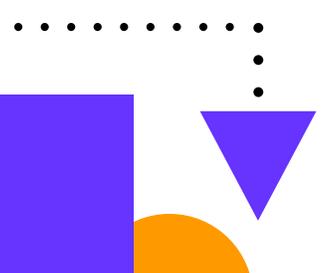
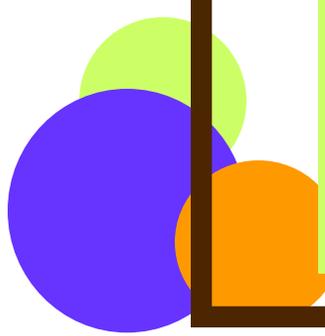


Prepared by:
Springdale City Attorney's Office
Published: 2/1/12



**Analysis
of
Code Enforcement
S.N.A.P.
and
Code Enforcement
Citations
for
2010**



FOREWORD

Code enforcement and the Springdale Nuisance Abatement Partnership (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 Brooke Lockhart, Deputy City Attorney, Jonathan Nelson, Deputy City Attorney, and Cindy Horlick, Administrative Legal Assistant. Brooke Lockhart gathered most of the information for this report, with Cindy Horlick assisting her.

A few years ago, because there had been so many comments about code enforcement, our office 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 2010.

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 ultimate 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 people 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 2010 begins on page 16.

In 2010 a continued slump in the American economy and the local housing market resulted in a continued high 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 Code Enforcement Division and the City Attorney's Office on these types of properties begins on page 32.

2. 2010 Code Enforcement Division Activity

In 2010, the Code Enforcement Division issued a total of 2,199 violation notices, or an average of 42 violation notices per week. Code Enforcement subsequently rechecks the property to determine if the property owner or occupant has corrected the ordinance violation. In 2010, the Code Enforcement Division performed a total of 5,342 rechecks, or an average of 102 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 7,541 violation notices and rechecks in 2010. This is an average of 145 violation notices and rechecks per week. In addition, in 2010, Code Enforcement officers also performed 80 home office inspections, and handled 640 complaints which proved to be unfounded.

When looking at these numbers, it is interesting to examine the type of violations which caused these activities. For example, of the 2,199 violation notices issued by Code Enforcement in 2010, 1,457 were for "unsightly/unsanitary conditions", which includes tall grass, weeds, junk, trash, stagnant water, dead trees, etc.

Of the 2,199 violation notices issued by Code Enforcement in 2010, 337 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 337 violation notices represented a large decrease from

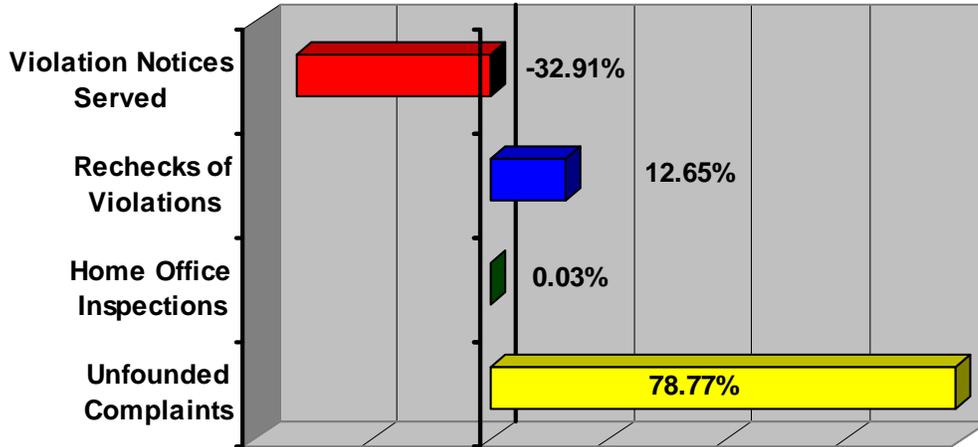
2009, when 676 notices were issued for vehicle issues. This decrease can be attributed to the public becoming more familiar with the ordinances and Code Enforcement, SNAP, the City Attorney's Office and Police educating the public about the ordinances.

Of the 2,199 violation notices issued by Code Enforcement in 2010, 221 were for other miscellaneous violations, such as property maintenance code issues, no business license, zoning ordinance violations, no building permit, over occupancy, and sign ordinance violations.

In addition, in 2010, the Code Enforcement Division dealt with violations on 184 vacant structures. These 184 properties presented different challenges to the Code Enforcement Division, and demonstrate how Code Enforcement must be prepared to deal with violations in a number of different circumstances.

