

ORDINANCE NO. 24-01

AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION) ESTABLISHING CHAPTER 2-16 ENTITLED “ESTABLISHMENT OF ADMINISTRATIVE CODE ENFORCEMENT PROGRAM,” AND AMENDING VARIOUS CHAPTERS OF THE CLINTON MUNICIPAL CODE RELATED TO ADMINISTRATIVE CODE ENFORCEMENT POLICIES AND PROCEDURES.

WHEREAS, Clinton City’s code enforcement and compliance efforts are largely criminal in nature; and

WHEREAS, Clinton City desires a change to an administrative code enforcement program to allow for civil enforcement of City codes in a more effective manner; and

WHEREAS, Clinton City desires to resolve code violations administratively for more swift and efficient compliance reducing the need for lengthy legal procedures; and

WHEREAS, This administrative code enforcement ordinance emphasizes cooperation encouraging property owners to work with the City in resolving violations to foster a more collaborative community spirit.

NOW

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CLINTON CITY, DAVIS COUNTY, STATE OF UTAH:

BY MOTION The Clinton City Council voted to adopt this Ordinance.

SECTION 1. Enactment

Title 1 General Provisions, Title 5 Building Regulations, Title 7 Criminal, Title 10 Fire Prevention, Title 11 Firearms, Title 13 Garbage and Waste, Title 14 Health, Title 15 Licenses, Title 16 Motor Vehicles, Parking and Traffic, Title 17 Noise, Title 18 Nuisances, Title 19 Public Parks and Trails, Title 23 Sewer, Stormwater, and Flood Irrigation Systems, Title 24 Signs and Advertising Devices, Title 25 Streets, Sidewalks and Rights-Of-Way, Title 26 Subdivision Standards, Title 27 Water, and Title 28 Zoning Ordinance shall be amended as described in Exhibit A.

SECTION 2. Enactment

Title 2 shall be amended by adding Chapter 2-16 Establishment of Administrative Code Enforcement Program as described in Exhibit B

SECTION 4. Severability. If any provision of this Ordinance is declared invalid for any reason, the remaining provisions shall remain in effect.

SECTION 5. Effective date. This ordinance shall be recorded and become effective upon the date of posting indicated below.

PASSED AND ORDERED RECORDED AND POSTED by the Council of Clinton City, Utah, this 14th day of May 2024.

May 7, 2024

NOTICE PUBLISHED

ATTEST:



BRANDON STANGER
MAYOR



LISA TITENSOR
CITY RECORDER



Posted: 20/13/24

Exhibit A

Title 1 General Provisions

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1-1-7 Misdemeanors – General Penalty and Continuing Violation

1. All misdemeanors ~~and infractions referenced~~ in this Code of Clinton City, including the Zoning and Subdivision Ordinances, or any other act declared to be unlawful or an offense in violation of ordinance, law, rule, or regulation of the City, shall be Class C misdemeanors unless otherwise classified in the applicable city ordinance or Utah Code Annotated.

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1-1-8 Definitions and Rules of Construction

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- **“Time”- How Computed:** The time within which an act is to be done as provided in this code or in any resolution or order of this municipality, when expressed in days, shall be determined by excluding the first day and including the last day, except if the last day be a Saturday, Sunday, or a holiday, then the last day shall be the next business day following such Saturday, Sunday, or holiday ~~which is not a Sunday or holiday~~. When time is expressed in hours, Saturday, Sunday, and all holidays shall be excluded.

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Title 5 Building Regulations

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5-4-3 Unlawful Continuance

- Any person who shall continue any work after a stop work order has been posted, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this ordinance. Violations may be prosecuted by the City as a civil violation and/or, which is considered a class “C” misdemeanor.

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~~5-10-3 Enforcement~~

- ~~Enforcement and referral to the courts may be through means of a “Fix-it-Ticket” as outlined in the Code of Revised Ordinances of Clinton City, a Stop Work Order, or written referral or any combination of these means.~~

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Title 7 Criminal

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7-1-6 Criminal Penalty

- A. Criminal Penalty for Violation of Ordinance: Unless otherwise specifically authorized by State Statute, the City Council may provide a criminal penalty for the violation of any City ordinance by a fine not to exceed the maximum Class B misdemeanor fine under Utah Code Annotated Section 76-3-301, or by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment.
- B. Term of Imprisonment for Misdemeanors: A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:
 - 1. In the case of a Class B misdemeanor, for a term not exceeding six (6) months.
 - 2. In the case of a Class C misdemeanor, for a term not exceeding ninety (90) days.
- C. Infractions:
 - 1. A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture, and disqualification, or any combination.
 - 2. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a Class C misdemeanor.
- D. Fines of Persons. A person convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed:
 - 1. One thousand dollars (\$1,000) when the conviction is of a Class B misdemeanor conviction; and
 - 2. Seven hundred fifty dollars (\$750) when the conviction is of a Class C misdemeanor conviction or infraction conviction.
- E. Fine of Corporations: The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in the Code, or the ordinances of the City, or for an offense defined outside of this Code over which this City has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount fixed by the court, not exceeding:
 - 1. Five thousand dollars (\$5,000) when the conviction is for a Class B misdemeanor conviction; and
 - 2. One thousand dollars (\$1,000) when the conviction is for a Class C misdemeanor conviction or for an infraction conviction.

7-1-7 Offenses Designated-Classified; and Sentencing

- A. Sentencing:
 - 1. A person adjudged guilty of an offense under this Code or the ordinances of this City shall be sentenced in accordance with the provisions of this Chapter.
 - 2. Ordinances enacted after the effective date of this Code which involve an offense shall be classified for sentencing purposes in accordance with this Chapter, unless otherwise expressly provided.
- B. Designation of Offenses: Offenses are designated as misdemeanors or infractions.
- C. Misdemeanors Classified:
 - 1. Misdemeanors are classified into two (2) categories:
 - a. Class B misdemeanors; and
 - b. Class C misdemeanors.

2. An offense designated as a misdemeanor or any act prohibited or declared to be unlawful in this Code or any ordinance of this City when no other specification as to punishment or category is made, shall be a Class B misdemeanor.

D. Infractions:

1. Infractions are not classified.

2. Any offense which is made an infraction in this Code or other ordinances of this City, or which is expressly designated an infraction and any offense designated by this Code or other ordinances of this City which is not designated as a misdemeanor and for which no penalty is specified is an infraction.

E. Continuing Violation: In all instances where the violation of this Code or any ordinance enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur.

7-1-8 Administrative Remedies

The City has sole discretion in deciding whether to enforce code violations through civil or criminal means, or both. The enactment of this Chapter shall in no way interfere with the City's right to enforce the violation of City ordinances civilly through its Administrative Code Enforcement program. The City may use any of the remedies available under the law in both civil and criminal prosecution of code violations.

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Title 10 Fire Prevention

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10-5-5 Penalty for violations

- Unless otherwise provided, a violation of the provisions of this Fire Prevention Title or failure to comply with a lawful order made per this Title, or constructing or building in violation of any detailed statement or specification or plan submitted and approved per this Title, or any certificate or permit issued as outlined in this Title shall be a Class "B" misdemeanor. Each separate violation or noncompliance shall be a separate offense and any defect or violation requiring correction or remedy which is not corrected or remedied within ~~ten (10)~~ fourteen (14) calendar days or sooner if determined to be a matter of public safety by the Fire Chief, shall be a separate offense.

