




# CITY OF KENT, OHIO

## DEPARTMENT OF COMMUNITY DEVELOPMENT



October 2, 2008

TO: Kent City Planning Commission Members

FROM: Gary Locke, Community Development Director 

RE: Additional Suggestions / Guidance for Comprehensive Zoning Code Update

At the previous Planning Commission meeting on September 16, 2008, at which the entirety of City Council was also in attendance, there was consensus that the City should begin to evaluate elements of its zoning code, including both the text of the code and the zoning map. I have had some time to give this more consideration and I have also received some input from Sean Kaine (Planning Commission) with some suggestions as to how we could proceed with this undertaking (thank you Sean).

Since this effort will involve dealing with both the text and the zoning map, it would seem most prudent to review the various elements of the text first and deal with the map changes second. It would appear that the entire process could take anywhere from a year to a year and a half. Should it be determined that there are critical elements of the code that need changed more quickly, the Commission and Council could put those changes through an amendment process during the review period rather than waiting until everything is done.

There are several considerations I would recommend in terms of the general evaluation of the text and map.

- 1) The goals and objectives set forth within the Bicentennial Plan.
- 2) An articulation of future land use objectives – where do we want to be “x” years from now?

To put the work in the proper perspective and to utilize some of the “planning” perspective that the Planning Commission has indicated its desire to discuss, I would recommend that this be done at the beginning of the process. I would also recommend, that we take the zoning text evaluation in blocks based on particular subject matter, rather than attempting to go through it chapter by chapter. I believe that discussion by subject will make the discussion more meaningful and easier to follow.

## Recommendations Concerning Comprehensive Zoning Code Review

With regard to Council participation, they may want to have some discussion on their own as to how they want to participate, however, I believe at the last meeting it was suggested that they would be kept informed of the process, the subject matter to be discussed at each meeting (the Planning Commission's agenda is made available to them along with staff reports) and they could choose to participate in the discussions at the Planning Commission meetings as they desired. Council will be starting to deal with budgetary issues for next year during these last several months and much of their own meeting time will be consumed with that material. We can discuss this further with Council to see what their preferences may be. Other Boards and Commission could be invited to attend the Planning Commission meetings so as to facilitate their involvement and input.

Below, I have outlined a list of Sessions that we can put dates to and what could be discussed at each session.

- Session #1 - General discussion of **Land Use Goals** for the community. This would include a discussion of the Bicentennial Plan and what the community's future needs and desires are with regard to land use. What content of the current code is out of date or inconsistent with future goals or needs. Discussion of GIS capabilities & use.
- Session #2 - If necessary, the discussion of land use goals could continue at this session. The bulk of this session would deal with **Planning Commission and Board of Zoning Appeals procedures**. Recommendations from the UDC can be evaluated as well as some of the more recent concerns.
- Session #3 - Discussion of **Zoning Code definitions**. A considerable amount of time was put into working on the set of definitions that were outlined in the UDC effort and I don't think a lot of work is needed here.
- Session #4 - Discussion of **Rooming Houses** and or rental properties. This discussion would focus on how they are handled both within the zoning code and potentially outside of the zoning code. The regulation of these uses should be coordinated across city departments and should include discussion with Health Department / Health Board.
- Session #5 - Discussion of **Home Occupations** and how we regulate **Open Space**. The latter issue and its discussion should evaluate where and how open space related to certain development projects is regulated. With regard to Home Occupations, how much latitude should such uses be given.

**Recommendations Concerning Comprehensive Zoning Code Review**

- Session #6 - The regulation of **Signage**.
- Session #7 - Discussion of **Parking Design Standards**, parking ratios and requirements. Also, **Pedestrian and Multimodal transportation elements** as they relate to project design.
- Session #8 - Discussion of **Architectural Design Standards, Green Building and Provisions for Historic Preservation**.
- Session #9 - **Zoning District Regulations for O-R District and Residential Districts**. What types of uses should be permitted and conditionally permitted in each? Lot size and dimensional requirements. Map delineations will be discussed separately.
- Session #10 - **Zoning District Regulations for Commercial, Industrial and any other Zoning Districts**. What types of uses should be permitted and conditionally permitted in each? Lot size and dimensional requirements. Map delineations will be discussed separately.
- Session #11 - Other Zoning Text Chapters – **Supplemental Regulations, Non Conforming Uses, specific Conditions for Conditional Uses (Ch 1171), Oil and Gas Wells, Group Homes, etc.**
- Session #12 - Discussion of general **Zoning Map and Potential Issues**.
- Session #13 - Discussion of Zoning Map involving the **Central Business District, Kent State University and the Area Between Campus and Downtown**.
- Session #14 - Discussion of Zoning Map involving the **Fairchild and Standing Rock Planning Districts, including North Mantua Street Corridor**. (NW Kent)
- Session #15 - Discussion of Zoning Map involving **Crain to Main Planning District, East Main Street Corridor** as well as **area south and east of East Main / South Water**. (NE & SE Kent)
- Session #16 - Discussion of Zoning Map involving **West Main Street Corridor And the Middlebury Planning District**. (SW Kent)