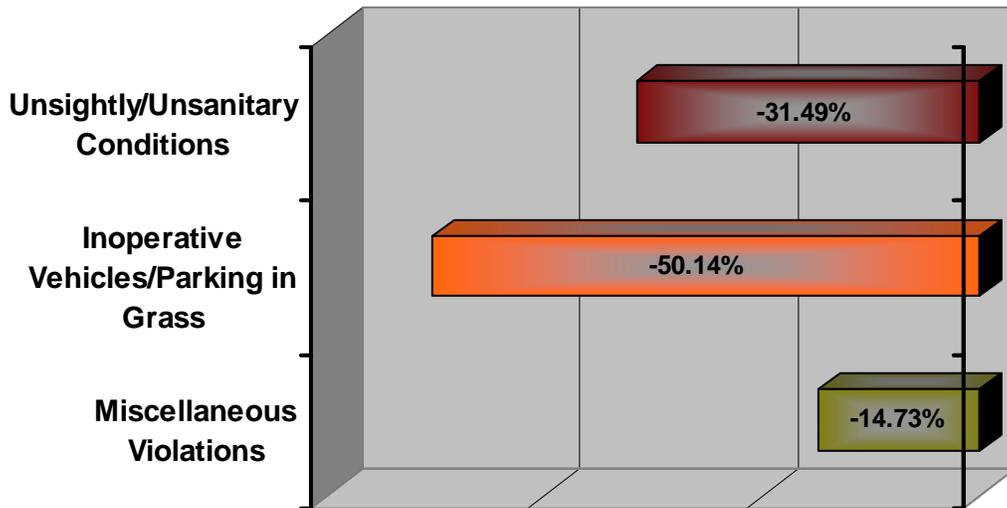
2010 CODE ENFORCEMENT ACTIVITY AND COMPARISON TO 2009 ACTIVITY			
<u>Activity</u>	<u>2009</u>	<u>2010</u>	<u>% Change</u>
Violation Notices Served	3,278	2,199	-32.91%
Rechecks of Violations	4,742	5,342	+12.65%
Home Office Inspections	83	80	+.03%
Unfounded Complaints	<u>358</u>	<u>640</u>	<u>+78.77%</u>
TOTAL ACTIVITY	8,461	8,261	-.02%

Change Percentage Over 2009



<u>Type of Violations Encountered</u>	<u>2009</u>	<u>2010</u>	<u>% Change</u>
Unsightly/Unsanitary Conditions	2,127	1,457	-31.49%
Inoperative Vehicles/Parking in Grass	676	337	-50.14%
Miscellaneous Violations	<u>475</u>	<u>405</u>	<u>-14.73%</u>
TOTAL VIOLATIONS	3,278	2,199	-32.91%

Change Percentage From 2009



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 much of his time to SNAP. In addition, many other officers worked to assist the SNAP program in 2010, in addition to their other duties with the Police Department. In 2010, 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 2010, SNAP provided numerous training sessions on these vital issues, and provided training on the goals of SNAP.

Sgt. Turnbough, Officer Monson, and Officer Renfrow 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, graffiti, 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 total calls for police service at Springdale bars in 2010 decreased dramatically from 2009. Specifically, in 2009, there were 200 total calls for service at Springdale bars. In 2010, that number fell to 153, a decrease of 47 calls. Most notably, the Rio Bravo Club was closed by the end of 2009. In addition, the number of calls from El Mesquite Club, El Tenampa Bar, Civic Center and Zabana Night Club decreased significantly in 2010 from 2009. Part of this decrease is due to the SNAP team conducting an abatement meeting with the business owner of El Mesquite discussing concerns the team had and El Mesquite came into compliance with recommendations and the police call volume dropped at that location.

The number of calls for service at Springdale bars has decreased 23.50% from 2009 to 2010.

<u>Calls for Police Service at Springdale Bars</u>			
<u>Name of Bar</u>	<u>2009</u>	<u>2010</u>	<u>Change</u>
Civic Center	53	33	-20
Club Zabana	39	16	-23
El Mesquite	31	20	-11
Rio Bravo (closed during 2009)	17	0	-17
El Tenampa	16	2	-14
Last Call	15	4	-15
Club Kongo	10	31	+21
El Rancho (opened during 2009)	10	10	0
Wellhouse Tavern	5	5	0
Sunset Saloon	3	1	+2
The Bar	1	5	+4
Fatty Hackers	0	11	+11
Jose's Club Latino	<u>0</u>	<u>15</u>	<u>+15</u>
Total	200	153	-47

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. 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 2010, SNAP conducted 497 such compliance checks, compared to 230 in 2009. These compliance checks resulted in 1 citation for knowingly furnishing alcohol to a minor and 7 citations for unknowingly furnishing alcohol to a minor. When compared with the 230 compliance checks in 2009, there has been an increase in compliance

checks of 116%. This increase is due to the Springdale Police Department receiving double the funding for ABC compliance checks. In addition, 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. In 2010, this grant money was used for promotion and billboard and Public Service Announcement advertising, extra enforcement and pamphlets.

