliance rate in 2008 for inoperative vehicle/parking in the grass cases was 100%.

Inoperative Vehicles/Parking in the Grass - 2008



3. Miscellaneous Ordinance Violations

There were 127 miscellaneous ordinance violations cited in 2008.

These 127 were as follows:

2008 Miscellaneous Violation Citations

<u>Violation</u>	<u>Citations Issued</u>
Sign Ordinance Violations	51
Property Maintenance Code	25
Zoning Ordinance Violations	16
Over Occupancy	11
No Building Permit	7
No House Numbers	5
No Mobile Vending Permit	5
Landlord Registration	2
No Certificate of Occupancy	2
No Pool Fence	1
Failure to Remove Graffiti	1
No Garage Sale Permit	1

Of the 127 miscellaneous ordinance violations cited in 2008, 117 resulted in a disposition of guilty, 4 were dismissed, and 6 failed to appear. As such, of the 127 miscellaneous ordinance citations written in 2008, 121 of those have been disposed of as of the date of this publication.

a. **2008 Conviction Rate (Miscellaneous Violations).**

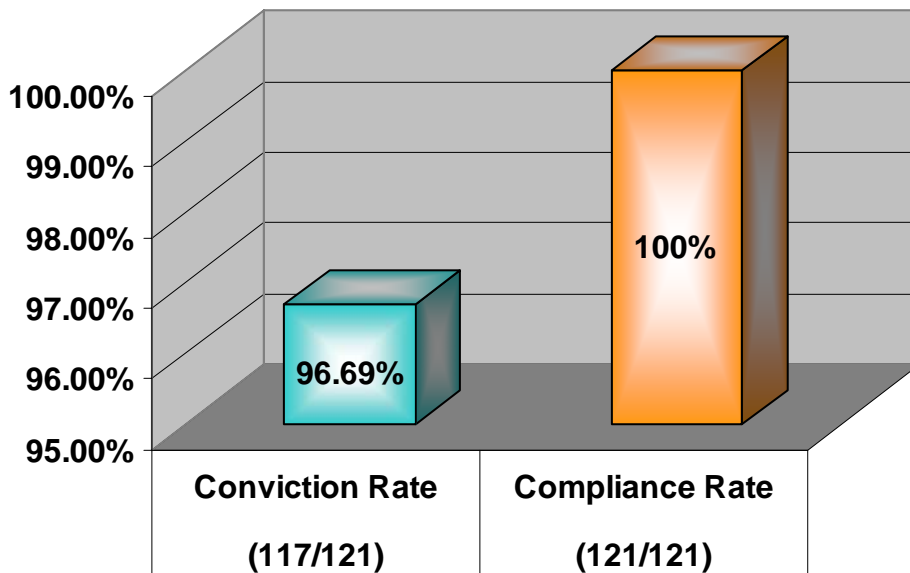
Of the 121 disposed of miscellaneous ordinance violation cases for 2008, 117 of them resulted in a conviction, for a conviction rate of 96.69%. The conviction rate for 2008 is higher than 2003-2004 (77.77%), 2005 (87.72%), 2006 (94.34%), and 2007 (91.43%). Of the 4 dismissals, 2 were

done at the request of the City Attorney's Office (due to compliance), 1 was dismissed due to the wrong person being cited, and 1 was dismissed as a duplicate charge. Out of the 127 miscellaneous ordinance citations issued in 2008, none of them resulted in a finding of not guilty.

b. 2008 Compliance Rate (Miscellaneous Violations).

Of the 121 disposed of miscellaneous ordinance violation cases in 2008, all 121 cases resulted in the property ultimately complying with city ordinances. In each of the 4 instances where a miscellaneous ordinance violation case was dismissed in 2008, the property was ultimately brought into compliance. As such, the compliance rate in 2008 for miscellaneous ordinance violations cases was 100%.

Miscellaneous Ordinance Violations - 2008



G. Multiple Offender Citations

Of the 449 total charges filed in 2008, 117 of those charges were filed against individuals who had committed more than one type of violation. This means that 26.06% of the ordinance violations were committed by individuals who had more than one type of ordinance violation.

