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## MAGNA ORDINANCE 19-06-01

### CODE ENFORCEMENT AND COMMUNITY PRESERVATION

#### AN ORDINANCE OF THE MAGNA METRO TOWNSHIP COUNCIL CREATING TITLE 12: "CODE ENFORCEMENT AND COMMUNITY PRESERVATION" AND SUBSEQUENT CHAPTERS OF THE MAGNA CODE OF ORDINANCES TO ESTABLISH AND REGULATE THE ADMINISTRATIVE CODE ENFORCEMENT PROCESS

**WHEREAS**, the current remedies available for ordinance enforcement rely heavily on fines and court action to resolve violations of Magna's Municipal Code; and

**WHEREAS**, pursuant to Utah Code Ann. §10-2a-414(3), Magna's code enforcement provisions are based on Salt Lake County's ordinances and were enacted pursuant to Title 17, which pertains to counties, as opposed to Title 10, which governs municipalities; and

**WHEREAS**, resolving code enforcement actions through the current enforcement process is often costly, can take years to resolve, and can allow violations to exist unabated for significant periods of time, forcing citizens to endure an unsightly and unhealthy living environment; and

**WHEREAS**, fines and penalties can accrue on a daily basis while violations of the Municipal Code await resolution in court, and can result in substantial, cumulative fines for relatively minor violations; and

**WHEREAS**, other municipalities in Utah utilize a combination of administrative, civil, and criminal remedies to bring about compliance with municipal ordinances, and such an approach can bring about compliance in a reasonable amount of time and in a more cost-effective manner; and

**WHEREAS**, the Council desires to enact a more comprehensive code enforcement program that is based on Title 10 of the Utah Code and includes various procedures to facilitate the enforcement of ordinance violations that incentivize compliance and, if a property owner is unwilling or unable to remedy a violation, authorize the use of administrative mechanisms to facilitate the abatement of the violation in an easier, more timely, and less costly manner; and

**WHEREAS**, on June 20, 2019, the Magna Planning Commission reviewed and recommended the adoption the code enforcement program (the "Program") contained in this ordinance, which the staff and attorney have reviewed; and

**WHEREAS**, the Council is authorized to enact the Program pursuant to Utah Code Ann. §§ 10-3-702 – 703.7, 10-3-716, 10-8-60, and 10-11-1, et seq., among other applicable laws and authorities; and

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**WHEREAS**, the Council does hereby determine that it is in the best interests of the health, safety, and welfare of the citizens of Magna to adopt a more comprehensive and flexible code enforcement program to facilitate compliance with municipal ordinances and to improve the appearance of the community.

**NOW THEREFORE**, be it ordained by the Council of Magna, in the State of Utah, as follows:

**SECTION 1:**        **ADOPTION** “Chapter 12.1 GENERAL” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

Chapter 12.01 General(*Added*)

**SECTION 2:**        **ADOPTION** “Chapter 2 ADMINISTRATIVE CODE ENFORCEMENT PROCEDURES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

Chapter 12.02 Administrative Code Enforcement Procedures(*Added*)

**SECTION 3:**        **ADOPTION** “Chapter 12.3 ADMINISTRATIVE AND JUDICIAL REMEDIES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

Chapter 12.03 Administrative And Judicial Remedies(*Added*)

**SECTION 4:**        **ADOPTION** “Chapter 12.4 RECOVERY OF CODE ENFORCEMENT PENALTIES AND COSTS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

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Chapter 12.04 Recovery Of Code Enforcement Penalties And Costs(*Added*)

**SECTION 5:**        **ADOPTION** “12.1.010 SHORT TITLE” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.010 Short Title(*Added*)

This Title shall be known as the “Code Enforcement and Community Preservation Program.” This Chapter shall also be known as Chapter 12.1, of the Magna Municipal Code. It may be cited and pleaded under either designation.

**SECTION 6:**        **ADOPTION** “12.01.020 AUTHORITY” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.020 AUTHORITY(*Added*)

The Municipality promulgates this Ordinance pursuant to Utah Code Ann. §§ 10-3-702–703.7; 10-3-716; 10-8-60;-11-1, et seq.; 76-10-801, et seq.; and any other applicable law or successor statute(s).

**SECTION 7:**        **ADOPTION** “12.01.030 DECLARATION OF PURPOSE” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.030 DECLARATION OF PURPOSE(*Added*)

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Magna finds that the enforcement of its Municipal Code and applicable state codes throughout the municipality is an important public service. Code enforcement and abatement are vital to the protection of the public's health, safety, and quality of life. The Council recognizes that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative code enforcement hearings and judicial proceedings. The Council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with these regulations in a manner that is fair and equitable to the Municipality and its citizens. Failure to comply with an administrative code enforcement action may require the Attorney to file a judicial action to gain compliance.

**SECTION 8:**            **ADOPTION** “12.01.040 SCOPE” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.040 SCOPE(*Added*)

The provisions of this Title may be applied to all violations of the Magna Municipal Code. It has been designed as an additional remedy for the Municipality to use in achieving compliance of its ordinances.

**SECTION 9:**            **ADOPTION** “12.01.050 EXISTING ORDINANCES AND LAWS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.050 EXISTING ORDINANCES AND LAWS(*Added*)

The provisions of this Title do not invalidate any other title or ordinance but shall be read in conjunction with those titles and ordinances as an additional remedy available for the enforcement of those ordinances together with any and all other applicable laws. If there is a conflict between this Title and another provision of the Municipal Code, this Title shall control.

