ORDINANCE NO. 2026-10-05 DATE: 10/5/24

AN ORDINANCE ADOPTING CODE ENFORCEMENT AND COMMUNITY PRESERVATION PROGRAM

WHEREAS, Utah Code Annotated §§ 10-3-701 et seq. and other applicable provisions of Utah law authorize municipalities to adopt ordinances to protect the public health, safety, and welfare and to provide for the enforcement of municipal ordinances; and

WHEREAS, the Town has adopted numerous ordinances governing land use, public nuisances, business licensing, building and safety regulations, public ways, and other matters affecting the health, safety, and welfare of its residents; and

WHEREAS, the Town Council finds that the efficient, fair, and consistent enforcement of the Town Code is essential to maintaining safe neighborhoods, protecting property values, preserving the public peace, and ensuring compliance with duly enacted municipal regulations; and

WHEREAS, the Town Council further finds that the Town's existing code enforcement provisions are dispersed throughout various titles of the Town Code, resulting in inconsistent procedures and unnecessary administrative complexity; and

WHEREAS, the Town Council finds that adopting a unified Code Enforcement Title will establish consistent procedures for investigating alleged violations, providing notice, encouraging voluntary compliance, issuing administrative citations, pursuing civil and criminal remedies where authorized, conducting hearings when required, and recovering enforcement costs as permitted by law; and

WHEREAS, the Town Council recognizes that voluntary compliance is the preferred method of achieving compliance with the Town Code whenever reasonably possible and that formal enforcement actions should be undertaken in a fair, impartial, and consistent manner when voluntary compliance cannot be achieved; and

WHEREAS, the Town Council further finds that the adoption of standardized enforcement procedures will promote due process, improve administrative efficiency, provide greater clarity to property owners, residents, businesses, and Town staff, and ensure that similarly situated persons are treated consistently; and

WHEREAS, the Town Council intends that the Code Enforcement Title supplement, and not diminish, any enforcement authority, remedy, or procedure otherwise provided by Utah law or other provisions of the Town Code, unless expressly stated therein; and

WHEREAS, the Town Council has determined that adopting a comprehensive Code Enforcement Title serves the public interest and promotes the health, safety, and general welfare of the Town and its residents.

NOW, THEREFORE, IT IS HEREBY ORDAINED by the Daniel Town Council:

1. Enactment: Title 9 Code Enforcement and Community Preservation Program is enacted.

2. Severability: If a court of competent jurisdiction determines that any part of this ordinance is unconstitutional or invalid, then such portion of this ordinance, or specific application of this ordinance, shall be severed from the remainder, which shall continue in full force and effect.

3 2. Direction to Mayor and Staff: The Mayor and staff are authorized and directed to take such steps as may be needed: (a) for this ordinance to become effective under Utah law, including but not limited to compliance with the requirements of Utah Code § 10-3-711; and (b) to finalize and post the ordinance to Municode, including but not limited to making non-substantive edits to correct any scrivener's, formatting, and numbering errors.

4 3. Effective Date: This ordinance shall become effective immediately upon its posting.

ADOPTED AND APPROVED at a duly called meeting of the Daniel Town Council on this 5th day of October 2026.

TOWN OF DANIEL

By: Scott Kohler
Scott Kohler, Mayor

ATTEST

Megan Goodrich
Clerk

TOWN OF DANIEL CORPORATE Seal MUNICIPAL STATE OF UTAH

Town Council Vote as Recorded:

Councilmember Walton voting
Councilmember Bennet voting
Councilmember Grady voting
Councilmember Rose voting
Mayor Kohler voting

(Complete as Applicable)
Date ordinance summary was posted to the Town of Daniel website, the Utah Public Notice website, and in a public place within the Town of Daniel per Utah Code §10-3-711: October 7, 2026
Effective date of ordinance: October 5, 2026

SUMMARY OF
DANIEL TOWN ORDINANCE
DO 2026-____

On OCT 5, 2024, the Daniel Town Council enacted DO 2026-10-05 enacting Title 9.

TOWN OF DANIEL

By: Scott Kohler
Scott Kohler, Mayor

ATTEST

Megan Goodrich
Clerk

TOWN OF DANIEL CORPORATE Seal MUNICIPAL STATE OF UTAH

Town Council Vote as Recorded:

Councilmember Walton voting GW.
Councilmember Bennet voting EB
Councilmember Grady voting
Councilmember Rose voting BR
Mayor Kohler voting SK

A complete copy of DO 2026-10-05 is available in the office of the Town Clerk, 3500 S Highway 40 Unit A #102, Heber Utah 84032.