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Title 13 Garbage & Waste

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13-3-11 Abatement of Nuisance

- Any accumulation of garbage or waste ~~in violation of this Title~~ or other action not in compliance with the requirements set forth here in is a violation of this Title. ~~†~~ The responsible party, owner or lessee shall, at his own expense, correct the offending condition upon notice by the City as established in 10-11-4 of the Utah State Code Annotated. If the owner or lessee fails to comply with this Section within the time set in the notice from the City, ~~the Code Enforcement Officer~~

~~shall so report to the Manager and the Manager may instruct the Code Enforcement Officer the City may to abate the nuisance as a hazardous or inconvenient condition~~ in the manner provided by law.

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Title 15 Licenses

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15-3-54 Penalty for Violation

1. General Provision. A violation of this Chapter shall be a class ~~"B"~~ C misdemeanor, unless otherwise established by state law.
2. Enhancement for Licensees. This Subsection applies to any conviction of class ~~"B"~~ C misdemeanors, or more serious classification of offenses, under this Chapter or similar state or county laws.

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Title 16 Motor Vehicles, Parking and Traffic

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16-4-4 Penalty for Violations

- (1) Non Parking Violations. Any person violating any of the provisions of the City traffic code is guilty of a Class ~~"C"~~ misdemeanor, unless designated otherwise, ~~and upon conviction shall be punishable as a Class "C" misdemeanor.~~

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Title 18 Nuisances

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18-1-6 Inspector

- ~~1. The position of Inspector is hereby created for the purpose of administering the provisions of this Title and the powers delegated to it by laws and statutes relating to nuisances and obnoxious substance in the City, subject to such control, assignment and review as the City Manager may from time to time direct.~~
- ~~2. The City Manager may appoint the Inspector and Assistant Inspectors as needed. The powers and duties of the assistants shall be the same as those of the Inspector unless otherwise specified by the City Manager.~~

18-1-7 Duties Of Inspector

- ~~1. The Inspector is hereby authorized and directed to:
 - a. Perform all functions necessary to enforce the provisions of this code;~~

- ~~b. Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether they are in compliance with all provisions of this code as outlined in this chapter.~~
- ~~2. If the Inspector determines that any of the conditions listed in this chapter exist on any property within the limits of Clinton City, the Inspector shall:~~
 - ~~a. Ascertain the names of the owners and occupants of the premises where the conditions exist, together with a description of the premises; and may either,~~
 - ~~b. Issue a letter of notification to the owner or occupant of the property identifying the conditions violating this chapter and give notice that they must be corrected within the next fourteen (14) calendar days, as dated in letter. The notice shall also state that failure to comply with this request shall result in the issuance of a citation, which requires accountability to the Clinton Justice Court; or~~
 - ~~c. Issue a citation to the owner or occupant of the property by either serving the citation personally upon the owner or occupant, or mailing the citation registered mail, postage prepaid, addressed to the owner or occupant at his or her last known address as disclosed by the records of the County Assessor or as otherwise ascertained. In the event the inspector elects to mail the notice, it shall be deemed served when it is sent by registered mail, postage prepaid. In the event the notice is returned unaccepted, the notice shall be turned over to the Clinton City Prosecutor for prosecution.~~
 - ~~d. The citation shall:~~
 - ~~i. Require the person to whom it is sent to correct the violation within the time period the Inspector shall designate, which shall be not less than ten (10) days, nor greater than twenty (20) days and shall be known as the correction period, except as noted in Subsection 18-1-8(3) of this code. The time given to remedy the violation shall begin to run on the day following the day on which the citation is issued.~~
 - ~~ii. Inform the person to whom it is sent to appear in Justice Court of Clinton, normally within five (5) days following the end of the correction period. This shall be known as the appearance date.~~
 - ~~iii. Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.~~
 - ~~iv. Inform the person to whom the citation is issued that if compliance is accomplished within the correction period and is fully remedied as outlined in Section 18-1-7, the citation will be signed off by the Inspector and must be returned by the cited person to the Justice Court of Clinton by or before the appearance date.~~
 - ~~v. Inform the person that in the event a criminal prosecution is pursued, the prosecution shall be for a Class C Misdemeanor.~~

18-1-8 Compliance And Reinspection

In the event the person complies with the notice of the Inspector within the correction period, the person shall notify the Inspector a minimum of 48 hours (not including weekends or holidays) prior to the end of the correction period. A date and time for inspection prior to the appearance date shall be assigned and the Inspector shall again inspect the property.

- ~~1. If the property is in compliance with this chapter, the Inspector shall sign off compliance on the cited person's copy of the citation. The person receiving the citation must take the signed citation~~

to the Clinton Justice Court on or before the appearance date indicated on the citation, in order to have the charges dismissed. Failure to perform this step will result in prosecution by the Court.

- ~~2. In the event the person in violation has not received a reinspection indicating compliance with this chapter prior to the end of the *correction period*, criminal prosecution of the matter shall proceed.~~
- ~~3. In the event that the violation is an immediate threat to the public health, safety or welfare, the Inspector may require immediate correction or up to a period of 48 hours. Examples of these types of violations may be found in 18-1-3 of this chapter. If this violation is not corrected and reinspection requested within the required time, the citation will be referred directly to the Clinton City Prosecutor.~~
- ~~4. In the event that the violation listed on the citation is not corrected within the appropriate time period, whether it be the normal or immediate correction time period, the City Manager may order the Public Works Director to abate or procure the abatement of the violation. Should the City abate the violation, the cited person shall still face criminal prosecution and shall be required to appear before the Justice Court of Clinton on the designated appearance date. The actual expenses and the appointed administrative fee for the City abating the violation shall be collected from the person, firm or corporation in violation of this chapter, by the Justice Court of Clinton and be added to any fine and penalties set by that court. The City may place a lien against the property in accordance with Utah Code chapter 10-11.~~

18-1-9 Penalties For Failure To Comply

Any owner, occupant or person having an interest in, or control over, the property to which a citation is issued under the provisions of this chapter, who fails to comply with a citation from the Inspector or order given pursuant to this chapter shall be guilty of a Class C Misdemeanor.

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Title 19 Public Parks and Trails

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19-4-4 Penalty for Violations

- Any person or legal entity violating any of the provisions of this Title or committing any acts prohibited by this Title shall be deemed ~~in violation~~ guilty of a Class "C" misdemeanor and shall be subject to an order of restitution for any damage, cleanup, or expense borne by the City.

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Title 23 Sewer, Stormwater, and Flood Irrigation Systems

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23-11-3 Emergency Enforcement

- In the event that any violations threaten the protection of life, property, or natural resources it shall be corrected and mitigated immediately upon verbal or written notice. Violations not corrected and mitigated immediately will be ~~referred directly to the Clinton City Prosecutor~~ enforced by the provisions of this code.

23-11-4 Enforcement

The City shall have the authority to issue warnings, notices of violation, stop work orders, and impose re-inspection and penalty fees by the procedures described in this Chapter and as adopted by the City's Consolidated Fee Schedule.

1. If the Inspector determines that any Land Disturbing Activities are in violation of City, County, State, or Federal codes on any property within the limits of Clinton City the Inspector shall:
 - a. Ascertain the names of the owner, the owner's representative or occupant of the property where the conditions exist, together with a description of the property;
 - b. Ascertain the names of the persons conducting operations on the property, in violation of this code and associated information related to the permit, if issued;
 - c. Issue a written Corrective Action Inspection Report identifying the conditions violating this Title and give notice that they must be corrected within the time determined by the Inspector.
 - d. Correction period for compliance shall be not more than seven (7) days ~~fourteen (14) days~~. Violations involving storm water the corrective period shall not be more than three (3) days ~~seven (7) days~~.
The time given to remedy the violation shall begin the day after the warning is issued.