**SECTION 10:**            **ADOPTION** “12.01.060 CRIMINAL PROSECUTION RIGHT” of the Magna Municipal Code is hereby *added* as follows:

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## ADOPTION

### 12.01.060 CRIMINAL PROSECUTION RIGHT(*Added*)

The Municipality has sole discretion in deciding whether to file a civil or criminal case for the violation of any of its ordinances. The Municipality may choose to file both, or one, or the other. The enactment of the administrative remedies set forth in this Title shall in no way interfere with the Municipality's right to prosecute ordinance violations as criminal offenses in a court of law. The Municipality may use any of the remedies available under the law in both civil and criminal prosecution. If the Municipality chooses to file both civil and criminal charges for the same day of violation, no civil penalties may be assessed, but all other remedies will be available.

**SECTION 11:**        **ADOPTION** "EFFECT OF HEADINGS" of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

### 12.01.070 Effect Of Headings(*Added*)

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

**SECTION 12:**        **ADOPTION** "12.01.080 VALIDITY OF TITLE - SEVERABILITY" of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

### 12.01.080 VALIDITY OF TITLE - SEVERABILITY(*Added*)

If any chapter, part, section, subsection, sentence, clause, phrase, portion, or provision of this Title is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Title. The Council hereby declares that it would have adopted this Title and chapter, part, section, subsection, sentence, clause, phrase, portion, or provision thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, portions, or provisions be declared invalid or unconstitutional. This Section shall apply to all amendments heretofore or hereafter made to this Title.

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**SECTION 13:**            **ADOPTION** “12.01.090 NO MANDATORY DUTY - CIVIL LIABILITY” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.090 NO MANDATORY DUTY - CIVIL LIABILITY(*Added*)

It is the intent of the Council that in establishing performance standards or establishing an obligation to act by a Magna Municipal officer, employee, or designee, these standards shall not be construed as creating a mandatory duty for purposes of tort liability if the officer, employee, or designee fails to perform his or her directed duty or duties.

**SECTION 14:**            **ADOPTION** “12.01.100 GENERAL RULES OF INTERPRETATION OF ORDINANCES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.100 GENERAL RULES OF INTERPRETATION OF ORDINANCES(*Added*)

For purposes of this Title: (1) Any gender includes the other gender. (2) “Shall” is mandatory; “may” is permissive. (3) The singular number includes the plural, and the plural the singular. (4) Words used in the present tense include the past and future tense, and vice versa. (5) Words and phrases used in this Title and not specifically defined shall be construed according to the context and approved usage of the language.

**SECTION 15:**            **ADOPTION** “12.01.110 DEFINITIONS APPLICABLE TO TITLE GENERALLY” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.110 DEFINITIONS APPLICABLE TO TITLE GENERALLY(*Added*)

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The following words and phrases, whenever used in this Title, shall be constructed as defined in this section, unless a different meaning is specifically defined elsewhere in this Title and specifically stated to apply: (1) "Abate" or "Abatement" means any action the Municipality may take on public or private property and any adjacent property as may be necessary to remove or alleviate a violation, including, but not limited to, demolition, removal, repair, boarding, and securing or replacement of property. (2) "Administrative Code Enforcement Order" means an order issued by an administrative law judge. The order may include an order to abate the violation, pay civil penalties and administrative costs, or take any other action as authorized or required by this Title and applicable state codes. (3) "Administrative Law Judge" or "hearing officer" means the position established by Magna Municipal Code § 1.16 "Administrative Hearing." (4) "Animal Control Administrator" or "means the supervisor of the Animal Control Division, established in Magna Municipal Code § 8.1. (5) "Council" means the Council of Magna. (6) "Code Enforcement Lien" means a lien recorded to collect outstanding civil penalties, administrative fees, and costs. (7) "Code Enforcement Performance Bond" means a bond posted by a responsible person to ensure compliance with the Municipal Code, applicable state titles, a judicial action, or an administrative code enforcement order. (8) "County" means Salt Lake County, Utah. (9) "Department" means the Municipality's Planning and Development Services Department, or its designee. (10) "Director" means the director of the Municipality's Planning and Development Services Department or his/her authorized agent(s) or any other person/entity and their authorized agent(s) that the Municipality has authorized to provide code enforcement services. (11) "Enforcement Official" means any person authorized to enforce violations of the Municipal Code or applicable state codes. (12) "Financial Institution" means any person that holds a recorded mortgage or deed of trust on a property (13) "Good Cause" means incapacitating illness; death; lack of proper notice; unavailability due to unavoidable, unpreventable, or extenuating emergency or circumstance; if a required act causes an imminent and irreparable injury; and acts of nature adverse to performing required acts (14) "Imminent Life Safety Hazard" means any condition that creates a present, extreme, and immediate danger to life, property, health, or public safety. (15) "Legal Interest" means any interest that is represented by a document, such as a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien, or other similar instrument that is recorded with the County Recorder. (16) "Metro Township" or "Municipality" means the area within the territorial municipal limits of Magna, and such territory outside of this Municipality over which the Magna has jurisdiction or control by virtue of any constitutional or incorporation provisions or any law. (17) "Minor violation" means nuisance violations, as defined in state law and by Utah State Courts, to include: a. Land uses that do not conform to existing zoning of the property; b. Unauthorized collections of motor vehicles that are unlicensed, unregistered, and/or inoperable; c. Trash, litter, illegal dumping, and weeds; d. Nuisance noise and lighting; e. Illegal advertising; and f. The unauthorized use of public streets and sidewalks that stem from news racks, merchandise displays, mobile food vending, and other such illegal uses. (18) "Notice of Compliance" means a document issued by the Municipality, representing that a property complies with the requirements outlined in the notice of violation. (19) "Notice of Satisfaction" means a document or form approved by the Administrative Law Judge or his or her designee, which indicates that all outstanding civil penalties and costs have been either paid in full, or that the Municipality has negotiated an agreed amount, or that a subsequent administrative or judicial decision has resolved the outstanding debt. In addition to the satisfaction of the financial debt, the property