Code Enforcement and Community Preservation Program

9.01.010 Short Title
This Title shall be known as the "Code Enforcement and Community Preservation Program."

9.01.020 Authority
The Town promulgates this Code pursuant to Utah Code Ann. §§ 10-3-702- 703.7; 10-3-716; 10-8-60; 10-11-1, et seq.; and 76-10-801, et seq.

9.01.030 Declaration of Purpose
The Town finds enforcement of its Code and applicable state codes throughout the municipality to be an important public service. Code enforcement and abatement are vital to the protection of the public's health, safety, and quality of life. The Council recognizes that comprehensive code enforcement starts with the drafting of precise regulations that can be effectively applied in administrative code enforcement hearings and judicial proceedings that use a combination of judicial and administrative remedies to achieve fair and equitable compliance, and which address the failure to comply through judicial action.

9.01.040 Scope
The provisions of this Title may be applied to any violation of the Town Code as an additional remedy to achieve compliance.

9.01.050 Existing Ordinances and Laws Continued
The provisions of this Title do not invalidate any other title or ordinance but shall be read in conjunction with the title or ordinance as an additional enforcement remedy and with any other applicable laws. If there is a conflict between this Title and another provision of the Town Code, this Title shall control.

9.01.060 Civil and Criminal Prosecution Right
The Town has sole discretion in deciding whether to file a civil or criminal case or both for the violation of any of its ordinances. The enactment of the administrative remedies in this Title shall not interfere with the Town's right to prosecute ordinance violations as criminal offenses in a court of law. The Town may use any of the remedies available under the law in both civil and criminal prosecution. If the Town decides to file both civil and criminal charges for the same day of violation, no civil penalties may be assessed, but all other remedies will be available. The Town may at its discretion proceed with a civil enforcement action under this Title in district court without first holding an administrative hearing or exhausting other administrative remedies.

9.01.070 Effect of Headings

Title, chapter, part and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any title, chapter, part, or section hereof.

9.01.080 Validity of Title - Severability
If any provision of this Title is held to be invalid or unconstitutional by a court of competent jurisdiction, the decision of invalidity or unconstitutionality shall not affect the other provisions of this Title which can be given effect without the invalid or unconstitutional provision.

9.01.090 No Mandatory Duty - Civil Liability
It is the intent of the Council that in establishing performance standards or an obligation to act by the Town prosecutor, officer, employee, or designee, the standards or obligation shall not be construed to create a mandatory duty for purposes of tort liability if the officer, employee, or designee fails to perform his or her directed performance standards or obligation to act.

9.01.100 General Rules of Interpretation of Ordinances
For purposes of this Title:
Any gender includes the other gender(s).
"Shall" is mandatory; "may" is permissive.
The singular number includes the plural.
Any word or phrase used in this Title, and not specifically defined, shall be construed according to the context and approved usage of the language.

9.01.110 Definitions Applicable to Title Generally
The following words and phrases, as used in this Title, shall be construed as defined in this section, unless the context or subject matter requires a different meaning as specifically defined elsewhere in this Title and specifically stated to apply:

"Abate" or "Abatement" means any action the Town may take on public or private property and any adjacent property as may be necessary to remove or alleviate a violation, including demolition, removal, destruction, recycling, junking, landfilling, eviction of persons, repair, boarding, or securing property.

"Council" means the Town Council.

"Code Enforcement Lien" means a lien recorded to collect outstanding civil penalties, administrative fees, or costs.

"Code Enforcement Performance Bond" means a bond posted by a responsible person to ensure compliance with the Town Code, applicable state titles, a judicial action, or an administrative code enforcement order.

"County" means Wasatch County, Utah.

"Hazardous Materials" means the same as that term is defined in Utah Code Section 10-11-1.

"Imminent Life Safety Hazard" means any condition that creates a present, extreme, or immediate danger to life, property, health, or public safety.

"Notice of Compliance" means a document issued by the Town, representing that the violations outlined in the notice of violation have been remedied and the property is in compliance with applicable codes.

"Notice of Satisfaction" means a document or form approved by the Town or designee, which states that all outstanding civil penalties and costs have been paid in full, negotiated to an agreed amount, or resolved by a subsequent administrative or judicial decision. The property shall also be in compliance with the requirements of the notice of violation.

"Notice of Violation" means a written notice prepared by an enforcement official that informs a responsible person of any code violation and orders the person to take certain actions to correct the violation.

"Person" means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, sergeant, officer, or employee of any of them, or any other entity that is recognized by law as the subject of rights or duties.