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~~24-9-2 Procedure For Recoup of City Funds~~

- ~~1. Removal of signs as outlined in § 24-9-1(8) will be immediate and notification shall be as outlined in § 24-9-1(3)(a) and 24-9-1(3)(b) and if the notified party wishes to redeem the sign a fee will be imposed as set by Council, and published in the Consolidated Fee Schedule. Signs will be retained for the period of one week from the time of notification.~~
- ~~2. The Director may cause the removal of an illegal sign, not falling into the category outlined in § (1) above in cases of emergency, or for failure to comply with this Title or a written order of removal or repair. After removal or demolition of the sign, a notice shall be mailed to the property owner stating the nature of the work, the date on which it was performed and demanding payment of the costs as certified by the Director together with an administrative fee as set by the City Council and published in the Consolidated Fee Schedule.~~
- ~~3. If the amount specified in the notice is not paid within thirty (30) days of the notice the City shall file a tax lien with the Davis County Assessor's Office against the property for the costs outlined in § (2) above.~~
- ~~4. The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon unless facts to the contrary are brought to the attention of the Director, as in the case of a leased sign.~~
- ~~5. For purposes of removal, the definition of sign shall include all sign embellishments and structures designed specifically to support the sign.~~

Title 25 Streets, Sidewalks, and Rights-Of-Way

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25-15-9 Enforcement – Violation – Penalty – Collection

1. Enforcement of this chapter shall be in accordance with Title 2, Chapter 16 ~~Title 18, Chapter 18-1.~~
2. Any violation of this chapter shall be a Class C misdemeanor.
- ~~3. For violation of this chapter the cited person shall face criminal prosecution and shall be required to appear before the Justice Court of Clinton.~~
- ~~4.3.~~ In the event that the violation listed on the citation is not corrected within the appropriate time period, whether it be the normal or immediate correction time period, the Manager may:
 - a. Order the Public Works Director to abate the violation; or,
 - b. Order the Enforcement Officer to contract with an independent agent to abate the violation.
- ~~5. Should the City abate the violation, the actual expenses and the appointed administrative fee for the City abating the violation shall be collected from the person by the Justice Court of Clinton and be added to any fine and penalties set by that court.~~
- ~~6.4. The City may elect to refer the matter of payment to the County Treasurer for inclusion in the tax notice of the property owner as established in Utah State Code §10-11-3.~~

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Title 28 Zoning Ordinance

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28-1-5 Building Permit Required

- (1) Structures constructed without a Building Permit or Compliance Permit are declared a Nuisance. Enforcement of the Nuisance may be accomplished as follows:
 - a. Stop Work Order and order to remove the structure as established in the applicable building codes adopted by the State or City.
 - b. Issuance of a citation as outlined in ~~18-1-7~~ Title 2, Chapter 16 of the Clinton City Code of Ordinances.
 - c. Issuance and recording of a Certificate of Non-Compliance with the Davis County Recorder's Office against the property outlining the violation(s) and intent of the Certificate is to notify all potential parties interested in the property that the violation(s) must be corrected for the property to be in compliance with the Clinton City Code.

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28-1-13 ~~Violation a Misdemeanor~~ Violation; Penalty

~~Any person, firm, or corporation, whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine or not more than two hundred ninety-nine dollars or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment. Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during which any portion of any violation of this Ordinance is committed, maintained, continued, or permitted by such person, firm or corporation, and shall be punishable as herein provided.~~

Any person violating any of the provisions of this title shall be guilty of a Class C misdemeanor or a comparable civil penalty. Upon conviction of a Class C misdemeanor by a court of competent

jurisdiction, the person so convicted shall be subject to penalty as provided in Title 2, Chapter 16 of this Code.

The City has sole discretion in deciding whether to enforce violations of this title through civil or criminal means. The City may enforce the violation of any provision of this title criminally as provided in Title 7, Chapter 1 of this Code, or civilly through its Administrative Code Enforcement program as provided in Title 2, Chapter 16. The City may use any of the remedies available under the law in both civil and criminal prosecution of violations of this title.

Any ongoing violation of the provisions of this title shall be considered a separate offense for each and every day during which any portion of any violation of this title is committed or continued by such person and shall be punishable as herein provided.

Exhibit B

2-16 Establishment of Administrative Code Enforcement Program

2-16-1 Establishment of Administrative Code Enforcement Program

There is hereby established in Clinton City the Administrative Code Enforcement Program (“ACE Program”). The procedures to be followed in the administration of this program are located in Title 2, Chapter 16 of the City Code. The ACE Program may be used by the City for the administrative enforcement of City Code violations in accordance with the procedures outlined in this Chapter.

2-16-2 General Provisions

This Chapter shall be known as “Administrative Code Enforcement.” This Chapter shall also be known as Title 2, Chapter 16 of the Clinton City Code. It may be cited and pleaded under either designation.

- A. Declaration of Purpose. The City Council of Clinton City finds that the enforcement of the Clinton City Code throughout Clinton City is an important public service. Code enforcement is vital to the protection of the public’s health, safety, welfare, and quality of life. A comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gaining compliance with City ordinances.
- B. Scope. The provisions of this Chapter may be applied to all violations of the City Code. The provisions of this Chapter do not invalidate any other title, chapter, or ordinance, but shall be read in conjunction with those titles, chapters, and ordinances as an additional remedy available for enforcement of those ordinances.
Criminal Prosecution Right. The City has sole discretion in deciding whether to file a civil or criminal case for the violation of any of its ordinances. The enactment of this administrative remedy shall in no way interfere with the City’s right to prosecute City ordinance violations as criminal offenses. The City may use any of the remedies available under the law in both civil and criminal prosecution.
- C. No Mandatory Duty - Civil Liability. It is the intent of the City Council that in establishing performance standards or establishing the authority to act by a City officer or employee, these standards shall not be construed as creating a mandatory duty if the officer or employee fails to perform his or her directed duty or duties.
- D. Acts Include Causing, Aiding, or Abetting. Whenever any act or omission is made unlawful in this Chapter, it shall include causing, permitting, aiding, or abetting such act or omission.
- E. Service of Process.
 1. Whenever service is required to be given under this Chapter for enforcement purposes, a Code Enforcement Officer or the Code Enforcement Coordinator (or designees) shall serve the document by any of the following methods, unless otherwise provided:
 - a. Regular mail, postage prepaid, to the last known address of the owner(s) or other responsible person(s);
 - b. Posting the notice conspicuously on or in front of the property. If not inhabited, the notice must also be mailed as described in (a) above;
 - c. Personal service pursuant to Rule 4 of the *Utah Rules of Civil Procedure*.
 2. For violations of Title 28, or any land use ordinance as defined in Utah Code Annotated Section 10-9a-102, whenever service is required to be given under this Title for enforcement purposes, the document shall be served in accordance with Utah Code Annotated § 10-9a-803, as amended, which requires written notice, by mail or hand

delivery, of each ordinance violation to the address of the owner of record on file in the office of the county recorder or person designated in writing by the owner of record as the owner's agent for the purpose of receiving notice of an ordinance violation.

a. Service by regular mail in the manner described above shall be deemed served three business days, not including the day it was mailed, after the date of mailing.

b. If service complies with the requirements of this Section, it shall be deemed a valid service even if a party claims not to have received the service and it shall not affect the validity of any proceedings taken under this Chapter.

c. The failure to serve all responsible person(s), if one responsible person is served, shall not affect the validity of any proceedings.

F. Constructive Notice of Recorded Documents. Whenever a document is recorded with the County Recorder as authorized or required by this Chapter or applicable state codes, recordation shall provide constructive notice of the information contained in the recorded documents.