**Recommendations Concerning Comprehensive Zoning Code Review**

Session #17 - Discussion of Zoning Map involving the Franklin and Plum Creek Planning Districts as well as the South Water Street Corridor and SR 43 / 261 intersection.

Session #18 - **General Wrap-Up.** Cover anything that was missed or needed further discussion. Discussion on moving review forward into public comment and adoption.

None of this is set in stone, so we can discuss it further and modify as we feel is appropriate. I have also included a copy of what Sean Kaine has suggested.

Cc: Dave Ruller, City Manager  
Clerk of Council, Mayor and Kent City Council Members

Ecc: James Silver, Law Director  
Eric Fink, Assistant Law Director  
Gene Roberts, Director of Public Service  
William Lillich, Safety Director  
James Bowling, City Engineer  
John Ferlito, Health Commissioner  
John Idone, Parks and Recreation Director  
CD Department Staff  
File

From: Sean Kaune

PC and Council share a desire to move forward with revisions to the zoning code and map. It was suggested by Councilman Wilson that we look at the issues pertaining to the text first, and then at issues pertaining to the map. This is a good way to start. Ultimately, the two will need to be considered simultaneously.

We understand that staff is a shorthanded, therefore we will do what we can to assist. To that end we would like to establish a timetable for consideration of the various issues that have been set forth at our last couple meetings.

Ideally, we would like to look at one issue each month. The first Tuesday of each month could include an introduction to the issue and a general discussion of how the commission may want to proceed. The third Tuesday of each month should include public input and comment. The first Tuesday of the following month, the PC should craft a motion to council. Council will then be able to allow additional public comment and give additional consideration to the issue prior to action.

Below find a possible schedule of issues for coming months:

**October:** Rooming Houses (find potential code changes attached)

**November:** Mapping/GIS (identify city mapping resource, needs for future development and discussion)

**December:** Home Occupation

**January:** Density and potential bonuses. Request advice from Environmental Commission.

**February:** Parking ratios and requirements

**March:** Signs

**April:** Pedestrian/Multimodal standards

**May:** Design Review Process

**June:** Overall Map Issues

**July:** Area between downtown and KSU also CBD

**August:** West Main Street

**September:** Standing Rock

**October:** Crain to main

**November:** Franklin

**December:** Plum Creek

**January:** MiddleBury

**February:** Fairchild

## Procedures for Public Comment

1. Fill out information on sign in sheet located near door.
2. Take the oath when administered at the beginning of the meeting.
3. Wait until recognized by the Chair before speaking. Refrain from applause and other outbursts.
4. Try to limit comments to three minutes. Address all comments and questions directly to the board. Generally, answers to questions raised may follow the public comment period.
5. The Zoning Code requires the following criteria to be used by the commission to make their determination. Please tailor your comments to accordingly.

### Review for permitted uses:

The Planning Commission shall conduct a Site Plan Review so that it may determine that the specific requirements of this Ordinance are being satisfied in the planning of the proposed project. The Commission may also take into account comments from the Administration or the general public in its evaluation of the project. Whenever it feels necessary, the Commission may attach conditions to the approval of a site plan in order to insure the health, safety or welfare of the public as well as the integrity of an existing neighborhood in proximity to the development.

### Review for conditional uses:

**(a) General Standards:** The Planning Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find that such use of the proposed location:

- (1) Will be harmonious with and in accordance with the general objectives or with any specific objective of the Land Use and Thoroughfare Plan (Comprehensive Development Plan) of current adoption;
- (2) Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
- (3) Will not be hazardous or disturbing to existing or future neighboring uses;
- (4) Will not be detrimental to property in the immediate vicinity or to the community as a whole;
- (5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures; or that the persons or agencies responsible for the establishment of such use shall be able to provide adequately any such service including refuse disposal; and
- (6) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets or roads.