"Property Owner" means the record owner of real property based on the county assessor's records.

"Public Nuisance" means 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 quiet use of property in a neighborhood, community, or by a considerable number of persons. A public nuisance also has the same meaning as set forth in the Utah statute.

"Responsible Person" means a person who has charge, care, or control of any premises, dwelling, or dwelling unit as the legal or equitable owner, agent of the owner, lessee, or as an executor, administrator, trustee, or guardian of the estate of the owner. In all cases, the person with legal title to any premises, dwelling, or dwelling unit shall be considered a responsible person, with or without accompanying actual possession thereof.

9.01.120 Acts Include Causing, Aiding and Abetting

If any act or omission is made unlawful in this Title, it shall include causing, permitting, aiding, or abetting the act or omission.

9.01.200 Part 2 - Service Requirements

9.01.210 Service of Process

If service in person or by mail is required to be given under this Title, service shall be made in accordance with Utah Code Ann. § 10-11-2 unless another form of service is required by law.

If service complies with the requirements of this Part, it shall be considered to be 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 Title. The failure to serve all responsible persons shall not affect the validity of any proceedings.

9.01.220 Construction Notice of Recorded Documents

If a document is recorded with the County Recorder as authorized or required by this Title or applicable state statute, recordation shall provide constructive notice of the information contained in the recorded documents.

9.01.300 Part 3 - General Authority and Offenses

9.01.310 General Enforcement Authority

If the Town or designated enforcement official finds that a violation of the Town Code or applicable state code has occurred or continues to exist, the enforcement procedures may be used as provided in this Title. The Town or any designated enforcement official has the authority and power necessary to enforce compliance with the provisions of the Town Code and applicable state code provisions, including issuing notices of violation or administrative citations, inspecting public or private property, abating public and private property, or using other judicial and administrative remedies available pursuant to the Town Code or state statute. The Town may elect to proceed with an action in District Court without first exhausting administrative remedies.

Chapter 9.04 Administrative Code Enforcement Procedures

9.04.010 Notice of Violation

1. If the Town or any designated enforcement official determines that a violation of the Town Code or applicable state codes has occurred or continues to exist, the Town or enforcement official may issue a notice of violation to a responsible person. The notice of violation shall include the following information and shall comply with Utah Code § 10-11-2 or the applicable successor statute(s):

a. Name of the property owner of record according to the records of the County Recorder;
b. Street address of violation;
c. Nature and results of the examination and investigation conducted;
d. Date and approximate time the violation was observed;
e. All code sections violated and descriptions of the condition of the property that violates the applicable codes;
f. A statement explaining the type of remedial action required to permanently correct outstanding violations, which may include corrections, repairs, demolition, removal, eradication, destruction, or other appropriate action;
g. A specific date for the responsible party to correct the violations listed in the notice of violation or appeal the notice of violation, which date shall be at least fifteen days from the date of service unless the Town determines that the violation requires emergency abatement.
h. 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; revocation of permits; recordation of the notice

of violation; withholding of future municipal permits; abatement of the violation by the Town and re-payment to the Town for the costs of the abatement; other costs incurred by the Town; administrative fees; and any other legal remedies;
i. Civil penalties shall begin to accrue immediately on expiration of the date to correct violations;
j. The amount of the civil penalty on each violation and that the penalty shall accrue daily until the property is brought into compliance;
k. Only one notice of violation is required for any 12-month period, and civil penalties begin immediately upon any subsequent violation of the notice. The responsible person may request a hearing on the renewed violation by following the same procedure as provided for the original notice;
l. Procedures to appeal the notice and request a hearing, including the amount of the appeal fee, as provided in the adopted fee schedule and consequences for failure to request one, including that failure to appeal waives all defenses to the notice of violation and the Town, or designee, may order the abatement of the property without a subsequent hearing or order; and
m. Procedures to request an inspection after the violation has been abated.
n. The notice of violation shall be served as required by this Title.

2. More than one notice of violation may be issued against the same responsible person if it encompasses different dates, or different violations.

9.04.020 Failure to Bring Property into Compliance
If a responsible person fails to bring a violation into compliance within the compliance period specified in the notice of violation:

1. Civil penalties shall be owed to the Town for each and every subsequent day of violation;
2. If the responsible person does not request a hearing on the notice of violation within the required period specified in the notice of violation, the Town may:
a. schedule the abatement of violations on the property specified in the notice of violation;
b. schedule a default hearing with the Administrative Law Judge; or
c. bring an enforcement and abatement action in the district court.
d. Failure to comply with the notice of violation is a Class C misdemeanor.