2-16-3 Definitions

The following words and phrases, whenever used in this Chapter, shall be construed as defined in this Section, unless a different meaning is specifically defined elsewhere in this Chapter and specifically stated to apply:

Abatement: Any action the City may take on public or private property and any adjacent property as may be necessary to remove or alleviate a violation, including demolition, removal, repair, boarding, and securing or replacement of property.

Administrative Citation: A citation issued to a responsible person, which gives notice of a violation and an immediate civil fee for such violation. Administrative Citations are typically used for minor violations.

City: The area within the territorial city limits of Clinton City.

City Code: Any ordinance passed by the City Council and any other title, chapter, ordinance, regulation, or amendment lawfully codified pursuant to Utah law including Utah Code Annotated § 10-3-707.

City Council: "City Council" means the City Council of Clinton City.

Code Enforcement Coordinator: The person who has been designated by the City Manager of Clinton City to coordinate and schedule hearings, mail out notices of hearings, send out notices of costs and itemized bills, and perform other duties as specified in this Chapter.

Code Enforcement Officer: Any person designated by the City Manager with the responsibility to enforce the City Code and ordinances passed by the City Council and who performs the duties specified herein. The Code Enforcement Officer may or may not be a member of the Clinton City Police Department. Code Enforcement Officers include the City Manager, City Building Official, Public Works Director, Community Development Director, City Engineer, City Fire Chief, City Police Chief, and their designees.

Code Enforcement Performance Bond: A bond posted by a responsible person to ensure compliance with the City Code, applicable state law, a judicial action, or a Hearing Officer Order.

Code Enforcement Tax Lien: A lien recorded to collect outstanding civil penalties, administrative fees, and costs.

Financial Institution: Any entity that holds a recorded mortgage or deed of trust on a property.

Good Cause: Incapacitating illness, death, lack of proper notice, unavailability due to unavoidable, unpreventable, or extenuating emergency or circumstance, imminent and irreparable injury, and acts of nature adverse to performing required acts.

Hearing Officer: The Hearing Officer presiding over the Administrative Code Enforcement Program established pursuant to Title 2, Chapter 16 of the City Code.

Hearing Officer Order: An order issued by a Hearing Officer. The order may include an order to abate the violation, pay civil penalties and administrative costs, or take any other action as authorized or required by this Chapter and City ordinances.

Imminent Life or Safety Hazard: Any condition that creates a present, extreme, and immediate danger to life, property, health, or public safety.

Legal Interest: Any interest that is represented by a document, such as a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien, or other similar instrument that is recorded with the County Recorder.

Notice of Compliance: A document issued by the City representing that a property complies with the requirements outlined in a notice of violation, administrative citation, or Hearing Officer Order.

Notice of Satisfaction: A document or form that indicates that all outstanding civil penalties and costs have been either paid in full, or that the City has negotiated an agreed amount, or that a subsequent administrative or judicial decision has resolved the outstanding debt. In addition to the satisfaction of the financial debt, the property must also be in compliance with the requirements outlined in the notice of violation.

Notice of Violation: A written notice prepared by a Code Enforcement Officer that informs a responsible person of code violations and orders them to take certain steps to correct the violations.

Property Owner: The owner of real property based on the county recorder's records.

Public Nuisance: Any condition caused, maintained, or permitted to exist that constitutes a threat to the public's health, safety, and welfare, or that significantly obstructs, injures, or interferes with the reasonable or free use of property in a neighborhood or community or by any considerable number of persons. Also has the same meaning as set forth in Clinton City Code, the Utah Code, or Utah common law.

Responsible Person: A person including the property owner and any person or entity, whether as owner, agent, or occupant, who commits, aids in committing, contributes to, causes, supports, retains, or permits a City Code violation in the City, regardless of whether that violation occurs on real property. Every successive owner or tenant of a property or premises who fails to correct a City Code violation upon or in the use of property or premises caused by a former owner or tenant is also a responsible person. In cases where there is more than one responsible person, the City may proceed against one, some, or all of them.

Substantial Evidence: Relevant, reliable, factual, and credible evidence that is sufficient to convince a reasonable mind that a violation of the City Code has been committed. Substantial evidence does not mean that all or the majority of the evidence is in support of the decision made.

Written: Includes handwritten, typewritten, photocopied, computer printed, or facsimile.

2-16-4 General Authority and Offenses

- A. General Enforcement Authority.
 - 1. Whenever a Code Enforcement Officer finds that a violation of the City Code or City ordinances has occurred or continues to exist, the appropriate administrative enforcement procedure may be used as outlined in this Chapter.
 - 2. So long as authorized in this Chapter, a Code Enforcement Officer has the authority and power necessary to investigate and to take authorized measures to secure compliance with the provisions of the City Code and City ordinances. These powers may include the power to issue notices of violation and administrative citations, inspect public and private property, abate violations on public and private property, and use whatever judicial and administrative remedies are available under the City Code or applicable state law.
- B. Adoption of Policy and Procedures. The Hearing Officer is authorized to develop policies and procedures relating to the hearing procedures, scope of hearings, and subpoena powers subject to the requirements of this Chapter, City Code, and state law. The City Council shall determine other matters relating to the Administrative Code Enforcement Hearing Program.
- C. Authority to Inspect.
 - 1. A Code Enforcement Officer is authorized to enter upon property, within constitutional and legal requirements, to ascertain whether the provisions of the City Code or City ordinances are being obeyed and to make any examinations and surveys as may be necessary in the performance of the enforcement duties. This may include the taking of photographs, samples, or other physical evidence.
 - 2. All inspections, entries, examinations, and surveys shall be done in a reasonable manner based upon cause. Except as otherwise authorized in this Chapter, if the responsible person refuses to allow a Code Enforcement Officer to enter the property, then the Code Enforcement Officer shall obtain a search warrant or other judicial order.
- D. Power to Cite. Each Code Enforcement Officer is authorized to cite any person whenever there is substantial evidence to believe that the person has committed a violation of the City Code or City ordinances.
- E. False Information or Refusal Prohibited. It shall be unlawful for any person to willfully make a false statement or refuse to give his or her name or address with intent to deceive or interfere with a city employee when in the performance of his or her official duties under the provisions of this Chapter.
- F. Failure to Obey a Subpoena. It is unlawful for any person to refuse or fail to obey a subpoena issued for an administrative code enforcement hearing. Failure to obey a subpoena constitutes contempt and may be prosecuted as an infraction.

2-16-5 Administrative Code Enforcement Procedures

- A. Authority. Any condition caused, maintained, or permitted to exist in violation of any provisions of the City Code or City ordinances that constitutes a violation may be abated by the City pursuant to the procedures set forth in this Chapter.
- B. Notice of Violation.
 - 1. Whenever a Code Enforcement Officer determines that a violation of the City Code or City ordinances has occurred or continues to exist, the Code Enforcement Officer may choose to proceed under these administrative abatement procedures.

