

Mayor
Kenneth Romney

WEST BOUNTIFUL CITY

City Administrator
Duane Huffman

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City Recorder
Remington Whiting

City Engineer
Kris Nilsen

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THE WEST BOUNTIFUL CITY COUNCIL WILL HOLD A REGULAR MEETING AT 7:30 PM ON TUESDAY, OCTOBER 7TH, 2025, AT THE CITY OFFICES

Invocation/Thought – Kelly Enquist; Pledge of Allegiance – Mark Preece

1. Approve Agenda.
2. Public Comment - Two minutes per person; five minutes if on behalf of a group.
3. Ordinance 507-25 – An Ordinance Amending Title 17 of the West Bountiful Municipal Code Related to the Construction of Non-Commercial Structures and Accessory Structures Over Recorded Easements in Residential Zones.
4. Discuss Childs Park Concept and Cost.
5. Discuss Draft Municipal Code Regarding Administrative Enforcement.
6. Mosquito Abatement District-Davis Proposed Tax Increase.
7. Meeting Minutes from September 16th, 2025.
8. Staff Reports–Police, Public Works, Engineering, Admin & Community Development.
9. Mayor/Council Reports.
10. Closed Session, if necessary, for the Purpose of Discussing Items Allowed Pursuant to UCA § 52-4-205.
11. Adjourn.

The above agenda was posted on the State Public Notice website (Utah.gov/pmnr), the city website (WBCityut.gov), posted at city hall, and emailed to the Mayor and City Council on October 3rd, 2025.

MEMORANDUM



TO: City Council

DATE: October 3rd, 2025

FROM: Staff

RE: Code Change Application – Proposed Amendment Regarding Construction on Recorded Easements - Bergenheier

This memo introduces a text change amendment application from Calvin Bergenheier related to the construction of structures on recorded easements. (See attached). An ordinance based on the planning commission's recommendation which has been slightly modified from the original proposal is prepared for the council's consideration. The council may now approve, deny, further modify or continue to work on the proposal.

Application

On September 4th, 2025, Calvin Bergenheier submitted a text change application to change current restrictions of structures built on easements. The application requested to allow for structures to be built over recorded easements as long as certain requirements were met. The proposal stems from the applicant's desire to build an accessory structure that would be located over a recorded easement.

Background

West Bountiful Municipal Code clearly prevents the city from granting a building permit for any structure within an easement area. The codes states that "No main structure or permanent accessory structure shall be built on or over any recorded easement". Mr. Bergenheier desires to construct an accessory structure on an easement owned by Rocky Mountain Power (RMP) that runs through the Jessi's Meadow Subdivision (within the A-1 zone). The easement contains power lines. Based on the height of the lines and the width of the easement, RMP appears open to allowing buildings with certain restrictions to be constructed in this easement.

Some reasons for the current restriction might include:

- To protect utilities and infrastructure;
- Safety concerns;
- Legal liability; and
- Preserving access.

In researching the issue, staff discovered that Draper City's code allowed for limited construction within easements (though it was much more common for cities to have language like West Bountiful's).

Planning Commission Review and Recommendation

The planning commission discussed the application on September 9th and 23rd with a public hearing held on the 23rd. The original application proposal mirrored the language of Draper City code and allowed all structures to be constructed over easements if the applicant met the following requirements:

- Owner provides evidence that the easement has been abandoned.
- Owner executes a recordable document that states that the easement holder may require relocation to accommodate superior interest.

Staff prepared an additional draft for planning commission review with the following regulations:

- The new exception would only apply to accessory structures and non-commercial structures. Main structures would continue to be restricted from being built over recorded easements.
- Owner executes a recordable document that states that the easement holder may require relocation to accommodate superior interest.
- Owner receives written permission from easement holder.

After some discussion, the commission concluded not to recommend the original application/proposal, but to recommend the staff prepared draft, and to have it apply to all residential zones. This recommendation was forwarded to the city council by vote of 5-1.

The commissioners who voted for a positive recommendation to the city council stated that if the property owner was willing to take on the responsibility/risk, they should be allowed greater freedom to use their property as they wish.

The commissioner who voted for a negative recommendation explained that the reasons for the restriction, as outlined by staff, were sufficient to justify not allowing it.

Council Action

An ordinance based on the planning commission's recommendation is prepared for the council's consideration. The council may now approve, deny, further modify or continue to work on the proposal.



APPLICATION TO REZONE/CHANGE TEXT

West Bountiful City
PLANNING AND ZONING
550 N 800 W
West Bountiful, UT 84087
(801) 292-4486
www.WBCityut.gov

PROPERTY ADDRESS: 767 Jessi's Meadow DR. DATE OF APPLICATION: 4 SEP 25
PARCEL NUMBER: 061920610 CURRENT ZONE: A-1 or R-1-22 PROPOSED ZONE: A-1/R-1-22
LEGAL DESCRIPTION ATTACHED: (YES) NO * All of Lot 10, Jessi's Meadow
PaD. Cont. 0.77 acres.
Applicant Name(s): Calvin Bergenheier
Applicant Address (if different than above): 767 Jessi's Meadow DR, West Bountiful, UT
Primary phone: [REDACTED]

Describe in detail the request being made and the reasons why the change will benefit the people of West Bountiful. A separate sheet with additional information may be submitted if necessary.

Per discussion & meeting with Councilman Dell Butterfield, Building/Zoning Rep Remington and City Administrator Duane on Sep 3 @ 1:00pm, I am requesting a Codification to the WB City Ordinance 17,16,050. I believe this will add clarification to building on easements that are either abandoned or already authorized by the owner of the easement (such as Rocky Mountain Power) by allowing future growth and tax base for the citizens of WB. I believe using the Draper City Ordinance as provided by the City Administrator, and attached to this document, will provide the necessary language to
I hereby apply to change text in the West Bountiful Municipal Code, or rezone the property identified above in accordance with the provisions of Utah State Code 10-9a-503. I certify that the above information is true and correct to the best of my knowledge. accomplish this

Date: 9-4-2025 Applicant Signature: [Signature]
FOR OFFICIAL USE ONLY

Application & \$150 Fee Received Date: _____ Public Hearing Date: _____
Letters sent to affected neighbors: _____ Public Notice Sign Placed _____
Planning Commission Approval: _____ City Council Approval: _____

9-27-070: EASEMENTS:

Draper Example

No dwelling, main building, or permanent accessory building shall be located within a recorded easement area unless the property owner either produces evidence satisfactory to the zoning administrator that the easement has been abandoned, or executes a recordable document, in a form approved by the city attorney, indicating that notwithstanding apparent abandonment of the easement, the structure may be subject to the superior interest of the easement holder and may be required to be relocated at the property owner's expense to accommodate such interest.

- A. Location: Any structure in an easement area shall be located pursuant to the setback and other applicable requirements of this title.
- B. No Expansion Of Legal Rights: Nothing in this section is intended to expand or restrict the rights or obligations of any party to any recorded easement. (Ord. 394, 8-7-2001)

WEST BOUNTIFUL CITY

ORDINANCE #507-25

AN ORDINANCE AMENDING TITLE 17 OF THE WEST BOUNTIFUL MUNICIPAL CODE RELATED TO THE CONSTRUCTION OF NON-COMMERCIAL STRUCTURES AND ACCESSORY STRUCTURES OVER RECORDED EASEMENTS IN RESIDENTIAL ZONES

WHEREAS, West Bountiful City is empowered to adopt and amend general laws and land use ordinances pursuant to Utah State law (§10-9a-101 et seq.) and under corresponding sections of the West Bountiful City Code; and

WHEREAS, the West Bountiful City Council desires to maintain land use regulations that meet the needs of its residents; and

WHEREAS, it was determined that there was need for modifications to West Bountiful City Code related to the construction of non-commercial and accessory structures over recorded easements in all residential zones; and

WHEREAS, the West Bountiful Planning Commission held a public hearing on September 23rd, 2025, to consider the proposed modifications, and forwarded a positive recommendation to the City Council on September 23rd.

NOW THEREFORE, BE IT ORDAINED by the City Council of West Bountiful that the West Bountiful Municipal Code be modified as shown in exhibit A.

This Ordinance shall take effect immediately upon signing and posting.

Adopted October 7th, 2025.

By:

Kenneth Romney, Mayor

Voting by the City Council:	<u>AYE</u>	<u>NAY</u>
Councilmember Ahlstrom	_____	_____
Councilmember Butterfield	_____	_____
Councilmember Enquist	_____	_____
Councilmember Nielsen	_____	_____
Councilmember Preece	_____	_____

ATTEST:

Remington Whiting, City Recorder

17.14.050 Yard Regulations

17.16.050 Yard Regulations

17.20.050 Yard Regulations

17.24.050 Yard Regulations

C. Building on recorded easements.

1. No main structure shall be built on or over any recorded easement such as a public utility easement.
2. No non-commercial structure or permanent accessory structure shall be built on or over any recorded easement such as a public utility easement unless (a) the property owner receives written permission from the easement holder; and (b) the property owner executes a recordable document, in a form approved by the city attorney, indicating that notwithstanding any permission granted, the structure may be subject to the superior interest of the easement holder and may be required to be relocated at the property owner's expense to accommodate such interest.
 - i. Location: Any structure in an easement area shall be located pursuant to the setbacks and other applicable requirements of this title.
 - ii. No Expansion of Legal Rights: Nothing in this section is intended to expand or restrict the rights or obligations of any party to any recorded easement.