9.04.030 Inspections
It shall be the duty of the responsible person served with a notice of violation to request in writing an inspection when the responsible person's property has been brought into compliance. It is prima facie evidence that the violation remains on the property if no inspection is requested. Civil penalties accumulate daily until the property has been inspected and a notice of compliance is issued. Re-inspection fees shall be assessed if more than one inspection is necessary.

9.04.040 - Emergency Abatement
Whenever the Town determines that an imminent life safety hazard exists that requires immediate correction or elimination, the Town may exercise the following powers without prior notice to the responsible person:

1. Order the immediate vacation of any tenants, and prohibit occupancy or entry until all repairs are completed, provided that an order prohibiting entry shall specify how entry is to be made to mitigate damage, complete repairs, retrieve personal property, or for any other purpose, if any, during the abatement process;

2. Post the premises as unsafe, substandard, or dangerous;

3. Board, fence, or secure the building or site;

4. Raze, grade, and remove that portion of the building or site to prevent further collapse or any hazard to the general public;

5. Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or

6. Take any other action appropriate to eliminate the emergency.

7. The Town and its agents have the authority for good cause to enter the property without a search warrant or court order to accomplish the above listed acts to abate the safety hazard.

8. 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 Title.

9.04.050 Procedures

The Town shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard. Costs incurred by the Town during the emergency abatement process shall be assessed and recovered against the responsible person through the procedures provided in this Title.
The Town may also pursue any other valid and legal administrative or judicial remedy to abate any remaining violations.

9.04.060 Notice of Emergency Abatement
After an emergency abatement, the Town shall notify the owner or responsible person of the abatement action taken in writing. This notice shall be served within ten days of completion of the abatement and will describe in reasonable detail the abatement actions taken.

9.04.400 Part 4 - Abatement of Hazardous Materials
9.04.410 Authority
If the Town determines that a structure has been closed to occupancy or entry by a local health department due to contamination from hazardous materials, the Town may appoint a municipal

inspector for the purpose of implementing and complying with the provisions of Utah Code § 10-11-1. The Town may authorize abatement of the interior of the structure to eliminate or remove hazardous materials within a structure that has been closed to occupancy or entry by a local health department or fire department.

9.04.420 Notice of Hazardous Material Abatement

1. If the Town or any designated enforcement official determines that a structure has been closed by the local health department or fire department for hazardous materials, the Town or enforcement official will issue a notice of hazardous material abatement to a responsible person.
2. The notice of hazardous material abatement shall include the following information and shall comply with Utah Code § 10-11-2 or the applicable successor statute:
    a. Name of the property owner of record according to the records of the County Recorder;
    b. Street address of violation;
    c. Nature and results of the examination and investigation conducted;
    d. Date and approximate time the violation was observed;
    e. All code sections violated and descriptions of the condition of the property that violates the applicable codes;
    f. A statement explaining the type of remedial action required to permanently correct outstanding violations, which may include corrections, repairs, demolition, removal, eradication, destruction, or other appropriate action;
    g. A specific date for the responsible party to correct the violations listed in the notice of hazardous material abatement or appeal the notice of hazardous material abatement, which date shall be at least 180 days from the date of service;
    h. 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; revocation of permits; recordation of the notice of violation; withholding of future municipal permits; abatement of the violation by the Town and re-payment to the Town for the costs of the abatement; other costs incurred by the Town; administrative fees; and any other legal remedies;
    i. Civil penalties shall begin to accrue immediately on expiration of the date to correct violations or the appeal and administrative proceeding process is completed;
    j. The amount of the civil penalty on each violation and that the penalty shall accrue daily until the property is brought into compliance;
    k. Procedures to appeal the notice and request a hearing, including the amount of the appeal fee, as provided in the adopted fee schedule, and consequences for failure to request one, including that failure to appeal waives all defenses to the notice of hazardous material abatement and the Town, or designee, may order the abatement of the property without a subsequent hearing or order; and
    l. Procedures to request an inspection after the violation has been abated.

3. The notice of hazardous material abatement shall be served by one of the methods of service described in this Title.

9.04.430 Certified Decontamination Specialist

A responsible person, owner, or occupant must use a certified decontamination specialist to abate hazardous materials as described in Utah Code § 19-6-906.

9.04.440 Restricting Access

The Town may issue an order limiting or restricting access to a structure and the real property appurtenant to the structure while the municipal inspector or a certified decontamination specialist destroys, removes, or abates hazardous materials within the structure.