In addition, the SNAP program participated in the 2010 Underage Drinking Prevention Conference for the State of Arkansas. In fact, SNAP actually helped teach one of the classes featured at this conference.

Another huge benefit for SNAP is the fact that 2 Springdale police officers (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.

In 2010, 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, resulted in the rescue of abandoned animals, and resulted in the discovery of information leading to structures being deemed unsafe and/or uninhabitable.

In all, 2010 was a great and productive 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 2011, 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 2010

In 2010, 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 2010, SNAP, Code Enforcement and other agencies objected to the transfer of the Padrissimo liquor license to

the old Rio Bravo location. Members attended a hearing in Little Rock and showed that there would be no greater public convenience or advantage to be served by transferring the liquor license to the Springdale location. Members spoke on the calls for service at the current Padrissimo location even though that location was in Tontitown, because the current location often needed assistance from the Springdale Police Department. Other lighting, parking and environmental issues were discussed and ultimately, the transfer of the liquor license was denied.

Also, the graffiti ordinance Section 42-93 of the Springdale Code of Ordinances was amended that if there is a vacant property or the owner is not found, the city can enter and remove the graffiti without first obtaining a signed graffiti abatement identification and permission form. This helps reduce the amount of time the city has to wait before cleaning graffiti from vacant properties.

In addition, Section 82-3 of the Springdale Code of Ordinances was amended to include provisions for ice cream trucks. In order to regulate the ice cream trucks and for the health and safety of the public, the ordinance was amended to include requirements for trucks such as equipment regulations. Also, requirements for ice cream truck drivers and operators, in order to receive a permit to operate, must not have a felony

on their record, nor a felony sex offense or an offense that involves the use of firearms or violence. Applicants for a license for an ice cream truck must submit to an Arkansas State Police background check.

Code Enforcement and SNAP continue to be instrumental in identifying the need for new regulations and are of valuable assistance in getting these types of ordinances approved by the City Council. The adoption of these new regulations and ordinances have a positive impact in the City.

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”. This survey will examine the number and type of these ordinance violations that were actually referred to court in 2010, and will examine the results of the prosecution of these ordinance violations.

Also, this survey will discuss and analyze those violations 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 prosecuted in Springdale District Court 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 Springdale Code of Ordinances. In 2008, for the first time, the number of unsightly/unsanitary conditions citations was eclipsed in number by citations for inoperative vehicle/parking in the grass violations. In 2010, unsightly/unsanitary conditions citations barely overcame inoperative vehicles and were once again the most common type of ordinance violation prosecuted in Springdale District Court.

2. Inoperative Vehicle/Parking in the Grass

Another common ordinance violation encountered by Code Enforcement and SNAP is 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.

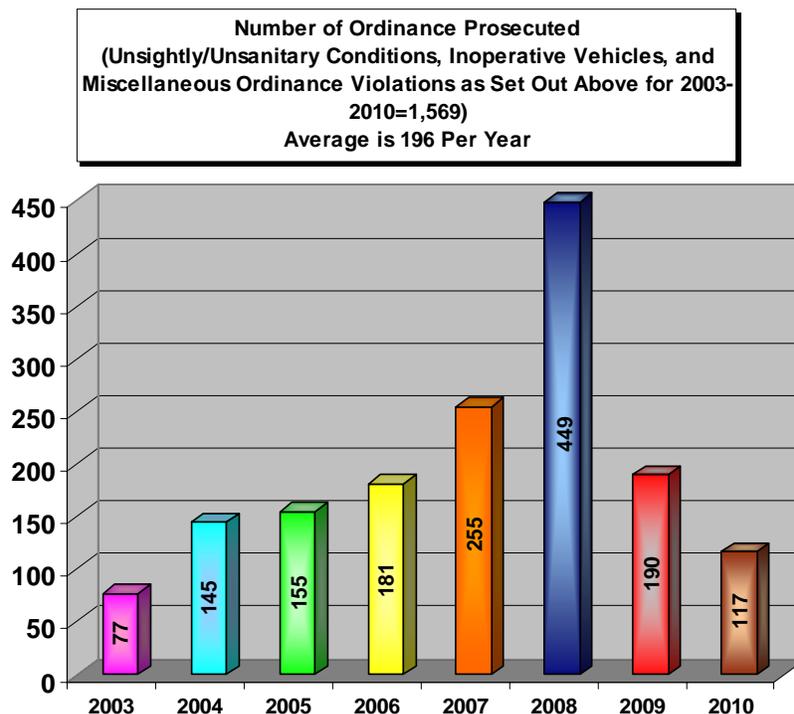
The "parking in the grass" ordinance can be found at Sec. 114-57 and 114-58, and not only includes the parking of vehicles on unpaved areas, but also governs the parking of recreational vehicles, trailers, ATVs, and commercial vehicles on residential property.