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must also be in compliance with the requirements outlined in the notice of violation. (20) "Notice of Violation" means a written notice prepared by an enforcement official that informs a responsible person of code violations and orders them to take certain steps to correct the violations. (21) "Oath" includes affirmations and oaths. (22) "Person" means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, sergeant, officer, or employee of any of them, or any other entity that is recognized by law as the subject of rights or duties. (23) "Program" means the Code Enforcement and Community Enhancement Program authorized under this Title. (24) "Property Owner" means the record owner of real property based on the county assessor's records. (25) "Public Nuisance" means any condition caused, maintained, or permitted to exist that constitutes a threat to the public's health, safety, and welfare, or that significantly obstructs, injures, or interferes with the reasonable or free use of property in a neighborhood or community or by any considerable number of persons. A public nuisance also has the same meaning as set forth in the Utah Code Annotated. (26) "Responsible Person" means a person who has charge, care, or control of any premises, dwelling, or dwelling unit as the legal or equitable owner, agent of the owner, lessee, or as an executor, administrator, trustee or guardian of the estate of the owner. In all cases, the person with legal title to any premises, dwelling, or dwelling unit shall be considered a responsible person, with or without accompanying actual possession thereof. (27) "Written" includes handwritten, typewritten, photocopied, computer printed, or facsimile. (28) "Magna," means Magna, a municipal corporation under state law. May also be referred to "the Metro Township" and/or "the Municipality" pursuant to Utah Code § 68-3-12.5(6).

**SECTION 16:**        **ADOPTION** "12.01.111 ACT INCLUDE CAUSING, AIDING, AND ABETTING" of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.111 Acts Include Causing, Aiding, And Abetting(*Added*)

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

**SECTION 17:**        **ADOPTION** "12.01.200 PART 2 - SERVICE REQUIREMENTS" of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION



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12.01.200 PART 2 - SERVICE REQUIREMENTS(*Added*)

**SECTION 18:**            **ADOPTION** “12.01.210 SERVICE OF PROCESS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.210 SERVICE OF PROCESS(*Added*)

(1) Whenever service is required to be given under this Title, service shall be made in accordance with Utah Code Ann. § 10-11-2 or any applicable successor statute(s), unless another form of service is required by law. (2) 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. (3) The failure to serve all responsible person(s) shall not affect the validity of any proceedings.

**SECTION 19:**            **ADOPTION** “12.01.220 CONSTRUCTIVE NOTICE OF RECORDED DOCUMENTS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.220 CONSTRUCTIVE NOTICE OF RECORDED DOCUMENTS(*Added*)

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.

**SECTION 20:**            **ADOPTION** “12.01.300 PART 3 - GENERAL AUTHORITY AND OFFENSES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.300 PART 3 - GENERAL AUTHORITY AND OFFENSES(*Added*)

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**SECTION 21:**        **ADOPTION** “12.01.310 GENERAL ENFORCEMENT AUTHORITY” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.310 GENERAL ENFORCEMENT AUTHORITY(*Added*)

Whenever the Director or enforcement official finds that a violation of the Municipal Code or applicable state codes has occurred or continues to exist, the appropriate administrative enforcement procedure may be used as outlined in this Title. The Director or any designated enforcement official has the authority and power necessary to gain compliance with the provisions of the Municipal Code and applicable state codes. These powers include the power to issue notices of violation and administrative citations, inspect public and private property, abate public and private property, and use whatever judicial and administrative remedies are available under the Municipal Code or applicable state codes.

**SECTION 22:**        **ADOPTION** “12.01.320 ADOPTION OF POLICY AND PROCEDURES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.320 ADOPTION OF POLICY AND PROCEDURES(*Added*)

The Administrative Law Judge is authorized to develop policies and procedures relating to the hearing procedures, scope of hearings, subpoena powers, and other matters relating to the Program.

**SECTION 23:**        **ADOPTION** “12.01.330 AUTHORITY TO INSPECT” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.330 AUTHORITY TO INSPECT(*Added*)

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The Director or any designated enforcement official is authorized 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 examinations and surveys as may be necessary in the performance of the enforcement duties. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner based upon cause. If the responsible person refuses to allow the enforcement official to enter the property, the enforcement official shall obtain a search warrant.