MEMORANDUM



TO: Mayor and City Council

DATE: October 3, 2025

FROM: Staff

RE: **Child's Park Concept Plan and Estimate Cost**

This memo introduces a concept plan and associated estimate costs for the Child's Park re-design.

Background

The property for Lou Child's Park was deeded to the city in 1984 as part of a PUD. The park itself was dedicated in 1990. The current playground is operable but outdated, and there is a crumbling concrete border around the play area. There is a large willow tree in the middle of the property that has large sections that are dead or dying. There is also a 30' sewer easement that runs along the front on the property.

In May, the city reviewed initial concepts and provided feedback to the design team.

September 2025 Concept

Attached to this memo is the latest concept incorporating all the previous feedback.

Highlights of the concept include:

- A single sidewalk leading from the street to the playground.
- Replacement of the crumbling concrete mini-wall with a new sidewalk to act as a border to the playground, along with pads for a bench and picnic table.
- New trees incorporated with the keeping at least one existing tree.
- New fencing on the eastern border of the park.
- New playground structures.
- An open lawn area.

The design team prepared an estimated cost for this concept as high as \$379,300. Staff has reviewed this estimate and believe the following is a more accurate estimate with self-performed preparation work and more modest playground structures would be closer to \$155,000.

Staff are now seeking the council's direction on how to proceed with this concept or otherwise modify it for budgetary purposes.



Child's Park | Concept Plan

08.29.25



Child's Park Renovation

Preliminary Construction Cost Estimate

9/5/2025

Item	Item Description	Qty.	Units	Unit Price	Total
1	MOBILIZATION / DEMOBILIZATION	1	L.S.	\$ 29,983.28	\$ 29,983.28
2	SITE CLEARING AND GRUBBING (including tree removal)	2,798	S.F.	\$ 2.00	\$ 5,596.00
3	DEMOLITION & REMOVAL	3,123	S.F.	\$ 5.00	\$ 15,615.00
4	SITE GRADING (Spread and Compact)	215	C.Y.	\$ 35.00	\$ 7,532.78
5	CONCRETE FLATWORK	1,047	S.F.	\$ 12.00	\$ 12,564.00
6	CONCRETE MOWSTRIP/EDGER	3	L.F.	\$ 50.00	\$ 150.00
7	PLAYGROUND CONCRETE CURB/THICKENED EDGE	266	L.F.	\$ 40.00	\$ 10,640.00
8	PLAYGROUND EQUIPMENT	1	L.S.	\$ 185,000.00	\$ 185,000.00
9	PLAYGROUND SURFACING	3,143	S.F.	\$ 5.00	\$ 15,715.00
10	PARK BENCH	1	EA.	\$ 2,500.00	\$ 2,500.00
11	PICNIC TABLE	1	EA.	\$ 2,000.00	\$ 2,000.00
12	FENCE	110	L.F.	\$ 75.00	\$ 8,250.00
13	DECIDUOUS TREE (2" CAL.)	14	EA.	\$ 750.00	\$ 10,500.00
14	SOD (includes raising & replacement)	250	S.F.	\$ 8.00	\$ 2,000.00
15	SHRUB BED (includes 12" topsoil, plants, fabric, rock mulch)	1,368	S.F.	\$ 12.00	\$ 16,416.00
16	IRRIGATION SYSTEM RENOVATION	250	S.F.	\$ 5.00	\$ 1,250.00
17	IRRIGATION SYSTEM - DRIP	1,368	S.F.	\$ 3.00	\$ 4,104.00
SUB-TOTAL COST=					\$ 329,816.06
15% Contingency \$					49,472.41
TOTAL ESTIMATED COST=					\$ 379,288.46

MEMORANDUM



TO: Mayor and City Council

DATE: September 23, 2025

FROM: Duane Huffman, City Administrator

RE: **New Municipal Code – Administrative Enforcement**

This memo introduces an updated draft of a newly proposed section of city code that addresses the enforcement of the code. This draft is for discussion purposes. Staff will take any feedback on this draft and bring back a final version for consideration.

Background

Staff and legal counsel have worked together to update the city code related to enforcement. The current code offers limited options for enforcement. This project envisions a unified section of the code that will allow for administrative enforcement options of all sections of the municipal code, in addition to any criminal enforcement that may be needed.

Key Provisions

1. Purpose and Scope

- a) Establishes administrative enforcement as an additional remedy to judicial actions (civil or criminal).
- b) Applies to all violations within City limits and areas under City jurisdiction.
- c) Seeks consistent, fair enforcement while maintaining flexibility in approach.

2. Enforcement Tools

- a) **Courtesy Notice:** Used for minor violations, offering a warning and correction period before further action.
- b) **Notice of Violation:** For more serious or unresolved violations; may immediately assesses civil penalties and may require corrective actions.
- c) **Emergency Abatement:** Authorizes immediate action to correct imminent life-safety hazards, with costs charged to the responsible party.
- d) **Administrative Enforcement Hearing:** Provides due process, allowing responsible persons to contest notices before a Hearing Officer. Orders from these hearings carry the force of law and can be appealed to District Court.

3. Administrative and Judicial Remedies

- a) **Recordation:** Notices of Violation and Administrative Orders may be recorded with the County Recorder, providing constructive notice to future property interests.

- b) Civil Penalties: Assessed per day of violation under the City's fee schedule; penalties escalate if unpaid or unresolved.
- c) Administrative Abatement: City may abate violations directly and recover costs.
- d) Costs and Fees: Responsible parties must pay for enforcement-related expenses, including inspections, hearings, and legal costs.
- e) Collections: The City may recover unpaid penalties and costs through liens, garnishments, or collection agencies.

4. Due Process and Oversight

- a) Clear notice and service requirements (personal service, mail, posting, or publication when necessary).
- b) Hearing Officers must be legally trained and independent from City employment.
- c) Appeals may be filed with Davis County District Court within 30 days of an Administrative Enforcement Order.

Recommendation

When the council is ready, staff believes adoption of Title 18 to formalize a fair, consistent, and cost-recoverable code enforcement program that aligns with state law and best practices.

18.04.010 Short Title

This Title shall be known as the “administrative code enforcement program” or Title 18 of the West Bountiful Municipal Code. It may be cited and pleaded under either designation.

18.04.020 Purpose and Introduction

The City Council finds that the enforcement of the West Bountiful Municipal Code and applicable state codes is an important public activity and vital to the protection of the public’s health, safety, welfare, and quality of life. The City Council recognizes that code enforcement is effective only when done fairly and consistently. The City Council further finds that an enforcement system that allows a combination of administrative and judicial remedies is effective in correcting a Violation, as defined in this Title. The City may enforce a Violation as allowed by law, including by two primary methods: (1) administrative actions, and (2) judicial actions in the form of civil or criminal proceedings.

18.04.030 Scope

The provisions of this Title may be applied to all Violations that occur within West Bountiful City limits and such territory outside West Bountiful City limits over which the City has jurisdiction or control. This Title establishes an additional remedy – administrative code enforcement – that the City may use to achieve compliance with applicable codes. No remedy provided in this Title is intended to be exclusive and each such remedy shall be in addition to any other remedy the City may have under the Municipal Code or other applicable law, now or in the future.

The City, at its sole discretion, may carry out this administrative code enforcement program reactively, proactively or in any other manner pursuant to this Title at any and all times.

18.04.040 Existing Law Continued

The provisions of this Title shall not invalidate any other provision of the Municipal Code, but shall be read in conjunction with any such provision and shall be used as an additional remedy for enforcement of violations of the Municipal Code.

18.04.050 Criminal Prosecution Right

The City shall have sole discretion in deciding whether to file a civil or criminal judicial case or pursue an administrative enforcement action for a Violation. The enactment of this Title shall not be construed to limit the City’s right to prosecute Violations as a criminal offense. The City may use any remedy available at law or in equity, including administrative enforcement and civil and criminal prosecution.

18.04.060 Effect of Headings

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

18.04.070 Severability

If any provision of this Title is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining provisions of this Title. This section shall apply to all amendments made to this Title.

18.04.080 Civil Liability

By establishing performance standards or by establishing obligations to act, the City Council intends that its employees and officers are exercising discretionary authority in pursuit of an essential governmental function and that any such standards or obligations shall be construed as creating a ministerial duty for purpose of tort liability.

18.04.090 General Rules of Interpretation

For purposes of this Title:

1. “Shall” is mandatory; “may” is permissive.