1. Unsightly/Unsanitary Conditions.

For example, of the 158 individuals issued citations for unsightly/unsanitary conditions in 2008, 47 of those were also cited either for inoperative vehicle/parking in the grass, or for a miscellaneous ordinance violation, or both. Specifically, of these 47, 16 were cited for inoperative vehicle/parking in the grass, 27 were cited for a miscellaneous ordinance violation, and 4 were cited for both. In other words, 29.75% of those cited for unsightly/unsanitary conditions in 2008 also had some other type of ordinance violation existing on the property. This is down from 34.13% in 2007, and 35.29% in 2006.

2. Inoperative Vehicle/Parking in the Grass.

Likewise, of the 164 individuals issued citations for inoperative vehicle/parking in the grass in 2008, 23 of those were also cited for either unsightly/unsanitary conditions or some other miscellaneous violation. In other words, 14.02% of those cited for inoperative vehicle/parking in the

grass in 2008 were also cited for some other type of violation. This is down from 38.60% in 2007, and 58.00% in 2006. This sizeable decrease can most likely be attributed to the increased number of citations being issued for parking in the grass, as well as the fact that most parking in the grass violations do not involve another type of ordinance violation.

3. Miscellaneous Violations.

Similarly, of the 127 individuals issued citations for miscellaneous violations in 2008, 47 of those were also cited for either unsightly/unsanitary conditions, inoperative vehicle/parking in the grass, or some other miscellaneous violation. In other words, 37.00% of those cited for miscellaneous violations in 2008 were also cited for some other type of violation. This is down from 47.22% in 2007, and 55.55% in 2006.

4. All 2008 Violations

Of the 449 total charges filed in 2008, 26.06% were committed by individuals who had more than one type of ordinance violation on the property. This is down from 38.82% in 2007, and 48.61% in 2006. As such, these statistics indicate that in 2008 it became less likely that a property charged with an ordinance violation would have more than one ordinance violation.

H. "Clean and Lien" Violations

As mentioned earlier, the American economy entered a down phase in 2008, as did the local housing market. These events have resulted in a sharp increase in the number of abandoned/vacant/unoccupied properties in the City of Springdale. Code violations on these properties are much more difficult to deal with, as there usually is no one to cite into court for these violations.

In addition, in 2008, Arkansas law required that all owners and lienholders of record be notified of code violations *prior to* the City taking action to remedy the violations. Determining the correct identity of the owner(s) and lienholder(s) of an abandoned, vacant, or unoccupied property can be an arduous task, quite often involving bankruptcy, foreclosure, or other issues. As such, code violations on these properties were referred to the City Attorney's Office, so that the proper notifications could be given.

Instead of being issued a citation to court, the owners and lienholders of these properties were notified by the City Attorney's Office of the violations, and given an opportunity to bring the property into compliance. If the property was not brought into compliance within the time specified, Code Enforcement would then pay someone to enter upon the property

and take whatever steps were necessary to bring the property into compliance. The City Attorney's Office would then take the steps necessary to recover the City's costs of bringing the property into compliance, either by collecting directly from the owner or lienholder, or by requesting that the City Council place a lien on the property. Hence the term: "clean and lien". Once a lien is placed on the property, it is collected by the Washington County Tax Collector as back taxes, thereby virtually guaranteeing that the City will recover these amounts eventually.

This survey will examine the number of these type of properties that were referred to the City Attorney's Office in 2008, discuss what steps were taken on these properties, and analyze the efforts undertaken to bring these properties into compliance and to recover taxpayer funds used to bring these properties into compliance in 2008.

In 2008, Code Enforcement referred 155 abandoned, vacant, or unoccupied properties to the City Attorney's Office, properties for which no criminal citation could practically be issued. In each of these instances, the City Attorney's Office was required to determine the identity of the owner and lienholder for the property, so that they could be notified of the violations on the property.