**SECTION 24:**            **ADOPTION** “21.01.340 POWER TO ARREST” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.340 Power To Arrest(*Added*)

The Director or any designated enforcement official is authorized to issue a misdemeanor citation or administrative citation whenever there is reasonable cause to believe that the person has committed a violation of the Municipal Code or applicable state codes in the enforcement official's presence.

**SECTION 25:**            **ADOPTION** “12.01.350 FALSE INFORMATION OR REFUSAL PROHIBITED” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.01.350 FALSE INFORMATION OR REFUSAL PROHIBITED(*Added*)

It shall be unlawful for any person to willfully make a false statement or refuse to give his or her name or address with intent to deceive or interfere with a duly authorized Magna Municipal official or agent, including but not limited to the Director any authorized enforcement officials, when in the performance of his or her official duties under the provisions of this Title. A violation of this Section is a class B misdemeanor.

**SECTION 26:**            **ADOPTION** “FAILURE TO OBEY A SUBPOENA” of the Magna Municipal Code is hereby *added* as follows:

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## ADOPTION

12.01.360 Failure To Obey A Subpoena(*Added*)

It is unlawful for any person to refuse or fail to obey a subpoena issued for an administrative code enforcement hearing. Failure to obey a subpoena constitutes contempt and is a class B misdemeanor.

**SECTION 27:**        **ADOPTION** “12.02.010 AUTHORITY” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.010 AUTHORITY(*Added*)

Any condition caused, maintained, or permitted to exist in violation of any provisions of the Municipal Code or applicable state codes that constitutes a violation may be abated by the Municipality pursuant to the procedures set forth in this Chapter.

**SECTION 28:**        **ADOPTION** “12.02.020 NOTICE OF VIOLATION” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.020 NOTICE OF VIOLATION(*Added*)

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(1) Whenever the Director or any designated enforcement official determines that a violation of the Municipal Code or applicable state codes has occurred or continues to exist, the Director or enforcement official will issue a notice of violation to a responsible person. The notice of violation shall include the following information and shall comply with Utah Code § 10-11-2 or the applicable successor statute(s): a. Name of the property owner of record according to the records of the County Recorder; b. Street address of violation; c. Nature and results of the examination and investigation conducted; d. Date and approximate time the violation was observed; e. All code sections violated and description of condition of the property that violates the applicable codes; f. A statement explaining the type of remedial action required to permanently correct outstanding violations, which may include corrections, repairs, demolition, removal, eradication, destruction, or other appropriate action; g. A specific date for the responsible party to correct the violations listed in the notice of violation, which date shall be at least ten days from the date of service unless the Director determines that the violation requires emergency abatement under Section 12.2.200; h. Explanation of the consequences should the responsible person fail to comply with the terms and deadlines as prescribed in the notice of violation, which may include, but is not limited to, criminal prosecution; civil penalties; revocation of permits; recordation of the notice of violation; withholding of future municipal permits; abatement of the violation by the Municipality and re-payment to the Municipality for the costs of the abatement; other costs incurred by the Municipality; administrative fees; and any other legal remedies; i. That civil penalties will begin to accrue immediately on expiration of the date to correct violations; j. The amount of the civil penalty on each violation and that the penalty will accrue daily until the property is brought into compliance; k. That only one notice of violation is required for any 12-month period, and that civil penalties begin immediately upon any subsequent violations of the notice. The responsible person may request a hearing on the renewed violations by following the same procedure as provided for the original notice; l. Procedures to appeal the notice and request a hearing as provided in Section 12.2.530, and consequences for failure to request one; and m. Procedures to request an inspection after the violation has been abated pursuant to Section 12.2.040. (2) The notice of violation shall be served by one of the methods of service listed in Section 12.1.210 of this Title. (3) More than one notice of violation may be issued against the same responsible person, if it encompasses different dates, or different violations.

**SECTION 29:**            **ADOPTION** “12.02.030 FAILURE TO BRING PROPERTY INTO COMPLIANCE” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.030 FAILURE TO BRING PROPERTY INTO COMPLIANCE(*Added*)

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(1) If a responsible person fails to bring a violation into compliance within the compliance period specified in the notice of violation, civil penalties shall be owed to the Municipality for each and every subsequent day of violation. (2) Failure to comply with the notice of violation is a Class C misdemeanor.

**SECTION 30:**            **ADOPTION** “12.02.040 INSPECTIONS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.040 INSPECTIONS(*Added*)

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

**SECTION 31:**            **ADOPTION** “12.02.” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.200 Part 2 - Emergency Abatement(*Added*)

(1) Whenever the Director determines that an imminent life safety hazard exists that requires immediate correction or elimination, the Director may exercise the following powers without prior notice to the responsible person: a. Order the immediate vacation of any tenants, and prohibit occupancy or entry until all repairs are completed, provided that an order prohibiting entry shall specify how entry is to be made to mitigate damage, complete repairs, retrieve personal property, or for any other purpose, if any, during the abatement process. 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 emergency.

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**SECTION 32:**        **ADOPTION** “12.02.210 AUTHORITY” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.210 AUTHORITY(*Added*)

(1) Whenever the Director determines that an imminent life safety hazard exists that requires immediate correction or elimination, the Director may exercise the following powers without prior notice to the responsible person: a. Order the immediate vacation of any tenants, and prohibit occupancy or entry until all repairs are completed, provided that an order prohibiting entry shall specify how entry is to be made to mitigate damage, complete repairs, retrieve personal property, or for any other purpose, if any, during the abatement process. 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 emergency. (2) The Director and his or her agents have the authority, based on cause, to enter the property without a search warrant or court order to accomplish the above listed acts to abate the safety hazard. (3) The responsible person shall be liable for all costs associated with the abatement of the life safety hazard. Costs may be recovered pursuant to this Title.