9.04.450 Authority

If the Town determines that a property or building requires demolition, the Town may demolish or remove the offending structure, or exercise any or all of the powers listed in this Title once appropriate notice has been given to a responsible person pursuant to the Uniform Abatement of Dangerous Buildings Code or Uniform Fire Codes as required under state law, provided that the notice shall include a written description of the Town's findings, explaining the need for the demolition and citations to the applicable ordinances or laws authorizing the demolition. The responsible person shall be liable for all costs associated with the demolition. Costs may be recovered pursuant to this Title.

9.04.460 Procedures

Once the Town has determined that the Town Chief Building Official or the Fire Department has complied with all of the notice requirements of the applicable laws, the property will be demolished. Other applicable remedies may also be pursued.

9.04.500 Part 5 - Appeal and Hearing Procedures

9.04.510 Declaration Of Purpose

The Council finds that there is a need to establish uniform procedures for administrative code enforcement hearings conducted pursuant to the Town Code. It is the purpose and intent of the Council to afford due process of law to any person who is directly affected by an enforcement action. Due process of law includes notice, an opportunity to participate in the enforcement hearing, and an explanation of the reasons justifying the action. These procedures are also intended to establish a forum to efficiently, expeditiously, and fairly resolve issues raised in any administrative code enforcement action.

9.04.520 Authority and Scope of Hearings

The Administrative Law Judge or District Court shall preside over hearings of the Town Code violations. The Administrative Law Judge shall develop policies and procedures to regulate the hearing process for any violation of the Town Code and applicable state codes that are handled pursuant to the administrative abatement procedures, emergency abatement procedures, demolition procedures, or administrative citation procedures. If there is a conflict between the appeal procedures in this Title and the appeal procedures in another code incorporated by the Town, this Title shall control.

9.04.530 Appeal and Request for Administrative Code Enforcement Hearing

1. A person served with one of the following documents or notices has the right to appeal by requesting a code enforcement hearing, if the request is filed within 15 calendar days from the date of service of one of the following notices:

a. Notice of violation;
b. Notice of itemized bill for costs; or
c. Notice of emergency abatement;

2. A person served with a notice of hazardous material abatement shall have the right to appeal by requesting an administrative code enforcement hearing, if the request is filed within 180 calendar days from the date of service.

3. The request for hearing shall be made in writing and filed with the Town or as otherwise indicated in the notice of violation. The request shall contain the following:
a. the case number,
b. the address of the violation,
c. a statement of the legal and factual basis supporting the overturning the notice of violation; and
d. the signature of the responsible person.

4. The request for hearing shall be accompanied by payment of the appeal fee, the amount of which shall be provided in the Town Fee Schedule.

5. Failure to provide all the information required and payment of the appeal fee may result in the dismissal of the appeal without a hearing.

6. As soon as practicable after receiving the written notice of the request for hearing, the Town shall schedule a date, time, and place for the hearing with the Administrative Law Judge and serve a Notice of Hearing on the responsible person, or notify the responsible person that the appeal has been referred to the District Court.

7. If an appeal is referred to the District Court, the party shall have 30 days from the service of the notice of referral to file the appeal with District Court.

8. Failure to request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to appeal the action.

9.04.540 Hearings and Orders

If the responsible person fails to request a hearing before the expiration of the 15 calendar day required deadline, the Town may:
1. Schedule the abatement of the property and serve a notice of abatement on the responsible party.
2. Request a default hearing, with the Administrative Law Judge or District Court and notify the responsible person of the date, time, and place of the hearing by serving the notice as set forth in this title.
3. A default hearing may be scheduled for all cases that have outstanding or unpaid civil penalties, fines, fees, and/or costs due to the Town before collection.

4. At any hearing, the responsible person shall have the opportunity to present evidence to show that good cause exists, as defined in this Title, to do one or more of the following in addition to any other rights afforded under other provisions of the Town Code or applicable law:

1. Waive or reduce the fines which have accumulated;
2. Postpone an abatement action by the Town; or
3. Excuse the responsible person's failure to request a hearing within the 15-day period.

If the responsible person fails to establish good cause to take one or more of the actions set forth in paragraph (4), the Administrative Law Judge or District Court shall review the notice of violation and any other relevant information included in the case file. The Administrative Law Judge and District Court shall not accept any other evidence. If the evidence shows that the violations existed, the Administrative Law Judge or District Court shall enter an order requiring abatement of the violations, and the payment of all fines and fees.
Fines shall run until the Town or other duly authorized representative of the Town issues a Notice of Compliance stating when the violations were actually abated.