2. Unless otherwise specified, the terms “hereof,” “herein,” and similar terms refer to this Title as a whole.
3. Unless the context specifically requires otherwise, words of the masculine gender mean and include correlative words of the feminine and neuter genders, and words indicating a singular number mean and include the plural number and vice versa.

18.04.100 Definitions Applicable to Title Generally

In the construction of this Title, the following words and phrases shall be as defined as set forth in this section unless a different meaning is specifically defined elsewhere in this Title and specifically stated to apply:

“Administrative Enforcement Order” means an order issued by a Hearing Officer. The order may include an order to abate the Violation, pay civil penalty and administrative costs, or take any other action as authorized or required by this Title and applicable state codes.

“Administrative Enforcement Hearing” means a hearing held pursuant to the procedures established by this Title and at the request of a Responsible Person charged with a Violation.

“City” means the City of West Bountiful, Utah.

“City Council” means the City Council of West Bountiful City.

“Courtesy Notice” means a Written notice that, on a courtesy basis, informs a Responsible Person of a Violation, requests that the Violation be corrected within a certain time frame, and warns that further enforcement action may be taken if the Violation is not corrected as and when specified in the Courtesy Notice.

“Day” refers to calendar days.

“Director” means an individual as designated by the City Administrator.

“Enforcement Official” means any person authorized by the City to determine and enforce a Violation of the Municipal Code or applicable state codes, including the Director, zoning officials, police officers, building inspection officials, code enforcement officers, fire marshal, fire officers, and animal control officers.

“Hearing Officer” means a natural person appointed by the Mayor or the Mayor’s designee to preside over an Administrative Enforcement Hearing.

“Imminent Life Safety Hazard” means any condition that creates a serious and immediate danger of injury or damage to life, property, health, or public safety.

“Mayor” means the mayor of West Bountiful City.

“Municipal Code” or “WBMC” means the West Bountiful Municipal Code, as amended.

“Notice of Compliance” means a document or form issued and approved by the Director that indicates that a Violation has been corrected.

“Notice of Emergency Abatement” means a Written notice that informs a Responsible Person of emergency abatement actions taken by the City, and the costs of those actions, and orders payment for those costs.

“Notice of Itemized Bill for Costs” means a Written notice, itemizing the City’s costs and ordering payment of those costs.

“Notice of Violation” means a Written notice that informs a Responsible Person of a Violation, assesses civil penalties, and orders certain remedial steps to correct the Violation.

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

“Personal Service” means the method of service for any notice or document that is performed by in-person meeting or any other form of in-person communication, including those allowed under Rule 4(d)(1) of the Utah Rules of Civil Procedure, as amended.

“Property Owner” means the record owner of real property as shown on the records of the Davis County assessor or recorder.

“Responsible Person” means the Person determined by the City to be responsible for causing or maintaining a Violation. The term Responsible Person shall include a property owner, agent, tenant, lessee, occupant, architect, builder, contractor, or other Person who individually or together with another Person is responsible for a Violation.

“Title” means this title of the West Bountiful Municipal Code or the “administrative code enforcement program.”

Violation” means any condition caused, maintained, or permitted to exist in violation of any provision of the West Bountiful Municipal Code or applicable state codes.

“Written” or “Writing” includes handwritten, typewritten, photocopied, computer printed, emailed, or sent via facsimile or other electronic transmission.

18.04.110 Acts Include Causing, Aiding, and Abetting

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

18.04.120 Notice and Service Requirements

1. Notices required to be given under this Title shall be in the English language.
2. Whenever service is required to be given under this Title, service shall be made by any of the methods listed below:
 - a. Personal Service.
 - b. Regular or certified mail, postage prepaid, to the last known address of a Responsible Person.
 - c. Posting the notice conspicuously on or in front of the property. If the property is not inhabited, then the notice must also be mailed. The form of the posted notice shall be approved by the Director.
 - d. Publication in a newspaper of general circulation and posting on the Utah Public Notice Website, utah.gov/pmn/, if and only if: the identity or whereabouts of the person to be served are unknown and cannot be ascertained through reasonable diligence; service is impracticable under the circumstances; or there exists good cause to believe that the Person to be served is avoiding service.
3. Service by regular mail in the manner set forth above shall be deemed served on the fifth Day after the date of mailing when mailed in the continental United States. Service by regular mail to all other addresses shall deemed served on the tenth Day after the date of mailing.
4. 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 Title.
5. The failure of a Person, other than a Responsible Person, to be served in accordance with this section shall not affect the validity of any proceedings hereunder.

6. Whenever a document is recorded with the county recorder as authorized or required by this Title or applicable state codes, recordation shall provide constructive notice of the information contained in the recorded documents.

18.04.130 General Enforcement Authority

Whenever an Enforcement Official finds that a Violation has occurred or continues to exist, he/she may undertake any of the procedures herein. Enforcement Officials have the authority to gain compliance with the provisions of the Municipal Code and applicable state codes subject to the provisions of this Title. Such authority shall include the power to issue Notices of Violation and Courtesy Notices, inspect public and private property, abate public and private property, and use any remedy available under this Title or applicable law, including judicial and administrative remedies.

18.04.140 Adoption of Policy and Procedures

The Mayor, with the advice and consent of the City Council, is authorized to develop policies and procedures relating to hearing procedures, the scope of hearings, subpoena powers, and other matters relating to the administrative code enforcement program.

18.04.150 Authority to Inspect

Enforcement Officials are hereby authorized, in accordance with applicable law and with cause, to enter upon any property or premises to ascertain whether the provisions of the Municipal Code or applicable state codes are being obeyed and to make any reasonable, lawful examination or survey necessary in the performance of enforcement duties, including determining compliance with the Municipal Code or applicable state codes. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner based upon cause. If a Property Owner or Responsible Person refuses to allow an Enforcement Official to enter property, the City shall obtain a search warrant before entering the property.

18.04.160 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 an Enforcement Official when in the performance of official duties under the provisions of this Title. A violation of this section is a Class B misdemeanor.

18.04.170 Failure to Obey a Subpoena

It shall be unlawful for any Person to willfully refuse or fail to obey a subpoena issued for an Administrative Enforcement Hearing. Failure to obey a subpoena may constitute contempt and may be prosecuted as a class B misdemeanor.

18.04.180 Power to Arrest

Any police officer is authorized to arrest, without a warrant, any Person whenever there is reasonable cause to believe that the Person has committed a Violation in the Enforcement Official's presence. A police officer can arrest a person only by issuing a misdemeanor citation or Notice of Violation.

18.08 Administrative Code Enforcement Procedures

18.08.010 Courtesy Notice

18.08.020 Notice of Violation

18.08.030 Emergency Abatement

18.08.040 Administrative Code Enforcement Hearing

18.08.010 Courtesy Notice

18.08.010.1 Purpose and Authority

18.08.010.2 Procedures for Courtesy Notices

18.08.010.3 Contents of Courtesy Notice

18.08.010.4 Inspections and Compliance

18.08.010.1 Purpose and Authority

The City Council finds that there is a need for a method of enforcement for Violations that are minor in nature and not initially or generally desirable to be abated by the City (if such abatement action is or becomes necessary). The City Council further finds that an appropriate alternative method of enforcement for Violations of this nature is by Courtesy Notice. Violations not of this nature may generally be enforced by **procedures** associated with a Notice of Violation, which are described in Section 18.08.020. The procedures established in this subsection shall be an alternative and in addition to other administrative enforcement, including a Notice of Violation; criminal enforcement; civil enforcement; or any other remedy available at law or in equity. The utilization of a Courtesy Notice is at the sole discretion of the City.

An Enforcement Official may issue an Courtesy Notice to a Responsible Person for a Violation. A civil penalty shall be assessed by means of a Notice of Violation issued by an Enforcement Official if the Violation is not corrected within the timeframe specified in the Courtesy Notice.

18.08.010.2 Procedures for Courtesy Notices

Upon discovering a Violation that the City may deem to be minor in nature and not initially or generally desirable to be abated by the City, the City may issue a Courtesy Notice and serve it on the Responsible Person via any of the methods provided in this Title. A Responsible Person has the right to an Administrative Enforcement Hearing concerning the Courtesy Notice. More than one Courtesy Notice may be issued against the same Responsible Person if the additional Courtesy Notice encompasses different dates or different Violations.

18.08.010.3 Contents of Courtesy Notice

Each Courtesy Notice shall contain the following information:

1. The date, location, and explanation of all Violations;
2. Citation of Code sections violated;
3. The timeframe within which the Violation may be corrected before further enforcement action is taken;
4. An explanation of the consequences should the Responsible Person fail to comply with the terms and deadlines prescribed in the Courtesy Notice of Violation, which may include civil penalties, revocation of permits, issuance and recordation of a Notice of Violation, withholding of municipal permits, abatement of the Violation, costs, administrative fees, criminal or civil prosecution, and any other legal remedies.
5. The amount of the civil penalty to be imposed for each Violation if not corrected within the specified timeframe;
6. Identification of the right to and the procedures for requesting an Administrative Enforcement Hearing;
7. A demand that the Responsible Person cease and desist from further action causing the Violation and commence and complete all action to correct the Violation as directed by the City; and
8. The signature of the Enforcement Official and, if possible, the signature of the Responsible Person.