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 2010, 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 2010, there were a total of 117 criminal citations issued for ordinance violations, a decrease from the 190 citations written in 2009.



The decrease in the number of citations written could possibly be attributed to several factors, including increased compliance by property owners upon receiving a violation notice, manpower issues, and the increase in the number of vacant or abandoned properties in the City of Springdale.

In 2010, the 117 citations can be broken down into the following categories:

Breakdown of Ordinance Violations 2010		
Type of Violation	No. of Violations	Percentage
Unsightly/Unsanitary Conditions	47	40.17%
Inoperative Vehicles/Park in Grass	32	27.35%
Misc. Ordinance Violations	<u>38</u>	<u>32.48%</u>
Total	117	100%

Of the 47 unsightly/unsanitary conditions citations issued during 2010, 21 (44.68%) of them were issued by Code Enforcement and 26 (55.32%) were issued by SNAP or the Police Department. On the other hand, of the 32 citations issued for inoperative vehicle/parking in the grass during 2010, 24 (75.00%) were issued by Code Enforcement and 8 (25.00%) were issued by SNAP or the Police Department. More specifically, of the 19 citations issued for parking in the grass during 2010,

8 (42.11%) were issued by SNAP or the Police Department, and 11 (57.89%) were issued by Code Enforcement.

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. Until August of 2009, 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.

However, in 2009, the Arkansas General Assembly passed Act 341 of 2009, which authorized more substantial fines for ordinance violations. As such, on July 14, 2009, the City Council for the City of Springdale, Arkansas, passed Ordinance No. 4338, thereby providing that a violation of these types of city ordinances were punishable by up to a \$1,000 fine and up to a \$500 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 2010 (all cases)

Of the 117 total citations issued in 2010, 103 of those resulted in a conviction, 4 cases were dismissed, and 10 persons failed to appear and currently have active failure to appear warrants. As such, of the 117 total citations written in 2010, 107 of those have been disposed of as of the date of this publication.

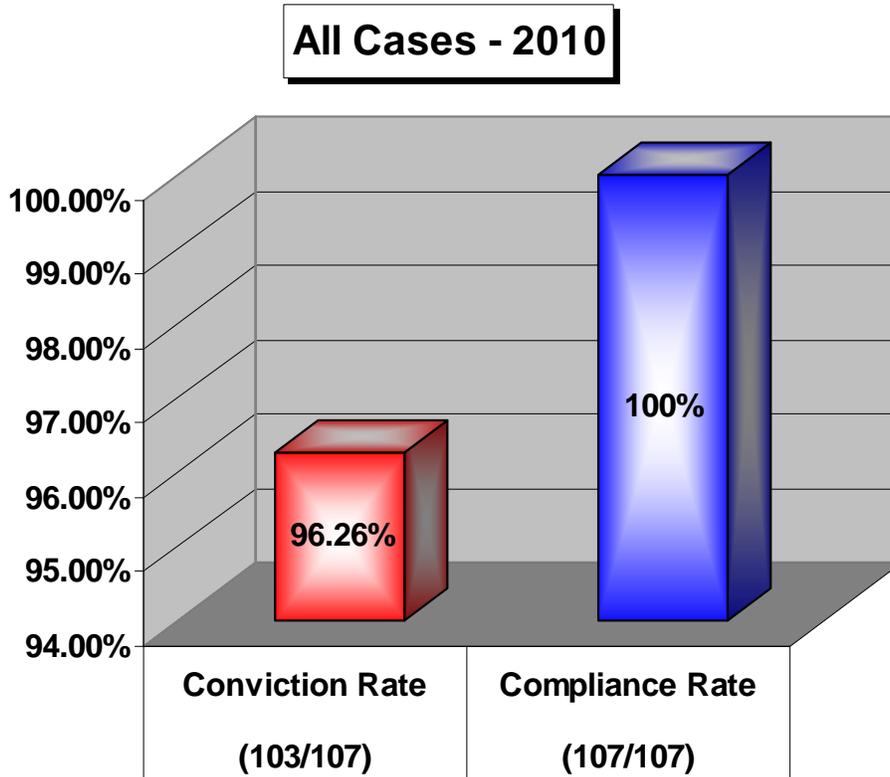
1. 2010 Conviction Rate (all cases).

Of the 107 disposed of cases in 2010, 103 of them resulted in a conviction, for a conviction rate of 96.26%. The conviction rate for 2010 is the highest conviction rate the City Attorney's Office has had since 2003. This is higher than 2003 (87.67%), 2004 (87.20%), 2005 (90.58%), 2006 (92.45%), 2007 (94.67%), 2008 (95.12%) and 2009 (94.19%). Out of the 117 total citations issued in 2010, none of them resulted in a finding of not guilty.

