



**SPECIAL WORK SESSION  
2267 N 1500 W  
CLINTON UT 84015**

***City Council Members  
Mayor Brandon Stanger  
Council  
Marie Dougherty  
Dane Searle  
Gary Tyler  
Spencer Arave  
Austin Gray***

<b>Date of Meeting</b>	<b>February 27, 2024</b>	<b>Call to Order</b>	<b>7:22 p.m.</b>
<b>Staff Present</b>	City Manager Trevor Cahoon, Peter Matson, Police Chief Stoker, Keaton Jones and Lisa Titensor recorded the minutes.		
<b>Roll Call/Attendance</b>	Present were: Mayor Stanger, Councilmembers Marie Dougherty, Dane Searle, Gary Tyler attended electronically, Spencer Arave and Austin Gray		
<b>Declaration of Conflicts</b>	There were none.		

**CITY COUNCIL WORK SESSION TO DISCUSS ADMINISTRATIVE CODE ENFORCEMENT**

<b>Petitioner</b>	Mayor Stanger
<b>Discussion</b>	<p>Mayor Stanger explained the intent of this discussion is to begin the process of updating the city code regarding code enforcement and to establish some tools within the code to enhance enforcement.</p> <p>Currently Clinton City’s Code Enforcement efforts are largely criminal in nature by virtue of the code. The City Council and Mayor has requested that staff modify the ordinance to allow for a civil enforcement to provide greater effectiveness at enforcement.</p> <p>Staff gave the following presentation to provide an overview of the proposed process and an implementation timeline based on the new procedure. It is proposed to expand the tool kit available.</p> <p align="center"><b>Exhibit A - Further Background</b></p> <ol style="list-style-type: none"> <li>1. Streamlining Processes: Our goal is to resolve issues more swiftly and efficiently, reducing the need for lengthy legal procedures. This update allows us to handle violations in a more straightforward manner.</li> <li>2. Adapting to Different Situations: By introducing a variety of enforcement options, we can tailor our approach based on the severity of the violation. This flexibility ensures that minor issues can be resolved quickly, while more serious concerns receive the attention they require.</li> <li>3. Prioritizing Public Safety: The health and safety of our community are paramount. These changes enable us to address violations more effectively, reducing potential risks to our residents.</li> <li>4. Encouraging Voluntary Compliance: The updated ordinance emphasizes cooperation over confrontation. By encouraging property owners to work with us in resolving violations, we foster a collaborative community spirit.</li> <li>5. Ensuring Fairness: With clear procedures for notices, hearings, and appeals, we ensure that</li> </ol>

everyone is treated fairly. This transparency builds trust in our enforcement process and clarifies the responsibilities of all parties involved.

**Criminal Enforcement**

Criminal enforcement is utilized for the most serious violations that pose significant risks to public safety, health, or welfare. This type involves violations that are explicitly prohibited by law and are punishable by criminal penalties, such as fines, imprisonment, or both. The process typically starts with a criminal citation issued by law enforcement officers, followed by a court process where the violator is entitled to a trial and legal representation. Criminal enforcement is chosen for egregious violations, repeat offenders, or when the violation causes direct harm to individuals or the community.

**Civil Citation**

Civil citation is a non-criminal enforcement action used for less severe violations that do not warrant criminal prosecution but still require correction. It is a formal notice issued to the violator, outlining the specific ordinance or code being violated, the necessary corrective action, and a deadline for compliance. Civil citations often come with fines or penalties, which can escalate for repeated violations or non-compliance. This enforcement type encourages voluntary compliance while providing a mechanism for penalties if the violation is not addressed.

**Abatement**

Abatement actions are taken to physically correct a violation, typically when the violator fails to comply voluntarily or when the violation presents an immediate danger. This process involves the government or authorized entities stepping in to remove, repair, or otherwise correct the violation, with the costs often recovered from the violator. Abatement is used for situations where immediate action is necessary to protect public health or safety, such as removing hazardous materials or securing unsafe structures.

**Nuisance**

Nuisance enforcement addresses conditions on a property that negatively affect the safety, health, or comfort of the public or community. This can include issues like excessive noise, unsafe buildings, or environmental hazards. Nuisance violations are often subjective and require a balance between the rights of the property owner and the community's interests. Enforcement typically involves notices to the property owner to correct the issue, followed by more severe measures like fines, abatement, or legal action if the problem persists.

Each of these enforcement types serves a different purpose and is chosen based on the nature of the violation, the potential impact on the community, and the violator's history and willingness to comply. They offer a range of tools for code enforcement officers to ensure compliance with local laws and ordinances, protecting public health, safety, and welfare.

**Collection of Fines and Recordation on Property****Collection of Fines:**

- The enforcement process emphasizes the importance of recovering costs incurred by the City in ensuring compliance with ordinances. This includes the actual costs of abatement, re-inspection fees, filing fees, attorney fees, hearing officer fees, title search, and any other actual costs incurred for each case.
- The City has the authority to assess these costs against the responsible person. Once a notice of violation has been issued, the property is subject to one inspection upon request. Additional inspections incur re-inspection fees according to the City fee schedule.
- Notification of assessment and collection of re-inspection fees is included in the notice of violation. Failure to pay assessed costs by the specified deadline results in a late fee. The City is also authorized to assess administrative fees for costs related to the code enforcement program, including the investigation of violations, preparation for hearings, and the collection process.