**(b) Additional Standards For Special Zoning Permit Uses:** The Planning Commission shall review each Special Zoning Permit application for conformance to the following additional general standards:

- (1) That the proposed use will not be contrary to the public interest or injurious to nearby properties.
- (2) That the proposed use will not enlarge or encourage the development of a blighting influence.
- (3) That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation.
- (4) That all applicable regulations of this Section will be observed.

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4. Try to limit comments to three minutes. Address all comments and questions directly to the board. Generally, answers to questions raised may follow the public comment period.
5. The Zoning Code requires the following criteria to be used by the board to make their determination. Please tailor your comments to accordingly.

**(2) In carrying into effect its powers to grant or to recommend variances, the Board shall be guided by the following criteria:**

- (a) In general, the power to authorize a variance from the terms of this Zoning Ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances.
- (b) Any variance granted shall be the minimum needed to alleviate the difficulty or hardship involved.
- (c) A limitation upon the financial gain from the land in use shall not in and of itself constitute a hardship.
- (d) Any difficulty or hardship constituting the basis for a variance shall not be self-created.
- (e) Mere evidence that a variance was previously granted under similar circumstances shall not be considered sufficient grounds for granting a variance.

**(3) In every instance where the Board grants or recommends a variance, there must be a finding by the Board that:**

- (a) The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the Zoning Ordinance.
- (b) There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district. (Ord. 1990-53. Passed 8-13-90.)
- (c) The granting of such variance will not be of substantial detriment to the public interest or to adjacent property or improvements in such district in which the variance is sought, and will not materially impair the purpose of the Zoning Ordinance.

In R-4 districts:

- Section 1135.02 add *rooming, boarding and lodging houses* as a permitted use. (*should there be a maximum number of tenants?*)
- Section 1135.03(a) Minimum Lot Area add *rooming, boarding and lodging houses*
  - *up to 3 tenants 6000sf* (same as single family),
  - *4-5 tenants 10,000sf* (same as two family),
  - *6 or greater tenants “...”* (the same text as multifamily)
- Section 1135.03(b) Minimum Lot Width at Building Line add *rooming, boarding and lodging houses*
  - *up to 3 tenants 50 ft* (same as single family),
  - *4-5 tenants 75 ft* (same as two family),
  - *6 or greater tenants 100 ft* (the same as multifamily)
- Section 1135.04(c) Minimum Side Yard Width add *rooming, boarding and lodging houses*
  - *up to 3 tenants 10 ft* (same as single family),
  - *4-5 tenants 10 ft* (same as two family),
  - *6 or greater tenants “...”* (the same text as multifamily)
- An additional consideration is “open space” – currently all uses in R-4 require 30% open space including single family uses. The intent of the code, as described, is to require multifamily properties to provide open space. To this end consider amending the following sections:
  - Section 1135.03(e) Minimum usable open space : *Multifamily dwelling* – at least thirty percent (30%) of the usable lot area shall be devoted to usable open space.
  - Section 1135.03 (f) Maximum Lot Coverage: Twenty-five percent (25%). *Not more than seventy (70%) shall be covered by impermeable surfaces.*

Subsequently, special conditions for rooming, boarding and lodging houses will need to be addressed:

- Section 1171.01(11) reads “ Such uses shall be properly landscaped to be harmonious with surrounding residential uses.” Should this provision apply to all uses in the R-4 district?
  - Add section **1135.08. Landscape** - *Such uses shall be properly landscaped to be harmonious with surrounding residential uses*
- Section 1171.01(17) reads “All permitted installations shall be maintained in a neat orderly condition so as to prevent injury to any single property, any individual, or to the community in general; a bond may be required to insure that this provision will be met.” Is this already in the maintenance code? If it is part of the zoning ordinance should it apply to every use?
- Section 1171.01(21) reads “Lodging and boarding house uses shall be so designed, maintained and operated as to comply with inspection and rules of the City Board of Health and the regulations of all other applicable City codes, and to minimize possible disruptive effects on the character of adjacent and nearby properties.” These rules are already codified, do they need to be restated? Is the intent of this provision to enable sections 1111.11 and 1111.12 to additionally penalize nuisance/non-compliant properties?
- Section 1171.01(56) reads “There shall be one parking space for every person that lives in said structure of building.” This is a parking requirement, it could fit in Chapter 1167
  - Add to section 1167.05.(a) rooming, boarding and lodging houses - *one parking space for every person that lives in said structure*