18.08.010.4 Inspections and Compliance

It shall be the duty of the Responsible Person to request an inspection to be performed by the City when a Violation cited by Courtesy Notice has been corrected. If no inspection is requested, then it shall be deemed prima facie evidence that the Violation remains uncorrected. If more than one inspection is

necessary, an inspection fee shall be assessed for each subsequent inspection. A Violation is recognized as corrected and resolved only upon the issuance by the City of a Notice of Compliance.

18.08.020 Notice of Violation

18.08.020.1 Authority

18.08.020.2 Procedures for Notices of Violation

18.08.020.3 Civil Penalties Assessed

18.08.020.4 Inspections and Compliance

18.08.020.5 Failure to Correct

18.08.020.1 Authority

The City may enforce any Violation in accordance with the procedures set forth in this chapter. The method of enforcement described in this chapter is typically for Violations that are major in nature, are found to exist on real property, have not been abated after Courtesy Notice, or are generally desirable to be abated by the City (if such abatement action is or becomes necessary). Violations less serious in nature may generally be enforced by procedures associated with a Courtesy Notice, as described in Section 18.08.010. The procedures established in this chapter shall be an alternative and in addition to other remedies, including a Courtesy Notice, criminal prosecution, civil prosecution, or any other legal remedy to address Violations. The utilization of a Notice of Violation is at the sole discretion of the City.

18.08.020.2 Procedures for Notices of Violation

Whenever an Enforcement Official determines that a Violation is of a nature appropriate for a Notice of Violation under Section 18.08.020.1, the City may issue a Notice of Violation to the Responsible Person.

1. If an Enforcement Official determines that a Notice of Violation is warranted under Section 18.08.020.1, or if a Violation continues beyond the timeframe for correction specified in any Courtesy Notice (as may be extended by the Enforcement Official based on good cause and good faith progress toward abatement), the Enforcement Official shall serve a Notice of Violation on the Responsible Person. The Notice of Violation shall include the following information:
 - a. Name of the Responsible Person.
 - b. Street address or other generally accepted description of the location of Violation.
 - c. Date Violation observed.
 - d. Citation of all specific code sections applicable to the Violation and a description of the Violation.
 - e. All remedial action required to permanently correct any Violation, which may include corrections, repairs, demolition, removal, or other appropriate action.
 - f. Explanation of the consequences should the Responsible Person fail to comply with the terms prescribed in the Notice of Violation, which may include civil penalties, revocation of permits, recordation of the Notice of Violation, withholding of municipal permits, abatement of the Violation, costs, administrative fees, criminal or civil prosecution, and any other legal remedies.
 - g. Statement that civil penalties accrue immediately upon issuance of the Notice of Violation.
 - h. The amount of the civil penalty for each Violation and a statement that the civil penalty shall accrue daily until the Violation is corrected.
 - i. An explanation of how the civil penalty shall be paid, the time period in which the civil penalty shall be paid, and the consequences of failure to pay the civil penalty.

- j. Statement that only one Notice of Violation is required for any 12-month period, and that civil penalties begin immediately upon any subsequent violation of the Notice of Violation.
 - k. Demand that the Responsible Person cease and desist from further action causing the Violation and commence and complete all action to correct the Violations as directed by the City.
 - l. Procedures to request an Administrative Enforcement Hearing, and consequences for failure to request such hearing.
 - m. Statement that when the Violation is brought into compliance, the Responsible Person must request an inspection to be performed by the City and notice of reinspection fees, if reinspection is required.
2. More than one Notice of Violation may be issued against the same Responsible Person if the additional Notice of Violation encompasses different dates or different Violations.
 3. A Responsible Person has the right to an Administrative Enforcement Hearing concerning the Notice of Violation.

18.08.020.3 Civil Penalties Assessed

1. Civil penalties shall be due and payable immediately upon service of a Notice of Violation or as otherwise described in the Notice of Violation.
2. The civil penalty for each Violation listed on the Notice of Violation shall be as identified in the City's fee schedule.
3. Civil penalties shall be doubled (i) if they are paid sixty (60) or more Days after the date of the Notice of Violation, or (ii) if the Violation remains uncorrected sixty (60) Days after the date of the Notice of Violation.
4. Civil penalties shall be tripled (i) if they are paid one hundred twenty (120) or more Days after the date of the Notice of Violation, or (ii) if the Violation remains uncorrected one hundred twenty (120) Days after the date of the Notice of Violation.
5. Payment of any civil penalty shall not excuse a failure to correct a Violation or any recurrence of the Violation, nor shall it bar further enforcement action by the City.
6. Civil penalties shall be paid to the City Treasurer. Penalties assessed by means of a Notice of Violation shall be collected in accordance with the procedures specified in the remedies section of this Title.

18.08.020.4 Inspections and Compliance

It shall be the duty of the Responsible Person to request an inspection to be performed by the City when a Violation has been corrected. If no inspection is requested, then it shall be deemed prima facie evidence that the Violation remains uncorrected. If more than one inspection is necessary, an inspection fee in the amount indicated in the City's fee schedule shall be assessed for each subsequent inspection.

18.08.020.5 Failure to Correct

It shall be unlawful for any Responsible Person to fail to comply with the terms of a Notice of Violation. Failure by a Responsible Person to bring a Violation into compliance as and when specified in the Notice of Violation may result in the City pursuing all available remedies, including:

1. The assessment of civil penalties owed to the City against the Responsible Person for each subsequent Day of Violation without additional notice to the Responsible Person required.
2. Civil or criminal prosecution action against the Responsible Person.

18.08.030 Emergency Abatement

18.08.030.1 Authority

18.08.030.2 Procedures

18.08.030.1 Authority

1. Whenever the Director determines that an Imminent Life Safety Hazard or that any safety hazard under the International Building Code, International Residential Code, the International Fire Code, and/or the Utah Health Code requires immediate correction or elimination, the Director may exercise any or all of the following powers without prior notice to the Responsible Person:
 - a. Order the immediate vacation of any tenants, and prohibit occupancy until all repairs and any other necessary remedial actions are completed;
 - b. Post the premises as unsafe, substandard, or dangerous;
 - c. Board, fence, or secure the building or site;
 - d. Raze and grade that portion of the building or site to prevent further collapse, and remove any hazard to the general public;
 - e. Make any minimal emergency repairs as necessary to eliminate any Imminent Life Safety Hazard; or
 - f. Take any other action appropriate to eliminate the Imminent Life Safety Hazard.
2. Based on probable cause, the Director, the Director's designee, or a police officer may enter or otherwise gain necessary access to property by all reasonable means, including with a search warrant or court order, to accomplish the above-listed acts to abate the Imminent Life Safety Hazard.
3. The Responsible Person shall be liable for all costs associated with the abatement of the Imminent Life Safety Hazard. Costs may be recovered pursuant to this Title.

18.08.030.2 Procedures

1. The Director shall pursue only the minimum level of correction or abatement necessary to eliminate the immediacy of a hazard. Costs incurred by the City during the Imminent Life Safety Hazard abatement process shall be assessed and recovered against the Responsible Person, including property (real, personal, intangible or otherwise) that is associated with the subject Imminent Life Safety Hazard.
2. The Director may also pursue any other administrative or judicial remedy to abate any remaining Violations (i.e., those that are deemed not to be Imminent Life Safety Hazards).
3. Within ten (10) Days of completion of an abatement of an Imminent Life Safety Hazard, the City shall serve the Property Owner or Responsible Person with a Notice of Emergency Abatement.
 - a. A Responsible Person has the right to an Administrative Enforcement Hearing concerning the Notice of Emergency Abatement.

18.08.040 Administrative Code Enforcement Hearing

18.08.040.1 Purpose

18.08.040.2 Request for Administrative Enforcement Hearing

18.08.040.3 Notification of Administrative Enforcement Hearing

18.08.040.4 Appointment and Qualifications of Hearing Officer

18.08.040.5 Powers of Hearing Officer

18.08.040.6 Procedures at Administrative Enforcement Hearing

18.08.040.7 Failure to Attend Administrative Enforcement Hearing

18.08.040.8 Administrative Enforcement Order

18.08.040.9 Failure to Comply with Administrative Enforcement Order

18.08.040.10 Appeal

18.08.040.1 Purpose

It is the purpose and intent of the City Council that any Responsible Person shall be afforded due process of law during the code enforcement process. Due process of law shall require adequate notice, an opportunity to request and to fully participate in any hearing, and an adequate explanation of the reasons justifying any resulting action. The following procedures are intended to establish a forum to determine if the cited Violation is valid and, if so, to resolve and correct Violations fairly, efficiently, and in a timely manner while providing due process.