9.04.550 Notification of Administrative Code Enforcement Hearing
The Administrative Law Judge or the Town shall provide written notice of the day, time, and place of the hearing to a responsible person as soon as practicable prior to the date of the hearing, with the format and contents of the hearing provided in accordance with rules and policies promulgated by the Administrative Law Judge.

9.04.560 Powers of the Administrative Law Judge
The Administrative Law Judge has the authority to conduct an adjudicative proceeding, determine if any violation of the Town Code exists, order compliance with the Town Code, and enforce compliance as provided in this Title on any matter subject to the provisions of this Title. The Administrative Law Judge may compel the attendance of a witness and production of a document or other evidence, administer an oath, take testimony, and receive evidence as necessary.

The Administrative Law Judge may continue a hearing based on good cause shown by one of the parties to the hearing. The Administrative Law Judge must enter on the record the good cause on which a continuance is granted.

The Administrative Law Judge, at the request of any party to the hearing, may sign subpoenas for witnesses, documents, and other evidence. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena. The Administrative Law Judge 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.

The Administrative Law Judge has continuing jurisdiction over the subject matter of an administrative code enforcement hearing for the purposes of granting a continuance; ordering compliance by issuing an administrative code enforcement order using any remedies available

under the law; ensuring compliance with that order, which includes the right to authorize the Town to enter and abate a violation; modifying an administrative code enforcement order; or, where extraordinary circumstances exist, granting a new hearing.

The Administrative Law Judge has the authority to require a responsible person to post a code enforcement performance bond to ensure compliance with an administrative code enforcement order.

9.04.570 Procedures at Administrative Code Enforcement Hearing

Administrative code enforcement hearings are intended to be informal. Formal rules of evidence and discovery do not apply; however, an informal exchange of discovery may be required. The request shall be in writing. Failure to request discovery may not be a basis for a continuance. Complainant information is protected and shall not be released unless the complainant is a witness at the hearing. The procedure and format of the administrative hearing shall follow the procedures promulgated by the Administrative Law Judge.

The Town bears the burden of proof at an administrative code enforcement hearing to establish the existence of a violation of the Town Code or applicable state codes.

The standard of proof to be used by the Administrative Law Judge in deciding the issues at an administrative hearing is whether the preponderance of the evidence shows that the violations exist.

Each party shall have the opportunity to cross-examine witnesses 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. Testimony may be given by telephone or other electronic means. The Administrative Law Judge may accept testimony offered by proffer.
All hearings are open to the public, but public notice is not required. All hearings shall be recorded.

The recording may be audio or video. Hearings may be held at the location of the violation.
The responsible person has a right to be represented by an attorney. If an attorney is representing the responsible person at the hearing, notice of the attorney's name, address, and telephone number shall be provided to the Town at least one day prior to the hearing. If notice is not given, the hearing may be continued at the Town's request, and all costs of the continuance assessed to the responsible person.

No new hearing shall be granted, unless the Administrative Law Judge determines that extraordinary circumstances exist which justify a new hearing.

9.04.580 Failure to Attend Administrative Code Enforcement Hearing

Any party whose property or actions are the subject of any administrative code enforcement hearing and who fails to appear at the hearing is considered to have waived the right to a hearing, and will result in a default judgment, provided that proper notice of the hearing has been provided.

9.04.590 Administrative Code Enforcement Order

Once all evidence and testimony are completed, the Administrative Law Judge shall issue, or cause the prevailing party to circulate, an administrative code enforcement order that affirms, modifies, or rejects the notice or citation. The Administrative Law Judge may increase or decrease the total amount of civil penalties and costs that are due pursuant to the Town's fee schedule and the procedures in this Title.

The parties may enter into a stipulated agreement, which must be signed by both parties. This agreement shall be entered as a stipulated administrative code enforcement order. Entry of this agreement shall constitute a waiver of the right to a hearing and the right to appeal.

The Administrative Law Judge may order the Town to enter the property and abate all violations, including demolitions and the removal of vehicles, garbage, animals, and other property kept in violation of the Town Code.

The Administrative Law Judge may revoke a kennel permit, an animal license, or the right to possess animals as provided in the Town Code.

As part of the administrative code enforcement order, the Administrative Law Judge may condition the total or partial assessment of civil penalties on the responsible person's ability to complete compliance by specified deadlines.

The Administrative Law Judge may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the administrative code enforcement order.

The Administrative Law Judge may order the responsible person to post a performance bond to ensure compliance with the order.

The administrative code enforcement order shall become final on the date of the signing of the order.