Of the 4 dismissals, 1 was dismissed due to the person moving back to their home country, 1 was dismissed upon the owner paying restitution to the City for clean-up costs, and 2 were dismissed due to compliance.

2. 2010 Compliance Rate (all cases).

Of the 107 disposed of cases in 2010, all of those cases resulted in the property ultimately complying with city ordinances. In each of the 4 instances where a case was dismissed in 2010, the property was nonetheless brought into compliance. As such, the compliance rate for 2010 was 100%.



3. Criminal 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 2010, the Springdale District Court ordered property owners and occupants to pay \$3,272.48 in criminal restitution to the City. This is a 54.40% decrease from 2009, when \$6,015.36 in criminal restitution was ordered. Of the \$3,272.48 ordered in

2010, \$2,558.14 (78.17%) of that amount was actually collected and paid back to the City before the end of 2010.

F. Disposition by Type of Ordinance Violation

1. Unsightly/Unsanitary Conditions

Of the 47 citations issued for unsightly/unsanitary conditions during 2010, 42 resulted in a disposition of guilty, 1 was dismissed, and 4 failed to appear. As such, of the 47 total citations written in 2010, 43 of those have been disposed of as of the date of this publication.

a. 2010 Conviction Rate (Unsightly/Unsanitary Conditions).

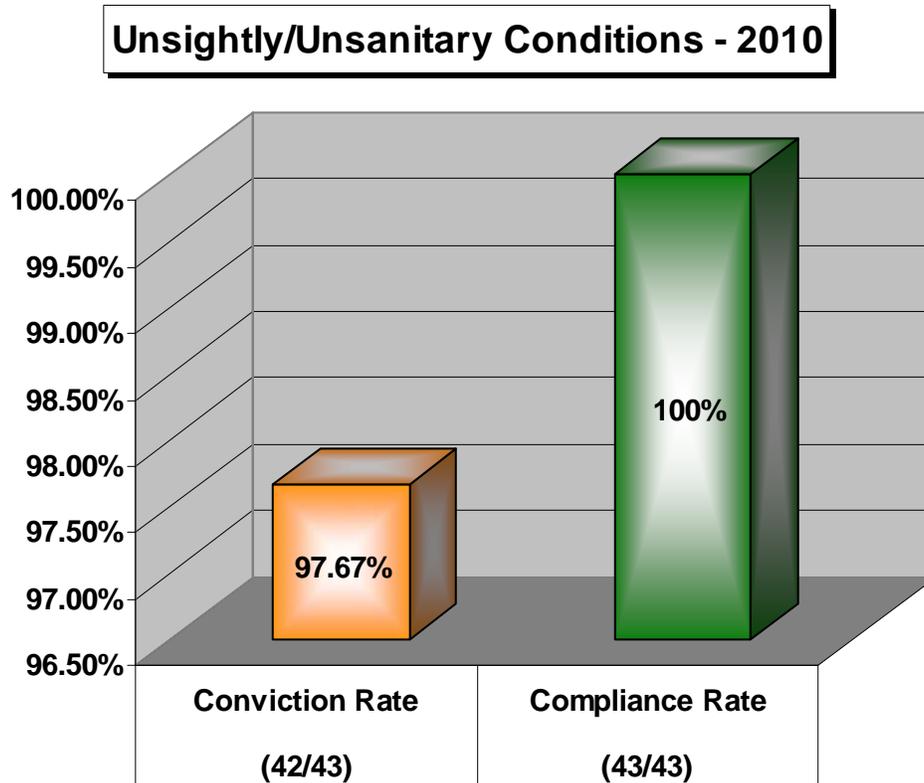
Of the 43 disposed of cases, 42 of them have been convicted, for a conviction rate of 97.67%. The conviction rate for 2010 is slightly higher than 2009 (94.19%), and is higher than any other year. Out of the 47 total citations issued in 2010, none of them resulted in a finding of not guilty.

The 1 case dismissed was due to compliance.

b. 2010 Compliance Rate (Unsightly/Unsanitary Conditions).

Of the 43 disposed of unsightly/unsanitary condition cases in 2010, all 43 cases resulted in the property ultimately complying with city ordinances. In the 1 instance where an unsightly/unsanitary condition case was dismissed in 2010, the property was nonetheless brought into

compliance. As such, the compliance rate in 2010 for unsightly/unsanitary condition cases was 100%.



2. Inoperative Vehicle/Parking in the Grass Violations

As mentioned earlier, there were 32 citations issued for inoperative vehicle/parking in the grass during 2010. Of these 32 citations, 21 were issued for violations of the parking in the grass ordinance. The remaining 11 citations were issued for inoperative/unlicensed vehicles. In other words, 65.62% of the inoperative/parking in grass citations written in 2010

were for parking in the grass violations, while 34.38% were for inoperative/unlicensed vehicles.