18.08.040.2 Request for Administrative Enforcement Hearing

1. A Responsible Person served with one of the following documents or notices shall have the right to request an Administrative Enforcement Hearing. Such request shall be filed with the Director within ten (10) Days from the date of service of one of the following:
 - a. Courtesy Notice;
 - b. Notice of Violation;
 - c. Notice of Itemized Bill for Costs;
 - d. Notice of Emergency Abatement.
2. Such request, including all information concerning the Responsible Person's right to an Administrative Enforcement Hearing, shall be provided in English.
3. As soon as practicable after the City's receipt of the written notice of the request for an Administrative Enforcement Hearing, a Hearing Officer shall schedule a date, time, and place for the Administrative Enforcement Hearing.
4. Failure to request an Administrative Enforcement Hearing within ten (10) Days from the date of service of any of the notices in subsection 1 of this section shall constitute a waiver of the right to an Administrative Enforcement Hearing.
5. If a Responsible Person fails to request an Administrative Enforcement Hearing after being issued a Notice of Violation before the expiration of the ten (10) Day deadline, the corrective action detailed in the Notice of Violation shall be considered the Administrative Enforcement Order pursuant to this Title.
6. If the Responsible Person fails to request an Administrative Enforcement Hearing after being issued a Notice of Itemized Bill for Costs before the expiration of the ten (10) Day deadline, the case may be set for a default hearing.

18.08.040.3 Notification of Administrative Enforcement Hearing

Written notice of the date, time, and place of the Administrative Enforcement Hearing shall be served to the responsible person as soon as practicable prior to its date. The Hearing shall be conducted during regular City business hours. The Notice of the Hearing shall be served not less than 72 hours prior to the Hearing.

18.08.040.4 Appointment and Qualifications of Hearing Officer

1. The Mayor or his/her designee shall appoint a Hearing Officer to preside at Administrative Enforcement Hearings.
2. A Hearing Officer:
 - a. Shall have no personal, financial, or other conflict of interest in the matter for which the hearing is being held;
 - b. Shall be legally trained; and

- c. May not be a City employee.

18.08.040.5 Powers of Hearing Officer

1. A Hearing Officer shall have authority to conduct an Administrative Enforcement Hearing for a Violation.
2. A Hearing Officer may, for good cause shown by one of the parties or if the Hearing Officer independently determines that due process has not been adequately afforded to such party, continue an Administrative Enforcement Hearing. The Hearing Officer must enter in the record the for which a continuance is granted.
3. At the Written request of any party to an Administrative Enforcement Hearing, a Hearing Officer may sign subpoenas for witnesses, documents, and other evidence where the attendance of the witness or the admission of evidence is deemed helpful or necessary by the Hearing Officer to decide issues at the Administrative Enforcement Hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena.
4. The Hearing Officer has jurisdiction over the subject matter of an Administrative Enforcement Hearing, including for the purpose of granting a continuance, ordering compliance by issuing an Administrative Enforcement Order, ensuring compliance of that order, which includes authorizing the City to enter and abate a Violation, and modifying an Administrative Enforcement Order.

A Hearing Officer shall not make determinations as to the existence of a legal nonconforming use or legal noncomplying structure. If a Responsible Person claims a legal nonconforming use or legal noncomplying structure as a defense, the Hearing Officer shall continue the Administrative Enforcement Hearing and shall refer the matter to the appropriate West Bountiful City Land Use Authority for a determination as to the existence of the nonconforming right. The Land Use Authority's decision shall be binding. The Responsible Person shall bear the cost of the continuance and any determination proceeding.

18.08.040.6 Procedures at Administrative Enforcement Hearing

1. Administrative Enforcement Hearings are intended to be informal in nature. Formal rules of evidence and discovery shall not apply; however, an informal exchange of discovery may be requested. Any such request shall be written. Failure to request discovery shall not be a basis for a continuance. Complainant information shall not be disclosed or released unless the complainant is a witness at the hearing. The procedure and format of the Administrative Enforcement Hearing shall follow duly adopted policies and procedures.
2. The City bears the burden of proof to establish the existence of a Violation.
3. Such proof shall be established by a preponderance of the evidence.
4. Each party shall have the opportunity to call and cross-examine witnesses and present evidence in support of their case. A Written declaration signed under penalty of perjury may be accepted in lieu of a personal appearance.
5. All Administrative Enforcement Hearings are open to the public and shall be recorded by the City on a City owned voice-recording device. At the discretion of the Hearing Officer, Administrative Enforcement Hearings may be held at the location of the Violation.
6. The Responsible Person shall have the right to be represented at their own expense by an attorney. If an attorney will be representing a Responsible Person at a hearing, notice of the attorney's name, address, and telephone number shall be given to the City a least two Days prior to the hearing. If such notice is not given, the hearing may be continued at the City's request, and all costs of the continuance shall be assessed to the Responsible Person.
7. The burden to prove any raised defenses shall be upon the party raising any such defense.
8. No new hearing shall be granted, unless the Hearing Officer determines that extraordinary circumstances exist which justify a new hearing.

18.08.040.7 Failure to Attend Administrative Enforcement Hearing

A Responsible Person who fails to appear at an Administrative Enforcement Hearing shall be deemed to have waived the right to such hearing, the adjudication of issues related to the hearing, and the right to appeal, and such failure will result in a default judgment for the City, provided that proper notice of the hearing has been given as provided in Section 18.04.120.

18.08.040.8 Administrative Enforcement Order

1. A Responsible Person and the City may enter into a stipulated agreement, which shall be signed by both parties, at any time. Such agreement shall be entered in the record, shall be equivalent to and binding upon the parties as an Administrative Enforcement Order, and shall constitute a waiver of the right to further Administrative Enforcement Hearings and the right to appeal.
2. Absent a stipulated compliance agreement, after all evidence and testimony are presented, the Hearing Officer shall issue within ten Days a Written Administrative Enforcement Order that affirms, modifies or rejects the notice or citation. 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 Title. Such fees shall continue to accrue until the Responsible Person complies with the Hearing Officer's decision and corrects the Violation.
3. A Hearing Officer may issue an Administrative Enforcement Order that requires a Responsible Person to cease and desist from violating the Municipal Code or applicable state codes and to take any necessary corrective action.
4. A Hearing Officer may order the City to enter the property and abate all Violations, including the removal of animals and any and all other personal property that are in Violation of applicable code requirements.
5. A Hearing Officer may revoke a kennel permit, an animal license, or the right to possess animals as provided in the Municipal Code.
6. As part of an Administrative Enforcement Order, a Hearing Officer may establish specific deadlines for the payment of fees and costs, and condition the total or partial assessment of civil penalties on the Responsible Person's ability to take necessary corrective actions by the specified deadlines.
7. A Hearing Officer may schedule subsequent hearings as may be necessary or as requested by the City to ensure compliance with an Administrative Enforcement Order.
8. A Hearing Officer may order a Responsible Person to post a cash performance bond to ensure compliance with an Administrative Enforcement Order, but only if agreed to by the Enforcement Official handling the matter for the City.
9. An Administrative Enforcement Order shall become final on the date of signing by the Hearing Officer.
10. A copy of the Administrative Enforcement Order shall be served on all parties pursuant to the method of service provided in this Title. When required by this Title, the Director shall record the Administrative Enforcement Order with the Davis County Recorder's office.
11. After a Hearing Officer has issued an Administrative Enforcement Order, the Director shall monitor the matter for compliance with the Administrative Enforcement Order.

18.08.040.9 Failure to Comply with Administrative Enforcement Order

It shall be unlawful for any Responsible Person to fail to comply with the terms and deadlines set forth in an Administrative Enforcement Order. A violation of this section shall be a Class B misdemeanor. The City may use all appropriate legal means to recover the civil penalties and administrative costs incurred to obtain compliance.

18.08.040.10 Appeal

1. Any Responsible Person or the City adversely affected by an Administrative Enforcement Order made in the exercise of the provisions of this Title may, at his or her own expense, file a petition for review in the District Court of Davis County, Utah (“the Court”).
2. The petition shall be barred unless it is filed within thirty (30) Days after the Administrative Enforcement Order is final.
3. In the petition, the appellant may allege only that the Administrative Enforcement Order was arbitrary, or capricious, or illegal.
4. Within one hundred-twenty (120) Days after submitting the petition, the party petitioning for appeal shall request a copy of the record of the proceedings that is the subject of appeal, including transcripts of hearings when necessary. A transcript of the recording shall be deemed a true and correct transcript for purposes of this subsection. The City shall not submit copies of files or transcripts to the Court until the party petitioning for appeal has paid all required costs. The petitioning party’s failure to properly arrange for copies of the record or to pay the full costs for the record, within one hundred-eighty (180) Days after the petition for review was filed shall be grounds for dismissal of the petition.
 - a. If a transcript of a hearing cannot be prepared because a tape recording is incomplete or unintelligible, the Court may, in its discretion, remand the matter to the Hearing Officer for a supplemental proceeding to complete the record. The Court may limit the scope of the supplemental proceeding to issues that, in the Court’s opinion, need to be clarified.
5. Court review shall be limited to the record of the proceeding. The Court may not accept or consider any evidence outside such record unless that evidence was offered to the Hearing Officer and the Court determines that it was improperly excluded by the Hearing Officer.
6. The Court shall:
 - a. Presume that the Administrative Enforcement Order is valid;
 - b. Review the record to determine whether the Administrative Enforcement Order was arbitrary, capricious, or illegal; and
 - c. Affirm the Administrative Enforcement Order if it is supported by substantial evidence.