**SECTION 33:**        **ADOPTION** “12.02.220 PROCEDURES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.220 PROCEDURES(*Added*)

(1) The Director shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard. Costs incurred by the Municipality during the emergency abatement process shall be assessed and recovered against the responsible person through the procedures outlined in Chapter 12.3 of this Title regarding “Administrative and Judicial Remedies” section. (2) The Director may also pursue any other valid and legal administrative or judicial remedy to abate any remaining violations.

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**SECTION 34:**        **ADOPTION** “12.02.230 NOTICE OF EMERGENCY ABATEMENT” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.230 NOTICE OF EMERGENCY ABATEMENT(*Added*)

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

**SECTION 35:**        **ADOPTION** “12.02.300 PART 3 - DEMOLITIONS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.300 PART 3 - DEMOLITIONS(*Added*)

**SECTION 36:**        **ADOPTION** “12.02.310 AUTHORITY” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.310 AUTHORITY(*Added*)

Whenever the Director determines that a property or building requires demolition, he or she may demolish or remove the offending structure, or exercise any or all of the powers listed in Section 12.2.210 once appropriate notice has been given to a responsible person pursuant to the Uniform Abatement of Dangerous Buildings Code or Uniform Fire Codes as required under state law, provided that the notice shall include a written description of the Director’s findings explaining the need for the demolition and citations to the applicable ordinances or laws authorizing the demolition. The responsible person shall be liable for all costs associated with the demolition. Costs may be recovered pursuant to this Title.



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**SECTION 37:**        **ADOPTION** “12.02.320 PROCEDURES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.320 PROCEDURES(*Added*)

Once the Director has determined that the Municipality’s Chief Building Inspector or the Fire Marshal has complied with all of the notice requirements of the applicable laws, the property will be demolished. Other applicable remedies may also be pursued.

**SECTION 38:**        **ADOPTION** “12.02.400 PART 4 - ADMINISTRATIVE CITATIONS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.400 PART 4 - ADMINISTRATIVE CITATIONS(*Added*)

**SECTION 39:**        **ADOPTION** “12.02.410.” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.410 Declaration Of Purpose(*Added*)

The Council finds that there is a need for an alternative method of enforcement for minor violations of the Municipal Code and applicable state codes. The Council further finds that an appropriate method of enforcement is an administrative citation program. The procedures established in this Part shall be in addition to criminal, civil, or any other legal remedy established by law that may be pursued to address violations of the Municipal Code or applicable state codes.

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**SECTION 40:**        **ADOPTION** “12.02.420 AUTHORITY” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.420 AUTHORITY(*Added*)

(1) Any person violating any minor provision of the Municipal Code or applicable state codes may be issued an administrative citation by an enforcement official as provided in this Part. (2) A civil penalty shall be assessed by means of an administrative citation issued by the enforcement official and shall be payable directly to the Municipality’s Treasurer’s Office, or other office designated to receive payment on behalf of the Municipality. (3) Penalties assessed by means of an administrative citation shall be collected in accordance with the procedures specified in the remedies section of this Title.

**SECTION 41:**        **ADOPTION** “12.02.430 PROCEDURES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.430 PROCEDURES(*Added*)

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(1) Upon discovering any violation of the Municipal Code or applicable state codes an enforcement official may issue an administrative citation to a responsible person in the manner prescribed in this Part or as prescribed in Section 12.1.210. The administrative citation shall be issued on a form approved by the Director. (2) If the responsible person is a business, the enforcement official shall attempt to locate the business owner and issue an administrative citation to the business owner. If the enforcement official can only locate the manager of the business, the administrative citation may be given to the manager of the business. A copy of the administrative citation may also be mailed to the business owner or any other responsible person in the manner prescribed in Section 12.1.210 of this Title. (3) Once the responsible person has been located, the enforcement official shall attempt to obtain the signature of that person on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings. (4) If the enforcement official is unable to locate the responsible person for the violation, then the administrative citation shall be mailed to the responsible person in the manner prescribed in Section 12.1.210 of this Title. (5) If no one can be located at the property, then the administrative citation may be posted in a conspicuous place on or near the property and a copy subsequently mailed to the responsible person in the manner prescribed by Section 12.1.210 of this Title. (6) The administrative citation shall also contain the signature of the enforcement official. (7) The failure of any person with an interest in the property to receive notice shall not affect the validity of any proceedings taken under this Part.

**SECTION 42:**            **ADOPTION** “12.02.440 CONTENTS OF ADMINISTRATIVE CITATION” of the Magna Municipal Code is hereby *added* as follows:

## A D O P T I O N

12.02.440 CONTENTS OF ADMINISTRATIVE CITATION(*Added*)

Administrative citations shall include the information required in Section 12.2.020 and shall: (1) State the amount of penalty imposed for the minor violations; and (2) Explain how the penalty shall be paid, the time period by which the penalty shall be paid, and the consequences of failure to pay the penalty.