Of the 32 citations issued for inoperative vehicle/parking in the grass during 2010, 28 resulted in a disposition of guilty and 4 failed to appear. As such, of the 32 total inoperative vehicle/parking in the grass citations written in 2010, 28 of those have been disposed of as of the date of this publication.

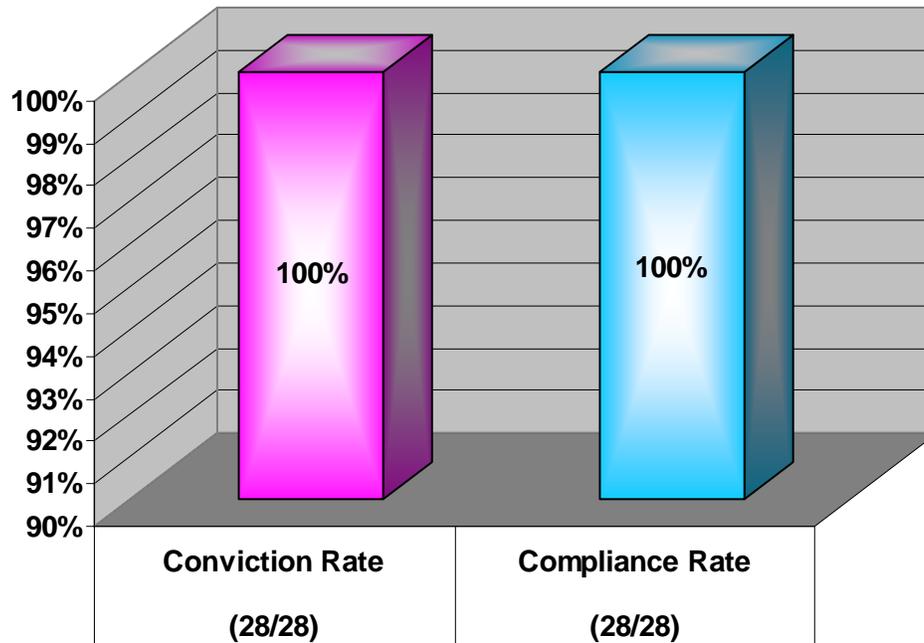
a. 2010 Conviction Rate (Inoperative/Parking in the Grass).

Of the 28 disposed of cases, all of them have resulted in a conviction, for a conviction rate of 100.00%. This conviction rate is higher than any other year such as: 2003 (94.44%), 2004 (97.67%), 2005 (95.83%), 2006 (90.48%), 2007 (98.18%), 2008 (95.57%), or 2009 (92.11). Out of the 32 total inoperative vehicle/parking in the grass citations issued in 2010, none of them resulted in a finding of not guilty.

b. 2010 Compliance Rate (Inoperative/Parking in the Grass).

Of the 28 disposed of inoperative vehicle/parking in the grass cases in 2010, all 28 cases resulted in the property ultimately complying with city ordinances. As such, the compliance rate in 2010 for inoperative vehicle/parking in the grass cases was 100%.

Inoperative Vehicles/Parking in the Grass - 2010



3. Miscellaneous Ordinance Violations

There were 38 miscellaneous ordinance violations cited in 2010.

These 38 were as follows:

2010 Miscellaneous Violation Citations

<u>Violation</u>	<u>Citations Issued</u>
Zoning Ordinance Violations	7
Property Maintenance Code	7
Over Occupancy	3
Pawn Shop Records Violation	1
Fowl in City Limits	1
No Garage Sale Permit	1
Failure to Remove Graffiti	2
Beverage Tax Violations	3
No Building Permit	2
No Business License	8
Storm Drainage	1
Precious Metal Records	1
Secondhand Store Records	1

Of the 38 miscellaneous ordinance violations cited in 2010, 33 resulted in a disposition of guilty, 3 were dismissed, and 2 failed to appear. As such, of the 38 miscellaneous ordinance citations written in 2010, 36 of those have been disposed of as of the date of this publication.