The filing of a petition for review to the Court does not stay execution of an Administrative Enforcement Order. Before filing a petition for review, a Responsible Person may request the Hearing Officer for a stay of the Administrative Enforcement Order. Upon receipt of a request to stay, the Hearing Officer may order the Administrative Enforcement Order to be stayed pending Court review if the Hearing Officer finds such stay to be in the best interest of the City.

18.12 Administrative And Judicial Remedies

18.12.010 Recordation of Notices of Violation; Notices of Compliance

18.12.020 Administrative Civil Penalties

18.12.030 Administrative Abatement

18.12.040 Costs and Fees

18.12.010 Recordation of Notices of Violation; Notices of Compliance

18.12.010.1 Purpose

18.12.010.2 Authority

18.12.010.3 Procedures for Recordation

18.12.010.4 Notice of Recordation

18.12.010.5 Failure to Request

18.12.010.6 Notice of Compliance

18.12.010.7 Prohibition Against Issuance of Municipal Permits

18.012.010.1 Purpose

The City Council finds that there is a need for alternative methods of enforcement for Violations 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.

The procedures established in this Part shall be in addition to criminal, civil, or any other remedy established by law to address a Violation.

18.12.010.2 Authority

Whenever the Director determines that a Violation has not been brought into compliance as required, pursuant to this Title, by a Notice of Violation or an Administrative Enforcement Order, the Director has the authority to record the Notice of Violation or Administrative Enforcement Order with the Davis County Recorder's Office.

18.12.010.3 Procedures for Recordation

1. Once the City has issued a Notice of Violation to a Responsible Person, and the Violation continues and remains uncorrected after the deadline established in the Notice of Violation, and no request for an Administrative Enforcement Hearing has been filed, the City may record a Notice of Violation with the Davis County Recorder's Office.
2. If an Administrative Enforcement Hearing is held, and an Administrative Enforcement Order is issued in the City's favor, the City may record the Administrative Enforcement Order with the Davis County Recorder's Office.
3. The recordation shall include the name of the Property Owner, the parcel number(s), the legal description of the parcel(s) and a copy of the Notice of Violation or Administrative Enforcement Order.
4. The recordation does not encumber the subject property, but merely places future interested parties on notice of any continuing Violation found upon the subject property.

18.12.010.4 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.

18.12.010.5 Failure to Request

The failure of any Person to file a request for an Administrative Enforcement Hearing when served with a Notice of Violation shall not affect the validity of the recorded Notice of Violation.

18.12.010.6 Notice of Compliance

When a Violation is purported to be corrected, a Responsible Person shall request an inspection from the Director.

1. When the Director receives such request, the Director or the Director's designee shall inspect the property as soon as practicable to determine whether the Violation has been corrected, and whether all necessary permits have been issued and final inspections have been performed as required by applicable codes.
2. The Director shall serve a Notice of Compliance to the Responsible Person or Property Owner in the manner provided in this Title within ten (10) business days of an inspection in which the Director finds correction of a Violation and determines that:
 - a. All Violations listed in the Notice of Violation or Administrative Enforcement Order have been corrected;
 - b. All necessary permits have been issued and finalized;
 - c. All assessed civil penalties have been paid; and
 - d. All assessed costs and administrative fees have been paid.

3. The City shall record the Notice of Compliance with the Davis County Recorder's Office if the related Notice of Violation was recorded. Recordation of the Notice of Compliance shall have the effect of canceling the recorded Notice of Violation.
4. If after inspection, the Director determines that the property fails to meet the requirements for a Notice of Compliance, the Director shall, upon Written request from the Responsible Person or the Property Owner, provide a Written explanation setting forth the reasons for failure to qualify for a Notice of Compliance. The Written explanation shall be served by any of the methods of service allowed under this Title.
5. No delay or omission on the part of the City to exercise any right or power accruing upon any Violation shall impair any such right or power or shall be construed to be a waiver of any such Violation or acquiescence therein and such right and power may be exercised as often as may be deemed expedient. The City's issuance of a Notice of Compliance in any instance shall not constitute consent to subsequent Violations and in all cases a Notice of Compliance may be granted or withheld at the sole discretion of the City. No prior Notice of Compliance shall affect any subsequent Violation or shall impair any of the City's rights or remedies for such subsequent Violation. Every substantive right and every remedy conferred upon the City may be enforced and exercised as often as may be deemed expedient.

18.012.010.7 Prohibition Against Issuance of Municipal Permits

The City may withhold or suspend business licenses; permits for kennels; or permits for any alteration, repair, or construction pertaining to any existing or new structure or sign on a property on which a Violation exists, or any permits pertaining to the use and development of the real property or the structure where a Violation is located. The City may withhold such permits until the Director has issued a Notice of Compliance. The City may not withhold permits necessary to obtain a Notice of Compliance or to correct serious health and safety Violations.

18.12.020 Administrative Civil Penalties

18.12.020.1 Authority

18.12.020.2 Procedures for Assessing Civil Penalties

18.12.020.3 Determination of Civil Penalties

18.12.020.4 Modification of Civil Penalties

18.12.020.5 Failure to Pay Penalties

18.12.020.1 Authority

1. Any Person may be subject to the assessment of civil penalties for each Violation.
2. Each Day a Violation exists is a separate Violation subject to the assessment of civil penalties.
3. Civil penalties cannot be assessed when a criminal case has been filed for the same date and Violation, because fines may be assessed with the criminal case.
4. Civil penalties for Violations shall be assessed pursuant to the City's fee schedule.
5. Interest shall be assessed per City policy on all outstanding civil penalties balances until the case has been paid in full.

18.12.020.2 Procedures for Assessing Civil Penalties

1. If a Responsible Person fails to bring a Violation into compliance within ten Days of service of a Notice of Violation, civil penalties shall be owed to the City for each and every subsequent Day of violation.
2. Civil penalties are assessed and owing immediately for a Administrative Notice.

18.12.020.3 Determination of Civil Penalties

1. For a Notice of Violation, civil penalties shall be assessed per Violation per Day pursuant to the City fee schedule.
2. Civil penalties shall continue to accrue until each Violation has been brought into compliance.

18.12.020.4 Modification of Civil Penalties

1. The City or Hearing Officer may waive or modify civil penalties on a finding of good cause and conditioned on, but not limited to, correction of Violation(s).
 - a. In the event that the Responsible Person fails to correct the Violation(s) or to pay reduced civil penalties, then the civil penalty reduction may be rescinded and the Responsible Person shall then owe the original amount of civil penalties assessed as if the reduction had not been given and shall have the continued requirement to correct the Violation(s).
2. Nonconforming or conditional use: Civil penalties may be waived or modified by the City or Hearing Officer if there is a finding of good cause based on the Responsible Person's Written claim of nonconforming use or conditional use and:
 - a. The City's need to verify the claim; or
 - b. The Responsible Person's filing of an application for nonconforming or conditional use before expiration of the date to correct.

18.12.020.5 Failure to Pay Penalties

The failure of any Person to pay civil penalties assessed within the specified time may result in the Director's pursuing any legal remedy to collect the civil penalties as provided by law.

18.12.030 Administrative Abatement

18.12.030.1 Authority To Abate

18.12.030.2 Procedures For Abatement

18.12.030.1 Authority to Abate

Enforcement Officials are hereby authorized to enter upon any property or premises to abate or cause to be abated a Violation as provided in this Title. The Director shall assess all costs for abatement to the Responsible Person and may use any remedy available under the law to collect such costs.

18.12.030.2 Procedures for Abatement

1. Violations may be abated by City personnel or by a private party acting under the direction of the City.
2. City personnel or a private party may enter upon private property in a reasonable manner to abate a Violation as specified in the Notice of Violation or Administrative Enforcement Order.
3. If a Responsible Person abates the Violation before the City abates the Violation pursuant to a Notice of Violation or Administrative Enforcement Order, the Director shall nevertheless assess all costs incurred by the City against the Responsible Person.
4. When abatement is completed, the Director shall prepare a Notice of Itemized Bill for Costs.
5. The Director shall serve the Notice of Itemized Bill for Costs by certified mail to the last known address of the Responsible Person. The Notice of Itemized Bill for Costs shall demand full payment within twenty (20) Days to the West Bountiful City Treasurer.
6. The Responsible Person shall have a right to an Administrative Enforcement Hearing to contest the Notice of Itemized Bill for Costs. Such hearing shall be pursuant to and in conformity with this Title.