The administrative code enforcement order shall be served on all parties by any one of the methods listed in this Title.

9.04.595 Failure to Comply with Order

Upon the failure of the responsible person to comply with the terms and deadlines set forth in the administrative code enforcement order, the Town may abate the violation as provided in this Title and use all appropriate legal means to recover the civil penalties and administrative costs to obtain compliance.

9.04.600 Part 6 - Administrative Enforcement Appeals

9.04.610 Appeal of Administrative Code Enforcement Hearing Decision

Any person adversely affected by any administrative decision made pursuant to this Chapter may file a petition for review of the decision or order by the district court within 30 days after the decision is rendered.

No person may challenge in district court an administrative code enforcement hearing officer's decision until that person has exhausted his or her administrative remedies.

Within 120 days after submitting the petition, the party petitioning for appeal shall request a copy of the record of the proceedings, including transcripts of hearings when necessary. The Administrative Law Judge shall not submit copies of files or transcripts to the reviewing court until the party petitioning for appeal has paid all required costs, including the cost of a licensed court reporter transcribing all relevant recorded hearings. The petitioning party's failure to properly arrange for copies of the record, or to pay the full costs for the record, within 180 days after the petition for review was filed shall be grounds for dismissal of the petition.

If a transcript of a hearing cannot be prepared because the tape recording is incomplete or unintelligible, the district court may remand the matter to the Administrative Law Judge for a supplemental proceeding to complete the record. The district court may limit the scope of the supplemental proceeding to issues that, in the court's opinion, need to be clarified.
The district court's review is limited to the record of the administrative decision that is being appealed. The court shall not accept nor consider any evidence that is not part of the record of that decision.

The courts shall:

Presume that the administrative code enforcement hearing officer's decision and orders are valid;
And Review the record to determine whether or not the decision was arbitrary, capricious, or illegal.

9.04.620 Civil Penalties Assessed
The Council shall establish policies to assist in the assessment of civil penalties for administrative citations.

Civil penalties shall be assessed immediately for each violation listed on the administrative citation. The penalties shall be those established in the Town's Fee Schedule.
Payment of the penalty shall not excuse the failure to correct the violations, nor shall it bar further enforcement action by the Town.

9.06.630 Declaration of Purpose
The Council finds that there is a need for alternative methods of enforcement for violations of the Town Code and applicable state codes that are found to exist on real property. The Council further finds that an appropriate method of enforcement for these types of violations is the issuance and recordation of notices of violation.
The procedures established in this Part shall be in addition to criminal, civil, or any other remedy

established by law that may be pursued to address the violation of The Town Code or applicable state codes.

9.06.640 Authority
Whenever the Town determines that a property or violation has not been brought into compliance as required in this Title, the Town has the authority, in its discretion, to record the notice of violation or administrative code enforcement order with the County Recorder's Office.

9.06.650 Procedures for Recordation
Once the Town has issued a notice of violation to a responsible person, and the property remains in violation after the deadline established in the notice of violation, and no request for an administrative hearing has been filed, the Town may record a notice of violation with the County Recorder's Office.

If an administrative hearing is held, and an order is issued in The Town's favor, the Town may record the administrative code enforcement order with the County Recorder's Office.

The recordation shall include the name of the property owner, the parcel number, the legal description of the parcel, and a copy of the notice of violation or order.
The recordation does not encumber the property but merely places future interested parties on notice of any continuing violation found upon the property.

9.06.660 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 Title.

9.06.670 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.

9.06.680 Notice of Compliance - Procedures
When the violation has been corrected, the responsible person or property owner may request an inspection of the property from the Town. Upon receipt of a request for inspection, the Town shall re-inspect the property as soon as practicable to determine whether the violations listed in the notice of violation or the order have been corrected, and whether all necessary permits have been issued and final inspections have been performed.

The Town shall serve a notice of satisfaction to the responsible person or property owner as provided in this Title, if the Town determines that:

the violation listed in the recorded notice of violation or order has been corrected;
All necessary permits have been issued and finalized;
All civil penalties assessed against the property have been paid or satisfied; and
The party requesting the notice of satisfaction has paid all administrative fees and costs.

If the Town denies a request to issue a notice of satisfaction, upon request, the Town shall serve the responsible person with a written explanation setting forth the reasons for the denial. The written explanation shall be served by any of the methods of service listed in this Title.