2. If the administrative abatement procedure is used, a notice of violation shall be issued to the responsible person(s). The notice of violation shall include the following information:
 - a. Name of responsible person(s);
 - b. Street address or location of violation;
 - c. Date violation observed;
 - d. All codes or ordinances violated and an explanation as to how the code or ordinance was violated;
 - e. A statement explaining the type of remedial action required to permanently correct outstanding violations, which may include corrections, repairs, demolition, removal, or other appropriate action;
 - f. Specific date to correct the violations listed in the notice of violation, which date shall be at least fourteen (14) calendar days from the date of service, unless specified elsewhere in Clinton City Code, such as in 23-11-4 which outlines the correction periods for violations involving sewer, stormwater, or flood irrigation systems.
 - g. Explanation of the consequences if the responsible person fails to comply with the terms and deadlines as prescribed in the notice of violation, which may include criminal prosecution, civil penalties, administrative citations, revocation of permits, recordation of the notice of violation on the property, withholding of future municipal permits, abatement of the violation, costs, administrative fees, and any other legal remedies;
 - h. A statement that civil penalties will begin to accrue or be imposed immediately on expiration of the date to correct violations;
 - i. The amount of the civil penalty on each violation and a statement as to whether the penalty will accrue daily until the property is brought into compliance;
 - j. That only one notice of violation is required for any 12-month period, and that civil penalties or fines will begin or be imposed immediately upon any subsequent violations of the notice; and
 - k. Procedures to request a hearing as provided in this Chapter and consequences for failure to request one.
 3. The responsible person may request a hearing on renewed violations by following the same procedure as provided for in the original notice.
 4. The notice of violation shall be served by one of the methods of service listed in this Chapter.
 5. More than one notice of violation may be issued against the same responsible person if it encompasses different dates or different violations.
- C. Failure to Bring Property into Compliance. If the responsible person fails to bring a violation into compliance within the time specified in the Notice of Violation, civil penalties as provided in this Chapter shall be owed to the City.
- D. Inspection.
1. It shall be the duty of the responsible person served with a Notice of Violation to request an inspection when his or her property has been brought into compliance. It is prima facie evidence that the violation remains on the property if no inspection is requested.

2. Civil penalties accumulate daily until the property has been inspected and a notice of compliance is issued.
 3. Reinspection fees shall be assessed if more than one inspection is necessary.
- E. Abatement Of Violation.
1. Authority to Abate.
 - a. A Code Enforcement Officer is authorized to enter upon any property or premises to abate the violation of the City Code and City ordinances.
 - b. A Code Enforcement Officer is authorized to assess all costs for the abatement to the responsible person and use any remedy available under the law to collect the costs.
 - c. If additional abatement is necessary within two years, treble costs may be assessed against the responsible person(s) for the actual abatement.
 2. Procedures for Abatement.
 - a. Once the procedures set forth in this Chapter have been complied with, the violation may be abated by City personnel or by a private contractor acting under the direction of the City.
 - b. These City personnel or private contractors may enter upon private property in a reasonable manner to abate the ordinance violation as specified in the notice of violation or Hearing Officer Order.
 - c. If the responsible person abates the violation before the City performs the actual abatement pursuant to a notice of violation, administrative citation, or Hearing Officer Order, a Code Enforcement Officer may still assess all costs incurred by the City against the responsible person.
 - d. When the abatement is completed, a report describing the work performed and an itemized account of the total abatement costs shall be prepared by the Code Enforcement Officer overseeing the abatement. The report shall contain the names and addresses of the responsible persons of each parcel and the tax parcel numbers.
 - e. The Code Enforcement Coordinator shall serve the notice of costs and the itemized bill of costs through any of the means in Section 2-16-2. The notice shall demand full payment within 20 days to the City Treasurer.
- F. Emergency Abatement.
1. Authority. Whenever the City Manager, Building Official, or Fire Marshal determines that an imminent life or safety hazard exists that requires immediate correction or elimination, the City may exercise the following powers without prior notice to the responsible person:
 - a. Order the immediate vacation of any tenants, and prohibit occupancy until all repairs are completed;
 - 1) Post the premises as unsafe, substandard, or dangerous;
 - 2) Board, fence, or secure the building or site;
 - 3) Raze and grade that portion of the building or site to prevent further collapse, and remove any hazard to the general public;
 - 4) Make emergency repairs as necessary to eliminate any imminent life or safety hazard; or
 - 5) Take any other action appropriate to eliminate the emergency.
 - b. The City has the authority, based on cause, to enter the property without a search warrant or court order to accomplish the above listed acts to abate the safety hazard.

- c. The responsible person shall be liable for all costs associated with the abatement of the life safety hazard. Costs may be recovered pursuant to this Chapter.
 2. Procedures.
 - a. The City shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard. Costs incurred by the City during the emergency abatement process shall be assessed and recovered against the responsible person through the procedures outlined in this Chapter.
 - b. The City may also pursue any other administrative or judicial remedy to abate any remaining violations.
 3. Notice of Emergency Abatement.
 - a. After an emergency abatement, the City shall notify the owner or responsible person of the abatement action taken.
 - b. The notice shall be served within ten days of completion of the abatement.
- G. Demolitions.
 1. Authority. Whenever the City Manager, Building Official or Fire Marshal determines that a property or building requires demolition, any one of them may, subject to the applicable Uniform Code provisions, order demolition or removal of the offending structure, or exercise any or all of the powers listed in this Chapter, upon appropriate notice to a responsible person pursuant to applicable building codes, fires codes, and state law. The responsible person shall be liable for all costs associated with the demolition. Costs may be recovered pursuant to this Chapter.
 2. Procedures. Once all the notice requirements of the applicable laws have been met, the property will be abated pursuant to the abatement remedy. Other applicable remedies may also be pursued.
- H. Administrative Citations.
 1. Declaration of Purpose.
 - a. The City Council finds that there is a need for an alternative method of enforcement for minor violations of the City Code. The City Council further finds that an appropriate method of enforcement for minor violations is an administrative citation program.
 - b. The procedures established herein shall be in addition to criminal, civil, administrative, or any other legal remedy established by law that may be pursued to address violations of the City Code or City ordinances.
 2. Authority.
 - a. Any person violating any provision of the City Code or City ordinances may be issued an administrative citation by a Code Enforcement Officer as provided in this Section.
 - b. A civil penalty shall be assessed by means of an administrative citation issued by the Officer and shall be payable directly to Clinton City.
 - c. Penalties assessed by means of an administrative citation shall be collected in accordance with the procedures specified in this Chapter.
 3. Procedures.
 - a. Upon discovering any violation of the City Code or City ordinances, a Code Enforcement Officer may issue an administrative citation to the responsible person in the manner prescribed in this Section.
 - b. The administrative citation shall be issued on a form meeting the requirements of this Chapter.

- c. Once the responsible person(s) has been located, the Code Enforcement Officer shall attempt to obtain the signature of that person(s) on the administrative citation. If the responsible person(s) refuses or fails to sign the administrative citation, the failure or refusal shall not affect the validity of the citation and subsequent proceedings. If the Code Enforcement Officer is unable to locate the responsible person for the violation, then the administrative citation shall be mailed to the responsible person(s) in the manner prescribed this Chapter.
 - d. Except for violations of Title 28 of Clinton City Code, if no one can be located at the property, then the administrative citation may be posted in a conspicuous place on or near the property and a copy subsequently mailed to the responsible person(s) in the manner prescribed in Section 2-16-2 of this Chapter.
 - e. The administrative citation shall also contain the signature of the Code Enforcement Officer.
 - f. The failure of any person with an interest in the property to receive notice shall not affect the validity of any proceedings taken under this Part, except for violations of Title 28 as specified in Section 2-16-2 if this Chapter.
4. Contents of Administrative Citation. An administrative citation shall include:
- a. The date and location of the violations and the approximate time the violations were observed;
 - b. The Code sections violated and the subject matter of those sections;
 - c. The amount of penalty imposed for the violations;
 - d. An explanation as to how the penalty shall be paid, the time period by which the penalty shall be paid, and the consequences of failure to pay the penalty;
 - e. Notice of the right and the procedures to request a hearing;
 - f. The signature of the Code Enforcement Officer and the signature of the responsible person, if he or she can be located, as outlined in this Chapter; and
 - g. Any other information deemed helpful or necessary by the Code Enforcement Administrator.
- I. Civil Penalties, Fines, and Fees.
- 1. In General. As specified in the notice of violation or administrative citation, civil penalties will be assessed every fourteen (14) calendar days in an escalating manner and, if deemed necessary, may be assessed daily until the violation is corrected or immediately if an administrative citation is issued. Interest shall be assessed per City policy on all outstanding civil penalties balances until the case has been paid in full. The City may use one form for both notices of violation and administrative citations. Payment of the penalties, fines, and fees shall not excuse the failure to correct the violations, nor shall it bar further enforcement action by the City if the violation is not corrected. Alternative correction periods may be specified elsewhere in Clinton City Code, such as in 23-11-4 which outlines the correction period for violations involving sewer, stormwater, or flood irrigation systems.
 - 2. Amount. Unless specified otherwise in the more specific section of the City Code or the City's Consolidated Fee Schedule, the minimum penalties shall be as follows:
 - a. Fees for General City Code Violations:
 - 1) Administrative Citations:
 - A. First Offense: \$100
 - B. Second Offense (within one calendar year from first offense): \$200