18.12.040 Costs and Fees

18.12.040.1 Purpose and Introduction

18.12.040.2 Authority

18.12.040.3 Failure to Timely Pay Costs

18.12.040.4 Administrative Fees

18.12.040.5 Injunctions

18.12.040.6 Performance Bonds

18.12.040.7 Recovery of Administrative Code Enforcement Penalties and Costs

18.12.040.1 Purpose and Introduction

There are three primary categories of costs and fees associated with this Title, as follows:

1. **Costs:** These are direct costs the City incurs in carrying out the abatement of Violations, inspection and re-inspection fees, filing fees, attorney fees, Hearing Officer fees, title search, and any additional actual costs incurred by the City for each individual case.
 - a. The City Council finds that costs incurred by Enforcement Officials and the City to correct Violations should be recovered from the Responsible Person.
 - b. The City Council further finds that the assessment of costs is an appropriate method to recover costs.
 - c. The assessment and collection of costs shall not preclude the imposition of any administrative or judicial civil fees, penalties or fines for Violations.
2. **Administrative fees:** These are expenses incurred in the administration of this Administrative Code Enforcement program, such as, but not limited to, investigation of Violations, preparation for hearings, hearings and the collection process.
3. **Administrative civil penalties:** These are penalties or fines assessed for a Violation, separate from costs and administrative fees associated with the same.

18.12.040.2 Authority

1. Whenever the City incurs costs to enforce the City Code and applicable state codes, the City may assess such costs against the Responsible Person, including property (real, personal, intangible, or otherwise) that is associated with a Violation.
2. If more than one inspection is necessary with respect to a Violation, then an inspection fee may be assessed for each subsequent inspection.
 - a. Notification of re-inspection fees shall be provided in the Notice of Violation served to the Responsible Person.
 - b. Re-inspection fees assessed or collected pursuant to this subsection should not be included in any other costs assessed, but should be itemized separately.
 - c. The failure of any Responsible Person to receive notice of the re-inspection fees shall not affect the validity of any other fees imposed under this subsection.

18.12.040.3 Failure to Timely Pay Costs

The failure of any Person to pay assessed costs by the deadline specified in a Notice of Itemized Bill for Costs shall result in a daily late fee calculated on a simple basis (non-compounding) at the rate of one and one-half percent per month on the unpaid balances.

18.12.040.4 Administrative Fees

The Director or Hearing Officer is authorized to assess administrative fees for costs incurred in the administration of this Administrative Code Enforcement program, such as investigation of Violations, preparation for hearings, hearings and the collection process. The fees assessed shall be the amount set in the City fee schedule.

18.12.040.5 Injunctions

As a civil judicial remedy available to the City in addition to any other remedy provided under the Municipal Code or state codes, including administrative remedies or criminal prosecution, any provision of the Municipal Code may be enforced by injunction issued by a court of appropriate jurisdiction upon a suit brought by the City.

18.12.040.6 Performance Bonds

1. As part of any notice, order, or action, the City or a Hearing Officer has the authority to require a Responsible Person to post a performance bond to ensure compliance with the Municipal Code, applicable state codes, or any judicial action.
2. If a Responsible Person fails to comply with the notice, order or action, then the bond will be forfeited to the City. The bond is to be used for abatement costs and will not be used to offset any other outstanding costs and fees associated with the Violation.

18.12.040.7 Recovery of Administrative Code Enforcement Penalties and Costs

This subsection (a) identifies various methods the City may use to recover administrative code enforcement penalties and costs; and (b) details the City's allocation of these collected penalties and costs. No method is intended to be exclusive or to preclude the City from pursuing any other remedy available at law or in equity.

1. Code Enforcement Tax Liens

- a. **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 this administrative code enforcement program or judicial orders. The City Council further finds that collection of civil penalties, costs, and fees assessed for Violations is important in deterring future Violations and maintaining the integrity of the City's code enforcement system. The procedures established in this subsection shall be used to complement existing administrative or judicial remedies that may be pursued to address Violations.
- b. **Procedures for Tax Code Enforcement Tax Lien Without a Judgment.** The Director shall provide a copy of a Notice of Itemized Bill for Costs to the City Treasurer. Upon receipt of the Notice of Itemized Bill for Costs, the City Treasurer shall (i) record a code enforcement tax lien as to the Notice of Itemized Bill for Costs against the property upon which a Violation exists with the Davis County Recorder and (ii) if applicable, file the code enforcement tax lien with the Davis County Treasurer. The City shall serve a notice of the code enforcement tax lien recordation on the Responsible Person and the Property Owner pursuant to any of the methods of service set forth in this Title. 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 amounts associated with the lien.
- c. **Procedures for Tax Code Enforcement Tax Lien with a Judgment.** Once a judgment has been obtained from the appropriate court assessing costs against the Responsible Person, the Director may record a code enforcement tax lien against any real property owned by the Responsible Person.
- d. **Cancellation of Code Enforcement Tax Lien.** Once payment in full is received for the outstanding civil penalties, administrative costs and administrative fees, including through foreclosure of the code enforcement tax lien as permitted by law, or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the Director shall record a Notice of Compliance. The Notice of Compliance shall include the same information as provided for in the original code enforcement tax lien and shall cancel the code enforcement tax lien.

2. **Collections.** The City may pursue collection of administrative code enforcement penalties and costs through referral to a collection agency, litigation, or both.
3. **Writ of Execution.** After obtaining a judgment, the City may collect the associated 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.
4. **Writ of Garnishment.** After obtaining a judgment, the City may collect the associated 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.
5. **Allocation of Civil Penalties.** Collected civil penalties shall be deposited in the General Fund of the City. Civil penalties deposited in this fund may be allocated pursuant to the City's budget process and as authorized by applicable law. The City shall establish accounting procedures to ensure proper account identification, credit, and collection.

City of West Bountiful

Administrative Code Enforcement Program

Courtesy Notice of Code Violation

Date:	_____
To (Responsible Person):	_____
From (Enforcement Official):	_____
Property Address:	_____
Violation(s) Observed:	_____
Code Section(s) Violated:	_____
Required Correction Deadline:	_____

Consequences of Non-Compliance:

- Notice of Violation may be issued.
- Civil penalties may be assessed.
- Permits may be revoked or withheld.
- City may abate violation at your expense.
- Possible civil or criminal proceedings.

Right to Hearing: You may request an Administrative Enforcement Hearing within 10 days of this notice.

Enforcement Official Signature: _____

Responsible Person Acknowledgment (optional): _____

City of West Bountiful

Administrative Code Enforcement Program

Notice of Violation

Date:	_____
To (Responsible Person):	_____
From (Enforcement Official):	_____
Property Address:	_____
Violation(s) Observed:	_____
Code Section(s) Violated:	_____
Date Violation Observed:	_____
Required Remedial Action:	_____

Civil Penalties:

- Penalties accrue immediately upon service of this notice.
- Daily penalties continue until violation is corrected.
- Penalties double if unresolved after 60 days, triple after 120 days.

Consequences of Failure to Comply:

- Notice may be recorded with County Recorder.
- Revocation or withholding of permits.
- City abatement at your expense.
- Civil or criminal prosecution.

Right to Hearing: You may request an Administrative Enforcement Hearing within 10 days of this notice.

Enforcement Official Signature: _____

Agenda item – Mosquito Abatement District-Davis Proposed Tax Increase

If a special district adopts a tentative budget that includes a property tax increase, each member shall report to the member's legislative entity on the property tax increase or bond issuance (UCA 17B-103). For the Mosquito Abatement District, West Bountiful City's trustee is Council Member Kelly Enquist.

The Mosquito Abatement District-Davis is proposing to increase its property tax revenue. The Mosquito Abatement District-Davis tax on a \$600,000.00 (average value of Davis County residence) residence would increase from \$30.69 to \$38.61, which is \$7.92 per year. If the proposed budget is approved, Mosquito Abatement District-Davis would receive an additional \$1,000,000.00 in property tax revenue per year as a result of the tax increase. If the proposed budget is approved, Mosquito Abatement District-Davis would increase its property tax budgeted revenue by 26.18% above last year's property tax budgeted revenue excluding new growth

The primary purpose for the proposed tax increase is construction of new pesticide storage facilities. Also building for future growth and to increase mosquito surveillance and lab capacity. Any other revenues above financial obligations for building construction loan will be used to increase the purchase of a new mosquito adulticide product.

Current Year Tax Rate	Estimated Next Year Tax Rate
.000093	.000117

PUBLIC HEARING

Date/Time: Location: December 11, 2025 at 7:00. 85 North 600 West, Kaysville, UT. 84037

The city does not vote or make a motion on the record or the increase.

Report made to the West Bountiful City Council at their regular meeting on October 7, 2025

PENDING – Not Yet Approved

Minutes of the West Bountiful City Council meeting held on **Tuesday, September 16th, 2025**, at West Bountiful City Hall, 550 N 800 West, Davis County, Utah.