9.06.690 Authority to Withhold Issuance of Municipal Permits

If a property is in violation, the Town may withhold business licenses; permits for kennels; or permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of the real property or the structure. The Town may withhold permits until a notice of satisfaction has been issued by the Town. The Town may not withhold permits that are necessary to obtain a notice of satisfaction or that are necessary to correct serious health and safety violations if the violator has otherwise satisfied the compliance standards. Nothing in this section shall be construed as prohibiting the Town from denying a permit if the application is insufficient or denial is otherwise warranted.

9.06.691 Cancellation of Recorded Notice of Violation

The Town or responsible person shall record the notice of satisfaction with the County Recorder's Office. Recordation of the notice of satisfaction shall cancel the recorded notice of violation.

9.06.692 Failure to Pay Penalties

The failure of any person to pay civil penalties assessed within the specified time may result in the Town pursuing any legal remedy to collect the civil penalties as provided in the law.

9.06.693 Recovery of Costs

If actual costs are incurred by the Town on a property to obtain compliance with provisions of the Town Code and applicable state codes, the Town may assess costs against the responsible person. Once a notice of violation has been issued, the property will be inspected one time. Any additional inspections shall be subject to re-inspection fees pursuant to the applicable Town fee schedule as adopted in the Town's annual budget.

9.06.694 Administrative Fees

The Town or the Administrative Law Judge is authorized to assess administrative fees for costs incurred in the administration of this program, such as investigation of violations, preparation for hearings, hearings, and the collection process. The fee assessed shall be the amount set in the applicable Town fee schedule.

9.06.500 Part 5 - Injunctions

9.06.510 Violations - Injunctions

In addition to any other remedy provided under the Town Code or state codes, including criminal prosecution or administrative remedies, any provision of the Town Code may be enforced by an injunction issued in the District Court upon a suit brought by the Town.
In any action for an injunction, the Town only needs to establish the existence of a violation for an injunction to issue.

9.06.600 Part 6 - Performance Bonds

9.06.610 Performance Bond

As part of any notice, order, or action, the Town or Administrative Law Judge has the authority to require responsible persons to post a performance bond to ensure compliance with The Town Code, applicable state codes, or any judicial action.

If the responsible person fails to comply with the notice, order, or action, the bond will be forfeited to The Town. The bond shall not be used to offset the other outstanding costs and fees associated with the case.

Chapter 9.08 Recover of Code Enforcement Penalties and Costs

9.08.110 Declaration of Purpose

The Council finds that recordation of code enforcement tax liens will assist in the collection of civil penalties, administrative costs, actual costs, and administrative fees assessed by the administrative code enforcement hearing program or judicial orders. The 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 Town's code enforcement system.

The procedures established in this Part shall be used to complement existing administrative or judicial remedies that may be pursued to address violations of The Town Code or applicable state codes.

9.08.120 Procedures for Tax Liens Without a Judgement

Once The Town has abated a property, the Town shall prepare an Itemized Statement of Costs incurred in the removal and destruction of the violations and deliver them to the Town after completion of the work of removing the violations.

The Town shall send, by registered mail to the property owner's last known address, a copy of the Itemized Statement of Costs informing the property owner that a code enforcement tax lien is being recorded for the amount of actual costs of abatement. Payment shall be due within 30 calendar days from the date of mailing.

Upon receipt of the Itemized Statement of Costs, the Town, shall record a Code Enforcement Tax Lien against the property with the County Treasurer's office.

The failure of any person with a financial interest in the property to actually 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.

9.08.130 Procedures for Tax Liens with A Judgement

Once a judgment has been obtained from the appropriate court assessing costs against the responsible person, the Town may record a code enforcement tax lien against any real property owned by the responsible person.

9.08.140 Cancellation of Code Enforcement Tax Lien

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 Town shall either record a Notice of Satisfaction of Judgment, or provide the Responsible Person, property owner, or financial institution with the Notice of Satisfaction of Judgment so that it can record this notice with the county recorder's office. The notice of satisfaction of judgment shall include the same information as provided for in the original Code Enforcement Tax Lien. Such notice of satisfaction of judgment shall cancel the code enforcement tax lien.

9.08.150 Recovery of Costs by Writ of Execution

After obtaining a judgment, the Town may collect the obligation by using all available legal remedies. This may include the execution on personal property owned by the responsible person by filing a writ with the applicable court, garnishment of paychecks, financial accounts, and other income or financial assets by filing a writ with the applicable court.

9.08.160 Allocation of Civil Penalties

Civil penalties collected pursuant to this Part shall be deposited in the General Fund of The Town. Civil penalties deposited in this fund shall be appropriated and allocated in a manner determined by the Mayor and the Town Council. The Town Council shall establish accounting procedures to ensure proper account identification, credit, and collection.