Three tenants, although not defined as a single family, reasonably approximate the demand on a property that a single family might. Many of the properties in R-4 districts were originally single family and are not 100' wide. This allows for some increased use, without requiring a variance. Meanwhile, the Ohio Building Code considers a property with 6 or more tenants to be subject to the commercial code. It is an R-2 use similar to apartments, dormitories, and hotels. As such it seems reasonable to conclude that they may share the same requirements as other multifamily uses.

Making these amendments, of course, opens the door to other districts allowing rooming, boarding and lodging houses, namely C-R, R-C, and C-D. It is my opinion rooming houses are contrary to the purpose of the C-R district, and counterproductive in the other two districts. Consider the following:

- These districts are generally located on the major corridors through town, and should be supported primarily for commercial development.
- A series of narrow lots with individual drives onto primary transportation corridors is undesirable. Property consolidation and access from side streets should be encouraged.
- Allowing rooming houses greatly increases the cost of consolidating properties hindering future commercial development.
- The increased value of the rooming house is not reflected in the county auditors appraisals (see attached recent sale value vs. appraisals), so they pay property taxes on significantly lesser value than the fair market value. In addition to being undervalued, rooming houses are taxed at the residential rate (57.8 mil). Commercial property tax rates for apartments and businesses are 23% higher (71.5 mil).
- Commercial properties, including apartments, often have employees generating income tax revenue for the city. Rooming houses usually try to balance rental income with expenses and depreciation resulting in minimal tax collection by the city. When the properties are sold and capital gains are realized, the federal government receives taxes but the city does not.

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# 2007 Private Property Code Violations Summary

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This summary report was prepared by staff to track progress on City Code compliance issues in the City of Kent. This is the second year that these statistics have been analyzed so this report includes a comparison across multiple years (2006 to 2007).

The data seems to suggest that Code compliance was better in 2007 than 2006 but it's important to keep in mind that the City was without a Code Enforcement Officer for half of the year in 2007 so it is possible that fewer citations were issued due to less staff on the street rather than necessarily better compliance.

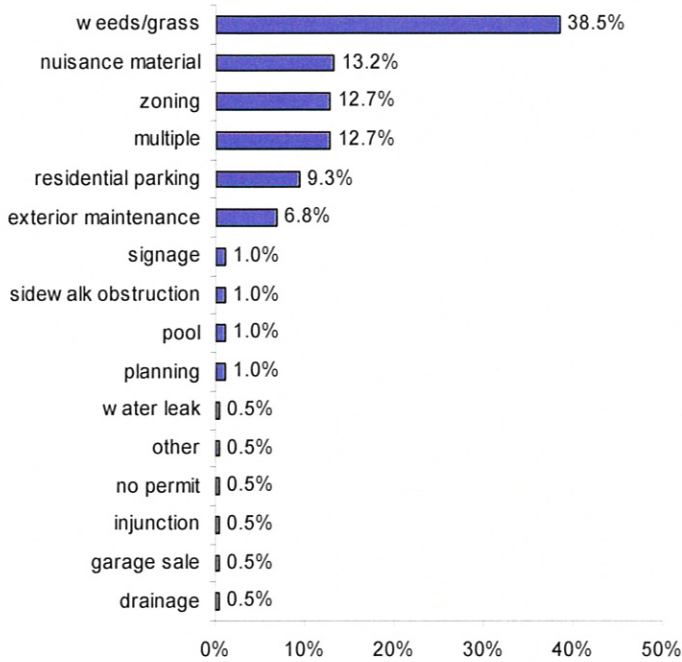
Still a few trends seem to be emerging that provide a better basis to resolve particular problem areas. A bit surprisingly owner occupied property citations surpassed rental property citations this year for the total number of citations issued – with weeds and grass problems being the most significant problem area for home owners. Likewise, for 2 years running rental properties have had the highest percentage of exterior maintenance violations.

Using the data we hope to be able to better target specific solutions to the specific problem areas in 2008.