- C. Third (or more) Offense (within one calendar year from first offense): \$400
 - 2) Civil Penalties per Notice of Violation or Hearing Officer Order:
 - A. After the first fourteen (14) calendar day correction period has ended and the violation(s) has not been corrected, the civil penalty total is \$125;
 - B. After the second fourteen (14) calendar day correction period has ended and the violation(s) has still not been corrected, the civil penalty total is \$250;
 - C. After the final fourteen (14) calendar day correction period has ended and the violation(s) has still not been corrected, the civil penalty total is \$500.
 - b. Hearing Fee for Default Hearings or Administrative Code Enforcement Hearings: \$100 if Responsible Person is unsuccessful or fails to appear after proper notice.
- 3. At the discretion of the Code Enforcement Officer or Hearing Officer, the City may impose penalties up to the maximum allowed by Utah Code Annotated § 10-3-703, as amended.
- 4. Non-Payment of Citation.
 - a. If the responsible person fails to make any payments within the time period specified in the notice, the City may send additional notices, file a small claims action, refer the matter to a collection agency, or pursue any remedy in law or equity.
 - b. Interest may be assessed on all outstanding amounts at a rate of up to 20% per annum.
 - c. The City has the authority to collect all costs associated with the filing of such actions, including administrative fees and service costs.
- 5. Modification of Civil Penalties.
 - a. Upon completion of the required action pursuant to the notice of violation, administrative citation, or administrative enforcement order, the Hearing Officer may modify the civil penalties on a finding of good cause as defined in this Chapter.
 - b. Civil penalties may be waived or modified by the Hearing Officer if there is a finding of good cause based on the responsible person's claim of nonconforming use, as defined per state law, or conditional use, as defined by the City Code, and:
 - 1) The City's ability to verify the claim; or
 - 2) The responsible person's filing of an application for either use before the date of the Notice of Violation or Administrative Citation.
 - c. Reductions and Waivers for Animal Violations.
 - 1) The Code Enforcement Coordinator and Hearing Officer may grant reductions and waivers of fines for animal violations under the following circumstances:
 - A. \$25 reduction may be given for first time offenders with good cause.
 - B. Offenders with a history of non-payment should generally not receive a reduction or waiver of fines or fees.
 - C. At the City's discretion, flexible monthly plans may be set up according to responsible person's needs.

2-16-6 Hearing Officer

- A. A Hearing Officer shall preside over hearings and proceedings for the ACE Program in the City.
- B. The City Manager shall act as the Hearing Officer unless the position is otherwise appointed by the City Manager. If the position of the Hearing Officer is appointed, the City Manager shall determine, if any, the salary, compensation, and benefits of the Hearing Officer.
- C. The Hearing Officer position may be a merit, volunteer, or contract position and is subject to all personnel rules.
- D. The Hearing Officer may not be disciplined for any decision made while conducting a hearing if the decision is lawful and made in accordance with City ordinances, City policy and procedure, and policies and ordinances pertaining to the ACE Program.
- E. The Hearing Officer shall be trained and knowledgeable in the City Code, due process, rules of evidence, civil procedure, administrative law and procedure, nuisance law, and zoning law.
- F. The Hearing Officer position is not a supervisory position. The Hearing Officer is supervised by the City Manager or designee.
- G. Powers of the Hearing Officer.
 1. The Hearing Officer has the authority to hold hearings, determine if violations of City ordinances exist, order compliance with City ordinances, and enforce compliance as provided in this Chapter on any matter subject to the provisions of the Chapter.
 2. The Hearing Officer may continue a hearing based on good cause, as defined in this Chapter, shown by one of the parties to the hearing. The Hearing Officer must enter on the record the reason for granting a continuance.
 3. The Hearing Officer may issue subpoenas for witnesses, documents, and other evidence where such is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena. The Hearing Officer shall develop policies and procedures relating to the issuance of subpoenas in administrative code enforcement hearings, including the form of the subpoena and related costs. In the absence of any adopted policies, the Hearing Officer shall follow the Utah Rules of Civil Procedure.
 4. The Hearing Officer has continuing jurisdiction over the subject matter of an administrative code enforcement hearing for the following purposes:
 - a. Granting a continuance;
 - b. Ordering compliance by issuing a Hearing Officer Order using any remedies available under the law; and
 - c. Ensuring compliance of that Order, which includes the following powers:
 - 1) To authorize the City to enter and abate a violation,
 - 2) To modify an Order issued by the Hearing Officer Order, or
 - 3) To grant a new hearing where extraordinary circumstances exist.
 5. The Hearing Officer has the authority to require the responsible person to post a code enforcement performance bond to ensure compliance with an Order issued by the Hearing Officer.
 6. The Hearing Officer is subject to disqualification for bias, prejudice, interest, or any other reason for which a judge may be disqualified in a court of law. Rules and procedures for disqualification and replacement shall be in accordance with the Utah Rules of Civil Procedure.

2-16-7 Hearing Procedures and Orders.

- A. Declaration of Purpose. The City Council finds that there is a need to establish uniform procedures for administrative code enforcement hearings conducted pursuant to this Chapter. It is the purpose and intent of the City Council to afford due process of law to any person who is directly affected by an administrative action. Due process of law includes notice; an opportunity to participate in the administrative hearing, including the opportunity to call witnesses, present evidence, and cross-examine witnesses; and an explanation of the reasons justifying the administrative action. These procedures are also intended to establish a forum to efficiently, expeditiously, and fairly resolve issues raised in any administrative code enforcement action.
- B. Policies and Procedures of Hearings. The Hearing Officer may develop policies and procedures to regulate the hearing process for any violation of the City Code that is handled pursuant to the administrative abatement procedures, the emergency abatement procedures, the demolition procedures, or the administrative citation procedures. Such policies and procedures shall be consistent with this Chapter and other City ordinances and codes.
- C. Request for Administrative Code Enforcement Hearing.
 - 1. A person served with one of the following documents or notices has the right to request an administrative code enforcement hearing if the request is filed within ten calendar days from the date of service:
 - a. Notice of violation;
 - b. Notice of itemized bill for costs;
 - c. Administrative citation; or
 - d. Notice of emergency abatement.
 - 2. The request for hearing shall be made in writing and filed with the Code Enforcement Coordinator, who then shall provide a copy of the request to the Hearing Officer and serve the request to all parties. The request shall contain the case number, the address of the violation, the signature of the responsible party, and the reason for the hearing including justifications for the offense, defenses, and requests for waiver or reduction in fines.
 - 3. As soon as practicable after receiving the written notice of the request for hearing, the Code Enforcement Coordinator shall schedule a date, time, and place for the hearing.
 - 4. Failure to request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the action.
- D. Notification of Administrative Code Enforcement Hearing.
 - 1. Written notice of the date, time, and place of the hearing shall be served by the Code Enforcement Coordinator or Code Enforcement Officer to the responsible person as soon as practicable prior to the date of the hearing.
 - 2. The format and contents of the hearing notice shall be in accordance with rules and policies promulgated by the Hearing Officer. In the absence of such rules, the format and contents of the hearing shall be drafted by the Code Enforcement Coordinator to be consistent with this Chapter.
 - 3. The notice of hearing shall be served by any of the methods of service listed in this Chapter.
- E. Default Hearings and Orders.
 - 1. If the responsible person fails to request an administrative code enforcement hearing before the expiration of the ten-day deadline, the case shall be set for a default hearing by the Code Enforcement Coordinator. The Code Enforcement Coordinator shall notify the responsible person of the date, time, and place of the hearing by one of the methods listed in this Chapter.