**SECTION 43:**            **ADOPTION** “12.02.450 CIVIL PENALTIES ASSESSED” of the Magna Municipal Code is hereby *added* as follows:

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## ADOPTION

### 12.02.450 CIVIL PENALTIES ASSESSED(*Added*)

(1) The Council shall establish policies to assist in the assessment of civil penalties for administrative citations. (2) Civil penalties shall be assessed immediately for each violation listed on the administrative citation. The penalties shall be those established in the Consolidated Fee Schedule. (3) Payment of the penalty shall not excuse the failure to correct the violations, nor shall it bar further enforcement action by the Municipality.

**SECTION 44:**            **ADOPTION** “12.02.500 PART 5 - HEARING PROCEDURES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

### 12.02.500 PART 5 - HEARING PROCEDURES(*Added*)

**SECTION 45:**            **ADOPTION** “12.02.510 DECLARATION OF PURPOSE” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

### 12.02.510 DECLARATION OF PURPOSE(*Added*)

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

**SECTION 46:**            **ADOPTION** “12.02.520 AUTHORITY AND SCOPE OF HEARINGS” of the Magna Municipal Code is hereby *added* as follows:

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## ADOPTION

### 12.02.520 AUTHORITY AND SCOPE OF HEARINGS(*Added*)

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

**SECTION 47:**        **ADOPTION** “12.02.530 REQUEST FOR ADMINISTRATIVE CODE ENFORCEMENT HEARING” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

### 12.02.530 REQUEST FOR ADMINISTRATIVE CODE ENFORCEMENT HEARING(*Added*)

(1) A person served with one of the following documents or notices has the right to request an administrative code enforcement hearing, if the request is filed within 20 calendar days from the date of service of one of the following notices: a. Notice of violation; b. Notice of itemized bill for costs; c. Administrative citation; d. Notice of emergency abatement; (2) The request for hearing shall be made in writing and filed with the Administrative Law Judge. The request shall contain the case number, the address of the violation, and the signature of the responsible party. (3) As soon as practicable after receiving the written notice of the request for hearing, the Administrative Law Judge shall schedule a date, time, and place for the hearing. (4) Failure to request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the action.

**SECTION 48:**        **ADOPTION** “12.02.540 HEARINGS AND ORDERS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

### 12.02.540 HEARINGS AND ORDERS(*Added*)

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(1) If the responsible person fails to request a hearing before the expiration of the 20-day deadline, the Director may request a default hearing, which the Administrative Law Judge shall schedule. The responsible person shall be notified of the date, time, and place of the hearing by one of the methods listed in Section 12.2.210. (2) A default hearing shall be scheduled for all cases that have outstanding or unpaid civil penalties, fines, fees and/or costs due to the Municipality before collection, if a hearing on that case has not already been held. (3) At any hearing, the responsible person shall have the opportunity to present evidence to show that good cause exists, as defined in the Title, to do one or more of the following in addition to any other rights afforded under other provisions of the Municipal Code or applicable law: a. Waive or reduce the fines which have accumulated; b. Postpone an abatement action by the Municipality; or c. Excuse the responsible person's failure to request a hearing within the 20-day period. (4) If the responsible person fails to establish good cause to take one or more of the actions set forth in paragraph (3), the Administrative Law Judge shall review the notice of violation and any other relevant information included in the case file. The Administrative Law Judge shall not accept any other evidence. a. If the evidence shows that the violations existed, the Administrative Law Judge shall enter an order requiring abatement of the violations, and the payment of all fines and fees. Fines shall run until the Municipality issues a Notice of Compliance stating when the violations were actually abated.

**SECTION 49:**            **ADOPTION** “12.02.550 NOTIFICATION OF ADMINISTRATIVE CODE ENFORCEMENT HEARING” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.550 NOTIFICATION OF ADMINISTRATIVE CODE ENFORCEMENT HEARING(*Added*)

(1) Written notice of the day, time, and place of the hearing shall be served to a responsible person as soon as practicable prior to the date of the hearing. (2) The format and contents of the hearing notice shall be in accordance with rules and policies promulgated by the Administrative Law Judge. (3) The notice of hearing shall be served by any of the methods of service listed in Section 12.1.210 of this Title.

**SECTION 50:**            **ADOPTION** “12.02.560 DISQUALIFICATION OF ADMINISTRATIVE LAW JUDGE” of the Magna Municipal Code is hereby *added* as follows:

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## ADOPTION

### 12.02.560 DISQUALIFICATION OF ADMINISTRATIVE LAW JUDGE(*Added*)

(1) A responsible person may file a written motion to disqualify an Administrative Law Judge for bias, prejudice, a conflict of interest, or any other reason for which a judge may be disqualified in a court of law. The motion to disqualify shall be accompanied by an affidavit or unsworn declaration as described in Title 78B of the Utah Code or applicable successor statute(s) signed by the responsible person, which shall: a. State that the motion is filed in good faith; b. Allege facts sufficient to show, bias, prejudice, a conflict of interest, or any other reason that would disqualify a judge in a court of law in Utah; and c. State when and how the Responsible Party came to know of the reason for disqualification. (2) The responsible person must file the motion within 21 days of the assignment of the action to an Administrative Law Judge or the date on which the responsible person knew or should have known of the grounds on which the motion is based, whichever is later. (3) A responsible person can only file one motion to disqualify an Administrative Law Judge, unless a second or subsequent motion is based on grounds that the responsible person did not know of and could not have known of at the time of the earlier motion. (4) The Administrative Law Judge who is the subject of a motion to disqualify must, without taking any further action, provide the Director with a copy of the motion and refer the motion to the Council. (5) Upon receipt of a motion to disqualify, the Council will schedule and notice the matter for review at its next regular scheduled meeting. The Council may, in its sole discretion, elect to hold a special meeting to hear the motion before its next regularly scheduled meeting. The Council shall first review the motion to disqualify to determine if it satisfies the requirements of paragraphs (1) and (2) of this Section. If the motion to disqualify does not satisfy the requirements of this Section, the Council will deny the motion and remand it to the Administrative Law Judge for further proceedings. If the motion to disqualify satisfies the requirements of paragraphs (1) and (2) of this Section, the Council shall determine whether the motion is legally sufficient to warrant disqualification. If the Council determines that disqualification is warranted, it will assign the matter to another Administrative Law Judge. If the Council determines that the motion to disqualify is not legally sufficient, it will remand the matter back to the Administrative Law Judge.

**SECTION 51:**        **ADOPTION** “12.02.570 POWERS OF THE ADMINISTRATIVE LAW JUDGE” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

### 12.02.570 POWERS OF THE ADMINISTRATIVE LAW JUDGE(*Added*)

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(1) The Administrative Law Judge has the authority to hold hearings, determine if violations of Municipal ordinances exist, order compliance with Municipal ordinances, and enforce compliance as provided in this Title on any matter subject to the provisions of the Title. (2) The Administrative Law Judge may continue a hearing based on good cause shown by one of the parties to the hearing. The Administrative Law Judge must enter on the record the good cause on which a continuance is granted. (3) The Administrative Law Judge, at the request of any party to the hearing, may sign subpoenas for witnesses, documents, and other evidence where the attendance of the witness for the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena. The Administrative Law Judge shall develop policies and procedures relating to the issuance of subpoenas in administrative code enforcement hearings, including the form of the subpoena and related costs. (4) The Administrative Law Judge has continuing jurisdiction over the subject matter of an administrative code enforcement hearing for the purposes of granting a continuance; ordering compliance by issuing an administrative code enforcement order using any remedies available under the law; ensuring compliance of that order, which includes the right to authorize the Municipality to enter and abate a violation; modifying an administrative code enforcement order; or, where extraordinary circumstances exist, granting a new hearing. (5) The Administrative Law Judge has the authority to require a responsible person to post a code enforcement performance bond to ensure compliance with an administrative code enforcement order.

**SECTION 52:**            **ADOPTION** “12.02.580 PROCEDURES AT ADMINISTRATIVE CODE ENFORCEMENT HEARING” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.580 PROCEDURES AT ADMINISTRATIVE CODE ENFORCEMENT HEARING(*Added*)



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(1) Administrative code enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply; however, an informal exchange of discovery may be required. The request must be in writing. Failure to request discovery shall not be a basis for a continuance. Complainant information is protected and shall not be released unless the complainant is a witness at the hearing. The procedure and format of the administrative hearing shall follow the procedures promulgated by the Administrative Law Judge. (2) The Municipality bears the burden of proof at an administrative code enforcement hearing to establish the existence of a violation of the Municipal Code or applicable state codes. (3) The standard of proof to be used by the Administrative Law Judge in deciding the issues at an administrative hearing is whether the preponderance of the evidence shows that the violations exist. (4) Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case. A written declaration signed under penalty of perjury may be accepted in lieu of a personal appearance. Testimony may be given by telephone or other electronic means. (5) All hearings are open to the public. They shall be recorded by audio tape. Hearings may be held at the location of the violation. (6) The responsible person has a right to be represented by an attorney. If an attorney will be representing the responsible person at the hearing, notice of the attorney's name, address, and telephone number must be given to the Municipality at least one day prior to the hearing. If notice is not given, the hearing may be continued at the Municipality's request, and all costs of the continuance assessed to the responsible person. (7) No new hearing shall be granted, unless the Administrative Law Judge determines that extraordinary circumstances exist which justify a new hearing.

**SECTION 53:            ADOPTION "12.02.590 FAILURE TO ATTEND ADMINISTRATIVE CODE ENFORCEMENT HEARING"** of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.590 FAILURE TO ATTEND ADMINISTRATIVE CODE ENFORCEMENT HEARING(*Added*)

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

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**SECTION 54:**            **ADOPTION** “12.02.591 ADMINISTRATIVE CODE ENFORCEMENT OFFICER” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.591 Administrative Code Enforcement Order(*Added*)

(1) Once all evidence and testimony are completed, the Administrative Law Judge shall issue an administrative code enforcement order that affirms, modifies, or rejects the notice or citation. The Administrative Law Judge may increase or decrease the total amount of civil penalties and costs that are due pursuant to the Municipality's fee schedule and the procedures in this Title. (2) The parties may enter into a stipulated agreement, which must be signed by both parties. This agreement shall be entered as a stipulated administrative code enforcement order. Entry of this agreement shall constitute a waiver of the right to a hearing and the right to appeal. (3) The Administrative Law Judge may order the Municipality to enter the property and abate all violations, including but not limited to demolitions and the removal of vehicles, garbage, animals, and other property kept in violation of the Municipal Code. (4) The Administrative Law Judge may revoke a kennel permit, an animal license, or the right to possess animals as provided in the Municipal Code. (5) As part of the administrative code enforcement order, the Administrative Law Judge may condition the total or partial assessment of civil penalties on the responsible person's ability to complete compliance by specified deadlines. (6) The Administrative Law Judge may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the administrative code enforcement order. (7) The Administrative Law Judge may order the responsible person to post a performance bond to ensure compliance with the order. (8) The administrative code enforcement order shall become final on the date of the signing of the order. (9) The administrative code enforcement order shall be served on all parties by any one of the methods listed in Section 12.1.210 of this Title.