*tall weeds and grass   nuisance material   exterior maintenance   trash and debris   zoning*

# Code Inspection Results in 2007

## Code Violation Distribution by type (2007)



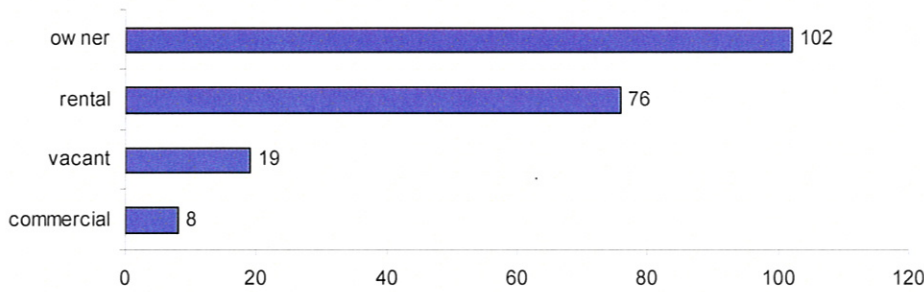
### 2007 Summary

1 out of 2.6 code complaints in 2007 were in response to high weeds and grass

The top 5 most common complaints made up 87% of all complaints

The average City response time from complaint to inspection was 1.32 days

## Total Code Violations by Property Type

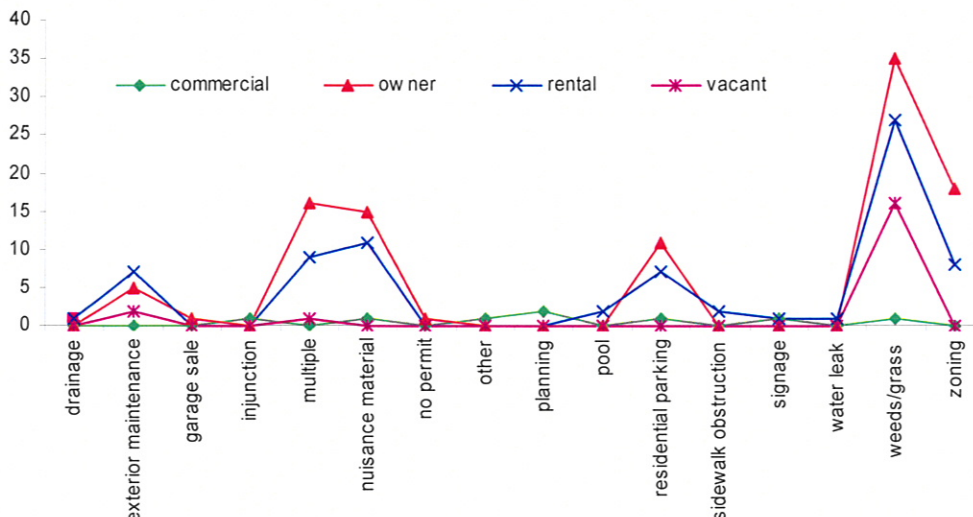


### 2007 Summary

50% of all violations occurred at owner occupied properties

Owner occupied homes had the highest number of violations for tall weeds and grass than any other category