Out of the 155 properties referred to the City Attorney's Office, 88 were brought into compliance by the owner or lienholder upon being notified of the ordinance violations by the City Attorney's Office. This represents 56.77% of the properties referred. More significantly, these 88 properties were brought into compliance by the owner or lienholder, not the City, thereby avoiding the need for public funds to be spent to remedy the violations on these properties.

The remaining 67 properties, however, were not brought into compliance by the owner or lienholder after being given notice of the violations by the City Attorney's Office. As such, the City had to pay someone to bring these properties into compliance. Sometimes, the City was forced to bring the same property into compliance more than once, thereby increasing the clean-up costs incurred by the City.

In each of these 67 properties, the City Attorney's Office took action to recover the amounts spent by the City to bring these properties into compliance. Once a property was brought into compliance and the clean-up costs were fully known, the City Attorney's Office sent a demand letter to the owner and lienholder advising them that the City had brought the property into compliance, that the City needed to be reimbursed for its

clean-up costs, or the City Council would be asked to place a lien on the property to secure the City's costs of bringing the property into compliance.

Of the 67 properties in which the City incurred clean-up costs in 2008, payment was recovered directly from the owner or lienholder of 31 of those properties, thereby eliminating the need to file a lien on these properties. This represents 46.27% of the 67 properties on which the City incurred clean-up costs in 2008, and 20.00% of the 155 properties referred by Code Enforcement to the City Attorney's Office in 2008. The total amount of City clean-up costs recovered by the City Attorney's Office directly from property owners and lienholders on these 31 properties was \$4,997.94.

No payment was received directly from property owners or lienholders on the remaining 36 properties in which the City incurred clean-up costs in 2008. As a result, the City Attorney's Office requested that the City Council assess a clean-up lien on each of these 36 remaining properties. The City Council ultimately certified clean-up liens on all 36 of these properties, thereby securing the recovery of \$7,307.00 in City clean-up costs. This represents 53.73% of the 67 properties on which the City actually incurred clean-up costs in 2008, and represents 23.23% of the 155 properties referred by Code Enforcement to the City Attorney's Office in 2008.

**Breakdown of "Clean and Lien" Properties
Referred to City Attorney's Office in 2008**

Result	No. of Properties	Percentage
Brought into Compliance by owner	88	56.77%
City cleaned/Costs recovered/no lien	31	20.00%
City cleaned/Lien filed	<u>36</u>	<u>23.23%</u>
Total	155	100%

These statistics show that, more often than not (56.77%), the owner or lienholder of an abandoned, vacant, or unoccupied property brought the property into compliance once notified of the ordinance violations, thereby allowing the City to avoid clean-up costs. On the other hand, these statistics show that in 2008, the City ultimately incurred clean-up costs in 43.23% of abandoned, vacant, or unoccupied properties. In 2008, the City successfully recovered \$4,997.94 of these clean-up costs without the need to file a lien, and also filed liens to secure the recovery of \$7,307.00 in clean-up costs.

By the end of 2008, three (3) of the 36 liens assessed by the City in 2008 were actually collected by the Washington County Tax Collector and

forwarded to the City. These totaled \$570.00. As of the date of publication of this survey, all but 10 of the 36 liens assessed in 2008 had been satisfied, resulting in the recovery of \$5,799.50 in clean-up costs just from liens filed in 2008.

I. Conclusion

In 2008, a total of \$8,599.08 in taxpayer funds were actually recovered by the City through actions of the City Attorney's Office. These amounts were collected through a combination of criminal prosecution, demand letters, and liens.

Clean-up Costs Recovered by City Attorney's Office in 2008		
Action Taken	Amount	% of Total
Collected in criminal cases (11)	\$ 3,031.14	35.25%
Collected from demand letters (31)	\$ 4,997.94	58.12%
Collected from Liens (3)	<u>\$ 570.00</u>	<u>6.63%</u>
Total	\$ 8,599.08	100%

This survey clearly indicates that the Code Enforcement Division and SNAP are clearly having an impact on “cleaning up the city”.

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