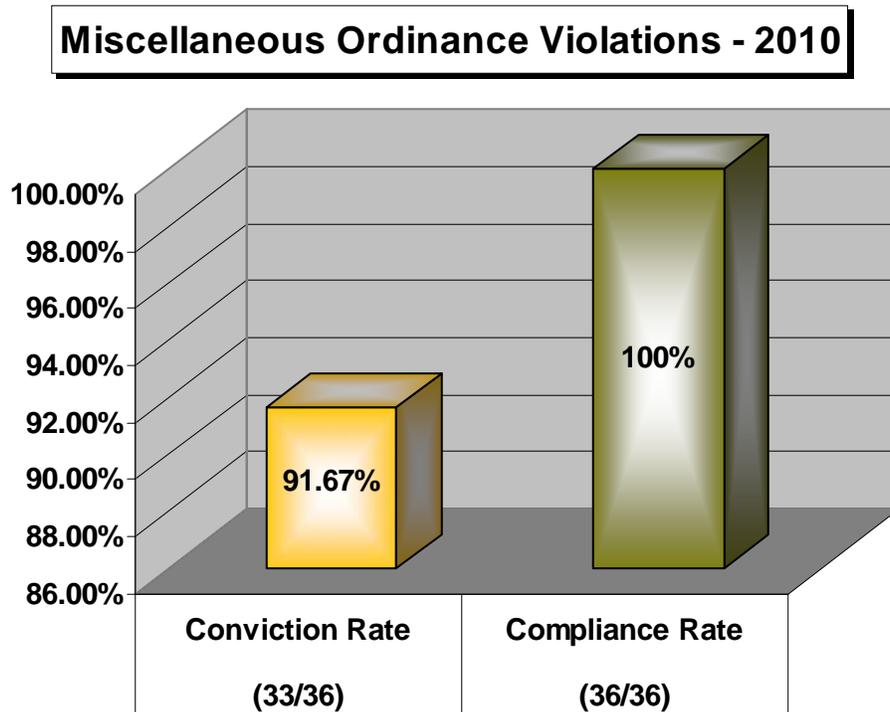
a. 2010 Conviction Rate (Miscellaneous Violations).

Of the 36 disposed of miscellaneous ordinance violation cases for 2010, 33 of them resulted in a conviction, for a conviction rate of 91.67%. The conviction rate for 2010 is higher than 2003-2004 (77.77%), 2005 (87.72%), and 2007 (91.43%), but is lower than 2006 (94.34%), 2008

(96.69%) and 2009 (95.83%). Of the 3 dismissals, 2 were for compliance and 1 was for payment and compliance. Out of the 38 miscellaneous ordinance citations issued in 2010, none of them resulted in a finding of not guilty.

b. 2010 Compliance Rate (Miscellaneous Violations).

Of the 36 disposed of miscellaneous ordinance violation cases in 2010, all 36 cases resulted in the property ultimately complying with city ordinances. In each of the 3 instances where a miscellaneous ordinance violation case was dismissed in 2010, the property was ultimately brought into compliance. As such, the compliance rate in 2010 for miscellaneous ordinance violations cases was 100%.



G. Multiple Offender Citations

Of the 117 total issued citations, 30 citations were multiple offenders; meaning more than one violation was on the same property.

1. Unsightly/Unsanitary Conditions.

For example, of the 47 individuals issued citations for unsightly/unsanitary conditions in 2010, 13 of those were also cited either for inoperative vehicle/parking in the grass, or for a miscellaneous ordinance violation, or both. Specifically, of these 13, 6 were cited for inoperative vehicle/parking in the grass, 5 were cited for a miscellaneous ordinance violation, and 2 were cited for both. In other words, 27.66% of those cited for unsightly/unsanitary conditions in 2010 also had some other type of ordinance violation existing on the property. This is down from 46.81% in 2009, 29.75% in 2008, 34.13% in 2007, and 35.29% in 2006.

2. Inoperative Vehicle/Parking in the Grass.

Likewise, of the 32 individuals issued citations for inoperative vehicle/parking in the grass in 2010, 8 of those were also cited for either unsightly/unsanitary conditions or some other miscellaneous violation. In other words, 25.00% of those cited for inoperative vehicle/parking in the grass in 2010 were also cited for some other type of violation. This is

compared to 38.09% in 2009, 14.02% in 2008, 38.60% in 2007, and 58.00% in 2006.

3. Miscellaneous Violations.

Similarly, of the 38 individuals issued citations for miscellaneous violations in 2010, 7 of those were also cited for either unsightly/unsanitary conditions, inoperative vehicle/parking in the grass, or some other miscellaneous violation. In other words, 18.42% of those cited for miscellaneous violations in 2010 were also cited for some other type of violation. This is down from 20.37% in 2009, 37.00% in 2008, 47.22% in 2007, and 55.55% in 2006. In other words, it is becoming less likely that those cited for a miscellaneous ordinance violation will also have some other type of ordinance violation existing on the property.

4. All 2010 Violations

Of the 117 total charges filed in 2010, 11.11% were committed by individuals who had more than one type of ordinance violation on the property. This is down from 25.79% in 2009, 26.06% in 2008, 38.82% in 2007, and 48.61% in 2006. As such, these statistics indicate that in 2010 it became somewhat less likely that a property charged with an ordinance violation would have more than one ordinance violation. Furthermore,

these statistics suggest that if another violation is present, it will most likely be on a property that has an unsightly/unsanitary condition.