2. A default hearing shall also be scheduled for all cases that have outstanding or unpaid civil penalties, fines, fees, or costs due to the City before collection, if a hearing on that case has not already been held.
 3. At the default hearing, the responsible person shall have the opportunity to present evidence to show that good cause exists, as defined in the Chapter, to do one or more of the following:
 - a. Waive or reduce the fines which have accumulated;
 - b. Postpone an abatement action by the City; or
 - c. Excuse the responsible person's failure to request a hearing within the ten-day period.
 4. If the evidence shows that the violations existed, the Hearing Officer shall enter an order requiring abatement of the violations and the payment of all fines, costs, and fees. Fines and costs shall run until the City issues a notice of compliance stating when the violations were abated. The order by the Hearing Officer shall not suspend further accrual of fines and costs unless specifically stated.
- F. Procedures at Administrative Code Enforcement Hearings.
1. Administrative code enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply; however, an informal exchange of discovery may be required. The request for discovery must be in writing and filed at least ten (10) business days before the hearing. Failure to request discovery shall not be a basis for a continuance.
 2. Complainant information is protected and shall not be released unless the complainant is a witness at the hearing.
 3. The procedure and format of the administrative hearing shall follow the procedures promulgated by the Hearing Officer.
 4. The City bears the burden of proof at an administrative code enforcement hearing to establish the existence of a violation of the City Code or City ordinances.
 5. The standard of proof to be used by the Hearing Officer in deciding the issues at an administrative hearing is whether there is substantial evidence in the record that the violations exist and that the person before the Hearing Officer is the responsible person.
 6. Hearsay evidence, as defined by the Utah Rules of Evidence, may, in the discretion of the Hearing Officer, be admissible so long as such hearsay evidence has independent indicia of reliability.
 7. Each party shall have the opportunity to cross-examine witnesses that are in attendance and present evidence in support of his or her case. A written declaration signed under penalty of perjury may be accepted in lieu of a personal appearance so long as the declaration is not the only evidence relied upon by the Hearing Officer. Testimony may be given by telephone or other electronic means in the discretion of the Hearing Officer.
 8. All hearings are open to the public. They shall be recorded by audio recording.
 9. Hearings may be held at the location of the violation if the Hearing Officer so chooses, and means are provided for an audio recording of the proceeding.
 10. The responsible person has a right to be represented by an attorney.
 11. No new hearing shall be granted, unless the Hearing Officer determines that extraordinary circumstances exist which justify a new hearing.
- G. Failure to Attend Administrative Code Enforcement Hearings.
- Any party whose property or actions are the subject of any administrative code enforcement hearing and who fails to appear at the hearing is deemed to have waived the right to a hearing, which will result in a default judgment for the City provided that proper notice of the hearing

has been provided. The City shall not be required to put on evidence or prove that a violation was committed by the Responsible Person in such an event, and an entry of a default judgment shall have the same effect as if there was a judgment on the merits of the case.

H. Hearing Officer Order.

1. The parties may enter into a stipulated agreement, which must be signed by both parties or verbally stipulated on the record during the administrative code enforcement hearing. This agreement or stipulation shall be entered as the Hearing Officer Order. Entry of this agreement or stipulation shall constitute a waiver of the right to a hearing and the right to appeal.
2. Once all evidence and testimony are completed, the Hearing Officer shall issue a Hearing Officer Order that affirms, modifies, or rejects the notice, citation, or action by the Code Enforcement Officer. The Hearing Officer may increase or decrease the total amount of civil penalties and costs that are due pursuant to the City's fee schedule and the procedures in this Chapter.
3. The Hearing Officer, with judicial approval, may order the City to enter the property and abate all violations, which may include removing animals kept in violation of the City Code.
4. The Hearing Officer may revoke a kennel permit, City issued animal license, or the right to possess animals as provided in the City Code.
5. As part of the Hearing Officer Order, the Hearing Officer may reduce or stay civil penalties on the condition that the responsible person achieve compliance by specified deadlines.
6. The Hearing Officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the Hearing Officer Order.
7. The Hearing Officer may order the responsible person to post a performance bond to ensure compliance with the order.
8. The Hearing Officer Order shall become final on the date of the signing of the Order.
9. The Hearing Officer Order shall be served on all parties by any one of the methods listed in this Chapter.

I. Failure to Comply with Order.

1. After the Hearing Officer issues a Hearing Officer Order, the Code Enforcement Officer and Hearing Officer may monitor the violations and determine compliance.
2. Upon the failure of the responsible person to comply with the terms and deadlines set forth in the Hearing Officer Order, the City may use all appropriate legal means to recover the civil penalties and administrative costs to obtain compliance.

J. Administrative Enforcement Appeals.

1. Any person adversely affected by any decision made in the exercise of the provisions of this Chapter may file a petition for review of the decision or order to district court within 30 days after the decision is rendered.
2. No person may challenge in district court the Hearing Officer's decision until that person has exhausted his or her administrative remedies herein.

2-16-8 Recordation and Cost Recovery

A. Recordation of Notices of Violation and Hearing Officer Orders.

1. Declaration of Purpose.
 - a. The City Council finds that there is a need for alternative methods of enforcement for violations of the City Code and City ordinances that are found to exist on real property. The City Council further finds that an appropriate

method of enforcement for these types of violations is the issuance and recordation of notices of violation and Hearing Officer Orders.

- b. The procedures established in this shall be in addition to criminal, civil, or any other remedy established by law that may be pursued to address the violation of the City Code or City ordinances.
2. Authority. Whenever a Code Enforcement Officer or Code Enforcement Coordinator determines that a property or violation has not been brought into compliance as required in this Chapter, the Code Enforcement Coordinator has the authority to record the notice of violation or Hearing Officer Order with the Recorder's Office of Davis County.
3. Procedures for Recordation.
 - a. If a Code Enforcement Officer issues a notice of violation or administrative citation to a responsible person, and the property remains in violation after the deadline established in the notice of violation or is not corrected after the administrative citation is issued, and no request for an administrative hearing has been filed, the Code Enforcement Coordinator shall record a notice of violation with the Recorder's Office of Davis County.
 - b. If an administrative hearing is held, and an order is issued in the City's favor, the Code Enforcement Coordinator shall record the Hearing Officer's Hearing Officer Order with the Recorder's Office of Davis County.
 - c. The recordation shall include the name of the property owner, the parcel number, the legal description of the parcel, a copy of the notice of violation, administrative citation, or order, and any other relevant information.
 - d. The recordation does not encumber the property, but merely places future interested parties on notice of any continuing violation found upon the property.
4. Service of Notice of Recordation. A notice of the recordation shall be served on the responsible person and the property owner pursuant to any of the methods of service set forth in this Chapter.
5. Failure to Request. The failure of any person to file a request for an administrative code enforcement hearing when served with a notice of violation shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded notice of violation.
6. Notice of Compliance - Procedures.
 - a. When the violations have been corrected, the responsible person or property owner may request an inspection of the property from a Code Enforcement Officer.
 - b. Upon receipt of a request for inspection, the Code Enforcement Officer shall reinspect the property as soon as practicable to determine whether the violations listed in the notice of violation, administrative citation, or the order have been corrected, whether all necessary permits have been issued, and/or whether final inspections have been performed.
 - c. The Code Enforcement Officer, in conjunction with the Code Enforcement Coordinator, shall serve a notice of compliance to the responsible person or property owner in the manner provided in this Chapter if the Code Enforcement Officer determines that:
 - 1) All violations listed in the recorded notice of violation or order have been corrected;