Those in attendance:

MEMBERS: Council members Dell Butterfield, Kelly Enquist, Jenn Nielsen and Mark Preece

STAFF: Duane Huffman (City Administrator), Brandon Erikson (Chief of Police), Steve Doxey (City Attorney), Kris Nielsen (City Engineer), Dallas Green (Golf Director), and Remington Whiting (City Recorder)

PUBLIC: Alan Malan, Judy Barking, Belinda Barking, Sally Tanner, Rebecca Wheelwright, Colleen Eggett, Richmond Thornley, Julie Thompson, Matt Brady, Sarah Roberts, Weston Roberts, Simon Mortenson

EXCUSED: Mayor Kenneth Romney, Council member James Ahlstrom, Steve Maughan (Public Works Director)

Regular Meeting

Mayor Pro-Tem Mark Preece called the meeting to order at 7:32 pm. Jenn Nielsen shared an Inspirational Thought, and the Pledge of Allegiance was led by Kelly Enquist.

1. Approve Agenda

MOTION: *Dell Butterfield made a motion to approve the agenda. Kelly Enquist seconded the Motion which PASSED by unanimous vote of all members present.*

2. Public Comment

Dave Ryan – 425 N 660 W – Mr. Ryan expressed concern regarding mailboxes that were displaced due to the 660 W project. He stated that the new mailboxes that were installed are lesser quality than the original decorative mailboxes.

3. Proclamation Designating September 17-23, 2025, as Constitution week in West Bountiful.

Christine Schultz presented herself and the Daughters of the American Revolution. She gave a brief presentation on the constitution, its origin, and its importance. The organization expressed appreciation to the city council and the community. An award was then presented to the city council in recognition of outstanding work in upholding and promoting the ideals of the constitution.

MOTION: *Kelly Enquist made a motion to approve the Proclamation September 17-23, 2025, as Constitution week in West Bountiful. Dell Butterfield seconded the motion.*

The vote was recorded as follows:

Dell Butterfield – Aye	Kelly Enquist – Aye
Jenn Nielsen – Aye	Mark Preece – Aye

4. Public Hearing – Proposal to Vacate Portion of Public Utility Easement and Drainage Easement at 667 West 1815 North.

Kris explained that Matthew and Whitney Brady submitted an application to reduce a portion of the public utility easement and drainage easement along the rear (southern) and side (eastern) property lines at 667 West 1815 North in order to build an accessory structure.

MOTION: *Jenn Nielsen made a motion to open the public hearing to discuss the change of easement along the southern and eastern property lines at 667 West 1815 North. Kelly Enquist seconded the motion which passed by unanimous vote of all members present.*

No public comment offered.

MOTION: *Kelly Enquist made a motion to close the public hearing to discuss the change of easement along the southern and eastern property lines at 667 West 1815 North. Jenn Nielsen seconded the motion which passed by unanimous vote of all members present.*

5. Ordinance 505-25 – An Ordinance Authorizing the City Mayor to Execute a Change in Easement Along the Southern and Eastern Property Line at 667 West 1815 North.

Duane explained all of the vacate approval letters from the utility companies were received except for one, and that any motion to approve should be contingent of the receipt of the final release letter.

MOTION: *Jenn Nielsen made a motion to adopt Ordinance 505-25 – An Ordinance Authorizing the City Mayor to Execute a Change in Easement Along the Southern and Eastern Property Line at 667 West 1815 North pending the approval of the final telecommunication release. Dell Butterfield seconded the motion.*

The vote was recorded as follows:

Dell Butterfield – Aye	Kelly Enquist – Aye
Jenn Nielsen – Aye	Mark Preece – Aye

6. Ordinance 506-25 – An Ordinance Amending the West Bountiful Municipal code 17.24.050 Related to Rear Yard Setbacks in the R-1-10 Zone.

Duane presented the memo to the city council that included Sarah and Weston Robert's code change application. He explained that the application requested to amend the current rear yard setback for main structures from 30' down to 20' in the R-1-10 zone. He then reviewed potential reasonings as to why setbacks exist. He then discussed the Planning Commission's review and recommendation. The planning commission had unanimously voted to not forward a positive recommendation of the original application but to amend a previous code from January of 2025. This proposed code would allow for partial encroachment into the rear yard setback with certain other requirements.

Sarah Roberts – The applicant addressed the council and explained why they had requested a code change. She listed reasonings as to why residents would want to have more options for structures in rear yards.

Alan Malan – Mr. Malan explained that the planning commission believed that the forwarded recommendation had the least impact while allowing the applicant to build what they would like.

MOTION: *Dell Butterfield made a motion to adopt Ordinance 506-25 – An Ordinance Amending the West Bountiful Municipal code 17.24.050 Related to Rear Yard Setbacks in the R-1-10 Zone. Jenn Nielsen seconded the motion.*

The vote was recorded as follows:

Dell Butterfield – Aye

Kelly Enquist – Aye

Jenn Nielsen – Aye

Mark Preece - Aye

7. Consider Approval of UDOT Master Agreement – I-15 Project.

Duane introduced the agreement and explained that it would cover the process for any potential city utility relocations associated with the I-15 Expansion. He explained that agreement would establish terms for when they impact those lines. Potential impacted lines and their locations were discussed.

MOTION: *Kelly Enquist made a motion to approve the UDOT Master Agreement – I-15 Project. Dell Butterfield seconded the motion and passed unanimously.*

8. Consider Approval of Asset Management Agreement – Moreton Asset Management LLC.

Duane explained that this agreement would establish a relationship with Moreton Asset Management to allow the invest of city funds in compliance with the Utah Money Management Act and the recently adopted Investment Policy Statement. Councilwoman Nielsen expressed concern about moving more than half of funds out of the PTIF. Duane noted the proposed \$10 million could be adjusted and emphasized long-term benefits over

short-term gains. Councilman Butterfield supported diversifying funds. The Council discussed tabling the agreement until the full Council is present.

MOTION: *Kelly Enquist made a motion to table the Asset Management Agreement. Jenn Nielsen seconded the motion which passed unanimously.*

9. Consider Approval of Purchase of Golf Netting System from JudgeNetting.

Duane reported that the driving range netting will be replaced with new poles and extended further east, as discussed and planned during budget development and adoption. The installation timeline, temporary closure of the range, and modifying hole 9 to a shorter hole during construction was discussed. The staff memo explained how the award complied with the city's procurement policy.

MOTION: *Dell Butterfield made a motion to approve the purchase of Golf Netting System from JudgeNetting \$323,000. Kelly Enquist seconded the motion.*

The vote was recorded as follows:

Dell Butterfield – Aye	Kelly Enquist – Aye
Jenn Nielsen – Aye	Mark Preece - Aye

10. Monthly Financial Report.

Duane presented the July Financial Report, noting that some revenues may need to be shifted between fiscal years. He reported that sales tax revenues have been strong in recent months.

11. Meeting Minutes from September 2nd, 2025

MOTION: *Jenn Nielsen made a motion to approve the meeting minutes from September 2nd, 2025. Kelly Enquist seconded the motion which PASSED by unanimous vote of all members presents.*

12. Staff Reports

Police Department – Brandon Erikson

- Will be conducting police officer job interviews on Thursday of this week.
- Will conduct interviews for a part-time admin assistant and a crossing guard next week.

Engineering – Kris Nilsen

- 660 W project continues. Asphalt should be laid next week. Kris explained that the project has taken longer than estimated due to the contractor being aggressive in his estimation.
- Currently reviewing Belmont Farms 2A application.
- Meeting with UDOT and UTA to discuss the impact on utilities from projects.

Administration/Community Development – Duane Huffman

- Contacted a group known as LTAP related to roads and traffic that will discuss ideas for 400 N and 800 W.
- Mayor and staff have a meeting with UDOT to discuss the Legacy project later this week.
- Submitted a RAP information pamphlet to the printer.

- A design for Childs Park has been submitted and cost estimates are being worked on.
- A new draft of the administrative code enforcement will be presented at the next city council meeting.
- Reported that detached ADUs are being discussed at the legislature and there is a high probability that they will be addressed during the next legislative session.
- Steve and Duane met with Enbridge on 500 S to discuss median problems and the project timeline.

13. Mayor/Council Reports

Dell Butterfield:

- The planning commission has another code change application that is being reviewed related to building over easements.
- SD Rec Center meeting last Monday.

Kelly Enquist:

- September 15th is the typical slowdown for mosquitoes.
- West Nile Virus has been found in 58 different pools in Davis County.
- Thanked the council for attending the Founder's Day Celebration on September 13th.

Jenn Nielsen:

- YCC are making plans for the Trunk or Treat and will have their annual retreat on September 25th.

Mark Preece:

- South Davis Sewer District will meet on Thursday.

14. Adjourn

MOTION: *Jenn Nielsen made a motion adjourn the meeting of the West Bountiful City Council. Dell Butterfield seconded the motion which PASSED by unanimous vote of all members present.*

The foregoing was approved by the West Bountiful City Council by unanimous vote of all members present on October 7th, 2025.

Remington Whiting, City Recorder