

# Alta Town Council



## Staff Report

**To:** Town Council  
**From:** Chris Cawley and Cameron Platt  
**Re:** Civil Code Enforcement  
**Date:** February 1, 2024  
**Attachments:** Draft Code Language

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### Summary of Civil Code Enforcement

The Alta Town Council began its current discussion about adopting an ordinance to allow civil code enforcement by the Town of Alta at the September 2023 council meeting. In the meantime, staff and council have discussed the topic at length. The vast majority of municipalities in Utah and other states use civil code enforcement. Civil code enforcement can be more cost-effective, expeditious, and appropriate for many municipal ordinance violations. The following is an excerpt from Cameron Platt and Polly McLean’s staff report to the council in September 2023.

The current Alta Town Code authorizes officials of the Town to enforce ordinances through criminal, civil, or administrative actions.<sup>1</sup> Following is a summary of the three different types of enforcement classifications with penalties and burden of proof:

1. Criminal – The Town may impose criminal penalties as Class B or C misdemeanors, or infractions:
  - Class B misdemeanor – Fine up to \$1,000.00 or imprisonment of up to 6 months.
  - Class C misdemeanor - Fine up to \$750.00 or imprisonment of up to 90 days.
  - Infraction - Fine up to \$750 but no imprisonment allowed.<sup>2</sup>
  - Burden of proof is “beyond a reasonable doubt.”<sup>3</sup>
2. Civil – The Town may impose civil penalties *only for violations of the noise ordinance and parking regulations*:
  - Fines up to the maximum amount allowed for Class B misdemeanors under state statute for violations of municipal ordinances (currently \$1,000.00).<sup>4</sup>
  - Burden of proof is “preponderance of the evidence.”<sup>5</sup>

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<sup>1</sup> [Alta Town Code § 1-4-1.](#)

<sup>2</sup> [Utah Code Ann. § 76-3-301\(A\); Utah Code Ann. § 76-3-204](#)

<sup>3</sup> [Model Utah Jury Instruction Cr103](#), (“Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant’s guilt.”)

<sup>4</sup> [Utah Code Ann. § 10-3-703.7; Utah Code Ann. § 10-3-703\(2\)](#); see also generally [Utah Code Ann. § 10-7-11 et seq.](#)

<sup>5</sup> [Model Utah Jury Instruction CV117](#), (The evidence must show “that the fact is more likely to be true than not true” or “proof by the greater weight of the evidence, however slight.”).

3. Administrative – The Town may suspend, revoke, or issue administrative fines for permit and licensing violations.<sup>6</sup>
  - Burden of proof is “preponderance of the evidence.”

A civil enforcement procedure is very similar to criminal enforcement and requires all the following:

- Passage of an ordinance enacting civil ordinance enforcement that classifies ordinance violations as civil violations.<sup>7</sup>
- Publishing fine schedules in an ordinance or the municipal fee schedule.
- Issuance of a notice of violation or citation for the violation.
- Provision of due process rights with dispute and appeal procedures.
- Hearing and appeal before a neutral decision-maker (i.e. and administrative law judge).

The Town currently has all these same functions for its criminal violation process with the Marshal’s Office issuing the citation and the Justice Court administering the due process procedures. A civil ordinance enforcement program would merely shift the due process forum from the Justice court to a hearing before an administrative law judge. The criminal violation process would continue as an option for more serious violations.

If the Council adopts Ordinance 2024-O-4 Enacting Civil Code Enforcement, several additional steps remain before a civil code enforcement program can be activated:

- Develop the administrative process for addressing and rectifying violations ie enforcement procedures and record keeping
- Define and approve a budget for hiring an Administrative Law Judge and administering the program
- Hire an Administrative Law Judge (RFP)

**Recommendation:**

**Staff recommends the council adopt Ordinance 2024-O-4 Enacting Title 12 “Civil Code Enforcement” and Amending Existing Code Sections To Maintain Consistency of Enforcement Procedures**

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<sup>6</sup> [Utah Code Ann. § 10-8-1 et seq.](#) (listing regulatory powers of municipalities).

<sup>7</sup> The Town completed this step in November 2022 as part of the implementation of the winter parking plan.