H. "Clean and Lien" Violations

As mentioned earlier, the downturn in the American economy and the local housing market continued in 2010. These events continued to cause a large 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, until July 31, 2009, 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, prior to July 31, 2009, code violations on these properties were referred to the City Attorney's Office, so that the proper notifications could be given.

The law changed on July 31, 2009, and removed the requirement that the lienholder be notified before the City could enter a property to remedy a code violation. As such, the task of notifying the owner of an abandoned, vacant, or unoccupied property shifted from the City Attorney's Office to the

Code Enforcement Division effective July 31, 2009. Therefore, beginning July 31, 2009, the Code Enforcement Division handled the required notification of the property owner, and only referred properties to the City Attorney's Office if City money had been spent to remedy a code violation on the property.

Instead of being issued a citation to court, the owners of abandoned, vacant, or unoccupied properties were notified 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 Code Enforcement Division would then refer the property to the City Attorney's Office, who 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 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 2010, 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 2010.

In 2010, the City Attorney's Office dealt only with those properties that were not brought into compliance by the owner or lienholder after being given notice of the violations by the Code Enforcement Division. In each of those instances, 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 2010, 97 such properties were referred to the City Attorney's Office.

In each of these 97 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 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 97 properties in which the City incurred clean-up costs in 2010, payment was recovered directly from the owner or lienholder of 47 of those properties, thereby eliminating the need to file a lien on these properties. This represents 48.46% of the 97 properties on which the City incurred clean-up costs in 2010. The total amount of City clean-up costs recovered by the City Attorney's Office directly from property owners and lienholders on these 47 properties was \$9,278.59.

No payment was received directly from property owners or lienholders on the remaining 58 properties in which the City incurred clean-up costs in 2010. As a result, the City Attorney's Office requested that the City Council assess a clean-up lien on 41 of the remaining properties. The City Council ultimately certified clean-up liens on all 41 of these properties, thereby securing the recovery of \$14,033.29 in City clean-up costs. This represents 42.27% of the 97 properties on which the City actually incurred clean-up costs in 2010.

The 41 clean-up liens certified by the City Council in 2010 was down from 51 in 2009. In addition, the \$14,033.29 in City clean-up costs secured

by the 2010 clean-up liens was less than the \$15,237.57 in City clean-up costs secured by 2009 clean-up liens.

The City Attorney's Office was unable to locate the owner and/or lienholder on 8 of the properties, which represents 8.25% of the 97 properties brought to the City Attorney's Office from the Code Enforcement Division. The City Council did not certify a lien on one of the properties.

Breakdown of "Clean and Lien" Properties Referred to City Attorney's Office in 2010		
Result	No. of Properties	Percentage
City cleaned/Costs recovered/no lien	47	48.46%
City cleaned/Lien filed	41	42.27%
Unable to locate owner	8	8.25%
Lien not certified by City Council	<u>1</u>	<u>1.02%</u>
	97	100%

As of the date of this publication, 38 of the 41 liens assessed by the City during 2010 were actually collected by the Washington County Tax Collector and forwarded to the City. These totaled \$6,968.29.

I. Conclusion

In 2010, a total of \$18,805.02 in taxpayer funds was recovered by the City through actions of the City Attorney's Office. This amount was collected by a combination of criminal prosecution, demand letters, and liens.

**2010 Clean-up Costs Recovered by
City Attorney's Office**

Action Taken	Amount	% of Total
Collected in criminal cases	\$2,558.14	13.6%
Collected from owner/lienholder prior to lien	\$9,278.59	49.4%
Collected from 2010 Liens	<u>\$6,968.29</u>	<u>37%</u>
Total Collected in 2009	\$18,805.02	100%

The amount of restitution collected in criminal cases in 2010 (\$2,558.14) was less than that collected in 2009 (\$3,248.25). However, the amount collected from demand letters in 2010 (\$9,278.59) was up from 2009, where only \$8,639.60 was collected from demand letters. Overall, the total amount of clean-up costs recovered by the City Attorney's Office for the City during 2010 (\$18,805.02) was less than that collected in 2009 (\$26,003.48).

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

STAFF OF CITY ATTORNEY'S OFFICE

Jeff C. Harper ~~~~~ City Attorney

Brooke Lockhart ~~~~~ Deputy City Attorney

Jonathan Nelson ~~~~~ Deputy City Attorney

Taylor Samples ~~~~~ Deputy City Attorney

Steve Helms ~~~~~ Investigator

Lynda Belvedresi ~~~~~ Case Coordinator/Victim Advocate

Linda Brown ~~~~~ Hot Check Administrator

Cindy Horlick ~~~~~ Administrative Legal Assistant

Dixie Putt ~~~~~ Receptionist

Jacque Roth ~~~~~ Part-time Employee