## Code Violations by Property Type

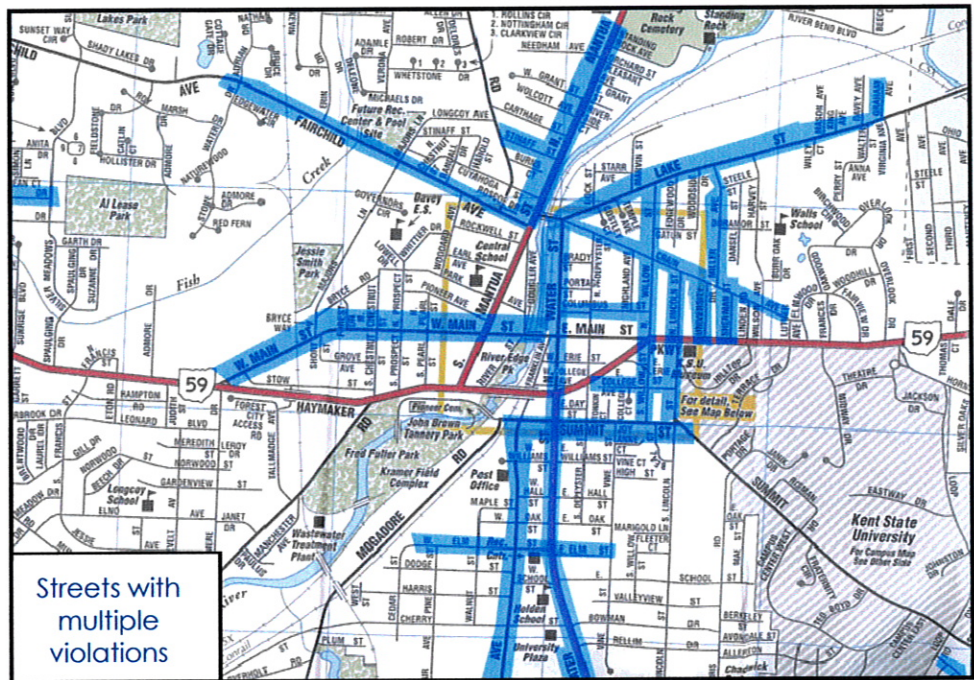


Rental properties had the highest incidence of exterior maintenance violations

# TOP 20 Streets for Code Violations in 2007

The following 20 streets are listed in descending order for the most violations in 2007:

STREET	# VIOLATIONS
Crain	21
Water	14
Harris	13
Franklin	10
Lake	8
Main	8
Miller	7
Sherman	6
Fairchild	5
Summit	5
Suzanne	5
Willow	5
Windward	5
Lincoln	4
Silver	4
Meadows	3
Bruce	3
Francis	3
Harvey	3
Leonard	3
Morris	3



## Street Summary

A total of 74 streets had violations in 2007

The top 20 streets accounted for 66% of the total violations

53% of the streets had only one violation

The map illustrates streets with multiple violations. It's important to remember that the inspection process is complaint based so heavily trafficked streets are likely to have a disproportionately high number of violations called in.

## Property Summary

205 violation notices were issued in 2007

166 different property owners received violation notices

27 properties or 13% of properties (1 out of 8) were repeat offenders in 2007

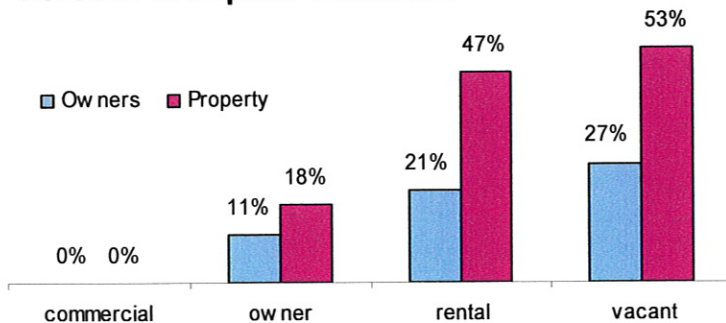
The single owner with the most violations had 6 in the course of the 12 month period

Overall 11 owners had violations at multiple properties (6%)

Only 3 vacant properties were repeat offenders in 2007

1 out of 5 rental property owners were repeat offenders

## Percent of Repeat Violations



# Code Inspection Results 2006 v. 2007

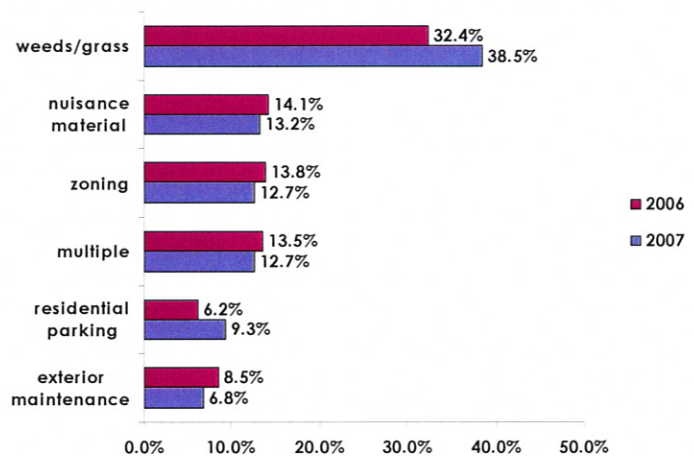
## Code Violation Distribution by Type (2006 v. 2007)