- 2) All necessary permits have been issued and finalized;
 - 3) All civil penalties, fines, and costs assessed against the property have been paid or satisfied; and/or
 - 4) The party requesting the notice of compliance has paid all administrative fees and costs.
 - d. If a request to issue a notice of compliance is denied, then, upon request, the Code Enforcement Officer, in conjunction with the Code Enforcement Coordinator, shall serve the responsible person with a written explanation setting forth the reasons for the Code Enforcement Officer's denial. The written explanation shall be served by any of the methods of service listed in this Chapter.
 7. Withholding the Issuance of Municipal Permits and Business Licenses.
 - a. The City may withhold permits and business licenses until a notice of compliance has been issued by a Code Enforcement Officer.
 - b. The City may withhold business licenses, permits for kennels, permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, and any permits pertaining to the use and development of the real property or the structure.
 - c. The City may, in its sole discretion, issue permits or business licenses that are necessary to obtain a notice of compliance or that are necessary to correct serious health and safety violations.
 8. Cancellation of Recorded Notice of Violation or Hearing Officer Order.
 - a. In conjunction with the Code Enforcement Officers, the Code Enforcement Coordinator shall record the notice of compliance with the County Recorder's Office. Recordation of the notice of compliance shall have the effect of canceling the recorded notice of violation, administrative citation, or recorded Hearing Officer Order but shall not cancel any outstanding fines, fees, or costs.
- B. Recovery of Costs.
 1. Declaration of Purpose.
 - a. The City Council finds that there is a need to recover costs incurred by Code Enforcement Officers and other City personnel who spend considerable time inspecting and re-inspecting properties throughout the City to ensure compliance with the City Code or City ordinances.
 - b. The City Council further finds that the assessment of costs is an appropriate method to recover expenses incurred for actual costs of abating violations, reinspection fees, filing fees, attorney fees, hearing officer fees, title search, and any additional actual costs incurred by the City for each individual case.
 - c. The assessment and collection of costs shall not preclude the imposition of any administrative or judicial civil penalties or fines for violations of the City Code or City ordinances.
 2. Authority.
 - a. Whenever actual costs are incurred by the City on a property to obtain compliance with provisions of the City Code and City ordinances, a Code Enforcement Officer or Code Enforcement Coordinator may assess costs against the responsible person.
 - b. Once a notice of violation has been issued, the property shall be inspected one time if the responsible person requests an inspection in writing. Any additional

inspections shall be subject to reinspection fees pursuant to the City fee schedule.

3. Notification of Assessment of Reinspection Fees.
 - a. Notification of reinspection fees may be provided in the notice of violation served to the responsible person.
 - b. Reinspection fees assessed or collected pursuant to this Section shall not be included in any other costs assessed.
 - c. The failure of any responsible person to receive notice of the reinspection fees shall not affect the validity of any other fees imposed under this Section.
 4. Failure to Timely Pay Costs. The failure of any person to pay assessed costs by the deadline specified in the invoice shall result in a late fee pursuant to City ordinances.
- C. Administrative Fees. The Code Enforcement Officers and Code Enforcement Coordinator are authorized to assess administrative fees for costs incurred in the administration of the code enforcement program, such as investigation of violations, preparation for hearings, hearings, and the collection process. The fee assessed shall be the amount set forth in this Chapter or in the City fee schedule.
- D. Injunctions. In addition to any other remedy provided under the City Code or state codes, including criminal prosecution or administrative remedies, any provision of the City Code may be enforced by injunction issued in the Second District Court upon a suit brought by the City.
- E. Performance Bonds.
1. As part of any notice, order, or action, the Hearing Officer has the authority to require any responsible person to post a performance bond to ensure compliance with the City Code, City ordinances, or any judicial action.
 2. If the responsible person fails to comply with the notice, order, or action, the bond will be forfeited to the City.
- F. Code Enforcement Tax Liens.
1. Declaration of Purpose. The City Council finds that recordation of code enforcement tax liens will assist in the collection of civil penalties, administrative costs, and administrative fees assessed by the administrative code enforcement hearing program or judicial orders and lessen the cost to City taxpayers of code enforcement. The City Council further finds that collection of civil penalties, costs, and fees assessed for code enforcement violations is important in deterring future violations and maintaining the integrity of the City's code enforcement system. The procedures established in this Section shall be used to complement existing administrative or judicial remedies that may be pursued to address violations of the City Code or City ordinances.
 2. Tax Liens for Abatement Costs.
 - a. Once the City has abated a property for weeds, garbage, refuse, or unsightly or deleterious objects or structures, the Code Enforcement Coordinator shall prepare three copies of the Itemized Statement of Costs incurred in the removal and destruction of the violations and deliver them to the City Treasurer within ten days after completion of the work of removing the violations.
 - b. The Code Enforcement Coordinator shall serve the Responsible Person by any of the methods in this Chapter a copy of the Itemized Statement of Costs informing him or her that a code enforcement tax lien is being recorded for actual costs of abatement. Payment shall be due within twenty calendar days from the date of mailing.

- c. Upon receipt of the Itemized Statement of costs, the City Treasurer shall record a Code Enforcement Tax Lien against the property with the county treasurer's office.
 - d. The failure of any person with a financial interest in the property to receive the notice of the lien shall not affect the validity of the lien or any proceedings taken to collect the outstanding costs of abatement.
- 3. Tax Liens for Judgments. Once a judgment has been obtained from the appropriate court imposing costs, fines, or fees against the responsible person, the Code Enforcement Coordinator may record a code enforcement tax lien against any real property owned by the responsible person.
- 4. Cancellation of Code Enforcement Tax Lien.
 - a. Once payment in full is received for the outstanding civil penalties and costs, or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the Code Enforcement Coordinator shall either record a notice of satisfaction of judgment, or provide the property owner or financial institution, through any of the means of service in Section 2-16-2, with the notice of satisfaction of judgment so that it can record this notice with the county recorder's office.
 - b. The notice of satisfaction of judgment shall include the same information as provided for in the original code enforcement tax lien.
 - c. Such notice of satisfaction of judgment shall cancel the code enforcement tax lien.
- G. Recovery of Costs by Writ of Execution. After obtaining a judgment, the City may collect the obligation by use of all appropriate legal means. This may include the execution on personal property owned by the responsible person by filing a writ with the applicable court.
- H. Recovery of Costs by Writ of Garnishment. After obtaining a judgment, the City may collect the obligation by use of all appropriate legal means. This may include the garnishment of paychecks, financial accounts, and other income or financial assets by filing a writ with the applicable court.