**Recordation on Property:**

- To enforce violations related to real property, the City records notices of violation and Hearing Officer Orders with the County Recorder. This action does not encumber the property but notifies future interested parties of any continuing violation.
- If a property remains in violation after the deadline established in the notice or if no request for an administrative hearing has been filed following an administrative citation, the Code Enforcement Coordinator records a notice of violation. Similarly, if an administrative hearing results in an order in the City's favor, the order is recorded.
- The recordation includes the property owner's name, parcel number, legal description, a copy of the notice or order, and any other relevant information.
- Upon correcting the violations, the responsible person or property owner can request an inspection for compliance. A notice of compliance is served if the violations have been corrected, which includes correcting all violations listed, issuing and finalizing all necessary permits, and paying all assessed fines, costs, and administrative fees. The issuance of municipal permits and business licenses may be withheld until a notice of compliance is issued. Once compliance is achieved and documented, a notice of compliance is recorded, effectively canceling the previously recorded notice of violation or order but not affecting any outstanding fines, fees, or costs.

Category	Criminal	Civil (Citation)	Civil (Abatement)	Nuisance
<b>Criteria</b>	- Prior violations - Causes injury - Multiple violations in single episode	- Single violation - No abatement or remedial action required	- Violation will continue to exist without abatement or remedial action	- Often involves conditions on real property - Violation is a threat to public health, safety, welfare, or obstructs, injures, or interferes with the reasonable or free use of property
<b>Available Penalties</b>	Class B misdemeanor (\$1,000 fine and/or six months imprisonment)	- Fees (\$100 for 1st violation; \$200 for 2nd; \$400 for 3rd or more) - Civil penalties (\$100 min; \$1,000 max/day)	- Fees - Abatement - Civil penalties (\$100 min; \$1,000 max/day)	- Fees - Abatement - Civil penalties (\$100 min; \$1,000 max/day)
<b>Issuing Authority</b>	Davis County Sheriff	Code Enforcement Officer	Code Enforcement Officer	Code Enforcement Officer
<b>Enforcement Body</b>	Justice Court	Appeal Authority	Appeal Authority	Appeal Authority
<b>Issuing Process</b>	Criminal Citation	Notice of Violation w/ at least ten (10) days to cure	Notice of Violation w/ at least ten (10) days to cure	Notice of Violation w/ at least ten (10) days to cure
<b>Enforcement Process</b>	Criminal Trial	Hearing before Appeal Authority	Civil penalties accrue daily; abatement available after cure period expires	Civil penalties accrue daily; abatement available in some circumstances
<b>Due Process Rights</b>	Trial before Justice Court Judge	Hearing before Appeal Authority	Hearing before Appeal Authority	Hearing before Appeal Authority
<b>Record Against Property</b>	NO	NO	Yes, but may not be converted into lien without District Court order	Yes, and abatement costs may be converted into a tax lien administratively

# Administrative Code Enforcement Discussion

## Timeline

1. Draft and adopt the code establishing administrative code enforcement / edit existing code

3. Hire a part-time code enforcement officer

2. Staff coordination of administrative processes and tracking of cases

4. Update our ordinances to enhance our ability to enforce the code

## Challenges with Current Process

- Our current code only allows for non-compliant cases to be pursued criminally.
- Code enforcement is currently handled by four different departments with four different processes and ways of tracking cases
  - Community Development
  - Police
  - Fire
  - Public Works
- The lack of centralization and not having a person solely focused on code enforcement
- Other problems?

## Goals

- ✓ Establish and streamline our enforcement processes
- ✓ Create a code that can adapt to different situations
- ✓ Prioritize the health and safety of the public by reducing potential risks
- ✓ Encourage cooperation over confrontation through voluntary compliance
- ✓ Ensure fairness with clear procedures for notices, hearings, and appeals

Code Enforcement Officers have the choice of whether to pursue a violation as Criminal, Civil (Citation or Abatement, or a Nuisance.	Criminal	Civil		
		Citation	Abatement	Nuisance
<b>What are the criteria?</b>	-Prior violations -Cause Injury -Multiple violation in single episode -Significant health or safety risk	-Single violation -No abatement or remedial action required	-Violation will continue to exist without abatement of remedial action -Often involves conditions on real property	-Violation is a threat to public health, safety, welfare, or obstructs, injures, or interferes with the reasonable or free use of property
<b>What are the available penalties?</b>	- Class B misdemeanor (\$1000 fine and/or six months imprisonment)	- Fees (\$100 for 1 <sup>st</sup> violation; \$200 for 2 <sup>nd</sup> ; \$400 for 3 <sup>rd</sup> or more)	-Civil penalties (\$100 min; \$1,000 max/day) -Fees -Abatement	-Civil penalties (\$100 min; \$1,000 max/day) -Fees -Abatement
<b>Who issues the citation/notice?</b>	Clinton City Police Department	Code Enforcement Officer	Code Enforcement Officer	Code Enforcement Officer
<b>Who enforces the violation?</b>	Justice Court	Appeal Authority	Appeal Authority	Appeal Authority
<b>What is the process for issuing the citation/notice?</b>	Criminal Citation	Civil Citation	Notice of Violation w/ at least ten (10) days to cure	Notice of Violation w/ at least ten (10) days to cure.
<b>What is the process for enforcing the violation?</b>	Criminal Trial	Hearing before Appeal Authority	Civil penalties accrue daily; abatement available in some circumstances	Civil penalties accrue daily; abatement available after cure period expires
<b>What due process rights does the violator have?</b>	Trial before Justice Court Judge	Hearing before Appeal Authority	Hearing before Appeal Authority	Hearing before Appeal Authority
<b>May the violation be recorded against property?</b>	No	No	Yes, but may not be converted into lien w/o District Court order	Yes, and abatement costs may be converted into a tax lien administratively
<b>ADJOURNMENT</b>	<b>Councilmember Searle moved to adjourn. Councilmember Gray seconded the motion. Councilmember’s Arave, Dougherty, Gray, Searle and Tyler voted in favor. The meeting adjourned at 8:30 pm.</b>			