4 out of 5 of the top violation types remained the same

There were more weed/grass complaints in 2007 than 2006

Nuisance material, zoning, and multiple violations all decreased in 2007

Residential parking violation complaints increased over 3% in 2007



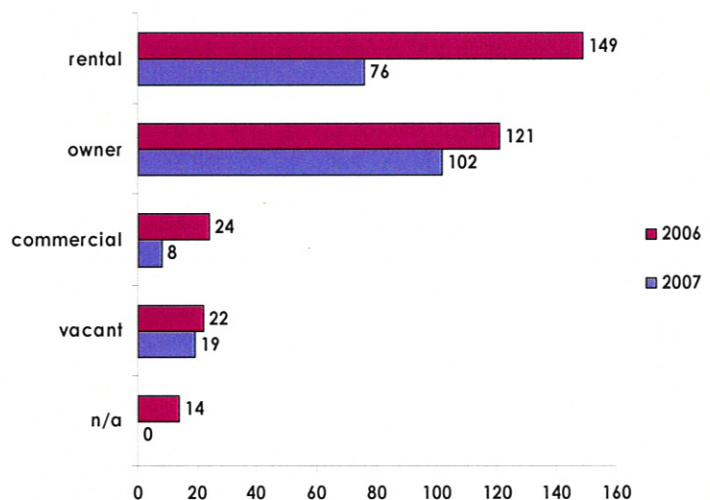
## Code Violations by Property Type (2006 v. 2007)

Total rental violations decreased by 73 incidents or 49%

Total owner violations decreased by 19 incidents or 16% but they became the highest type of violator in 2007 (rental violations were highest in 2006)

For 2 straight years owner occupied houses had the highest number of weed/grass violations

For 2 straight years rentals had the highest number of exterior maintenance violations



## Street Violation Summary (2006 v. 2007)

9 out of 20 streets with the highest violations changed from 2006 to 2007

Only 2 streets out of the top 5 were the same in 2006 and 2007 (Water Street and Franklin Avenue)

In 2007 the number of streets with violations on them decreased by 23 incidents or 24%

Over half of the streets in 2007 only had one violation on them as compared to 44% in 2006

## Property Violation Summary (2006 v. 2007)

Total violations by property address decreased by 129 incidents or 39%

Total number of property owners cited decreased by 88 or 35%

The incidence of repeat offender properties decreased by 50%

Vacant properties remained the highest and commercial properties remained the lowest for repeat violations

# Code Inspection Duties in Kent

The City's code inspection functions are decentralized with responsibilities spread out among several city departments:

- The Health Department manages the enforcement of the state health code, e.g., food service, swimming pools, licensed boarding houses, trash.
- The Fire Department has a range of building inspection duties related to upholding the state fire code, e.g., electrical, ingress/egress, etc.
- The Police Department handles a number of nuisance activities such as enforcement of the noise ordinance and nuisance parties.
- The Community Development Department performs all inspections related to construction activity, administers the zoning code, and responds to a number of exterior maintenance types of complaints, e.g., tall weeds and grass, graffiti, fencing, etc.

## Code Inspection Policy

The City's code inspection efforts are governed by national/state laws and adopted City policy that seeks to protect public health and safety. Where national/state laws establish standards, e.g., building code, fire code, etc., the City ensures private activities comply with those standards through routine permitting, licensing and inspection procedures.

In addition, the City has adopted a range of property requirements that establish local standards for maintenance of private property, e.g., tall weeds and grass, exterior maintenance, etc. These requirements were created to as a means to uphold the community's expectations for their investment in their homes, businesses and quality of life enjoyed in the community.

Clean, well-maintained neighborhoods do much more than just make Kent a pleasant place to live. Neighborhoods whose homeowners perform routine, basic maintenance on their structures and yards consistently enjoy lower crime rates and higher property values.

## Code Inspection Practices

For those activities that require permits and licenses, the City has procedures in place that govern the necessary application, notification, and inspection of regulated activities.

For the local code matters, the City has historically used a complaint driven practice, whereby inspections are performed only in response to a complaint. This practice was in part due to the lack of staffing available to patrol neighborhoods and seek out violations fairly, but it was also a policy established by City Council in an effort to maintain a more customer-friendly community.

With the hiring of the new, full-time Code Enforcement Officer in 2008 the City has been able to take a more pro-active approach to Code matters while still maintaining good customer service.