**SECTION 55:**            **ADOPTION** “12.02.595 FAILURE TO COMPLY WITH ORDER” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.595 FAILURE TO COMPLY WITH ORDER(*Added*)

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(1) Upon the failure of the responsible person to comply with the terms and deadlines set forth in the administrative code enforcement order, the Municipality may abate the violation as provided in Chapter 3, Part 3 of this Title and use all appropriate legal means to recover the civil penalties and administrative costs to obtain compliance. (2) After the Administrative Law Judge issues an administrative code enforcement order, the Administrative Law Judge shall monitor the violations and determine compliance.

**SECTION 56:**        **ADOPTION** “12.02.600 ADMINISTRATIVE ENFORCEMENT APPEALS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.600 ADMINISTRATIVE ENFORCEMENT APPEALS(*Added*)

**SECTION 57:**        **ADOPTION** “12.02.610 APPEAL OF ADMINISTRATIVE CODE ENFORCEMENT HEARING DECISION” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.02.610 APPEAL OF ADMINISTRATIVE CODE ENFORCEMENT HEARING DECISION(*Added*)

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(1) Any person adversely affected by any decision made in the exercise of the provisions of this Chapter may file a petition for review of the decision or order by the district court within 30 days after the decision is rendered. (2) No person may challenge in district court an administrative code enforcement hearing officer's decision until that person has exhausted his or her administrative remedies. (3) Within 120 days after submitting the petition, the party petitioning for appeal shall request a copy of the record of the proceedings, including transcripts of hearings when necessary. The Administrative Law Judge shall not submit copies of files or transcripts to the reviewing court until the party petitioning for appeal has paid all required costs. The petitioning party's failure to properly arrange for copies of the record, or to pay the full costs for the record, within 180 days after the petition for review was filed shall be grounds for dismissal of the petition. a. If a transcript of a hearing cannot be prepared because the tape recording is incomplete or unintelligible, the district court may, in its discretion, remand the matter to the Administrative Law Judge for a supplemental proceeding to complete the record. The district court may limit the scope of the supplemental proceeding to issues that, in the court's opinion, need to be clarified. (4) The district court's review is limited to the record of the administrative decision that is being appealed. The court shall not accept nor consider any evidence that is not part of the record of that decision. (5) The courts shall: a. Presume that the administrative code enforcement hearing officer's decision and orders are valid; and b. Review the record to determine whether or not the decision was arbitrary, capricious, or illegal.

**SECTION 58:**            **ADOPTION** "12.03.100 PART 1 - RECORDATION OF NOTICES OF VIOLATION" of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.100 PART 1 - RECORDATION OF NOTICES OF VIOLATION(*Added*)

**SECTION 59:**            **ADOPTION** "12.03.110 DECLARATION OF PURPOSE" of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.110 DECLARATION OF PURPOSE(*Added*)

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

**SECTION 60:**        **ADOPTION** “12.03.120 AUTHORITY” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.120 AUTHORITY(*Added*)

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

**SECTION 61:**        **ADOPTION** “12.03.130 PROCEDURES FOR RECORDATION” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.130 PROCEDURES FOR RECORDATION(*Added*)

(1) Once the Director has issued a notice of violation to a responsible person, and the property remains in violation after the deadline established in the notice of violation, and no request for an administrative hearing has been filed, the Director shall record a notice of violation with the County Recorder's Office. (2) If an administrative hearing is held, and an order is issued in the Municipality's favor, the Director shall record the administrative code enforcement order with the County Recorder's Office. (3) The recordation shall include the name of the property owner, the parcel number, the legal description of the parcel, and a copy of the notice of violation or order. (4) The recordation does not encumber the property, but merely places future interested parties on notice of any continuing violation found upon the property.

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**SECTION 62:**        **ADOPTION** “12.03.140 SERVICE NOTICE OF RECORDATION”  
of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.140 SERVICE NOTICE OF RECORDATION(*Added*)

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 Section 12.1.210 of this Title.

**SECTION 63:**        **ADOPTION** “12.03.150 FAILURE TO REQUEST” of the Magna  
Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.150 FAILURE TO REQUEST(*Added*)

The failure of any person to file a request for an administrative code enforcement hearing when served with a notice of violation shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded notice of violation.

**SECTION 64:**        **ADOPTION** “12.03.160 NOTICE OF COMPLIANCE -  
PROCEDURES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.160 NOTICE OF COMPLIANCE - PROCEDURES(*Added*)

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(1) When the violations have been corrected, the responsible person or property owner may request an inspection of the property from the Director. (2) Upon receipt of a request for inspection, the Director shall re-inspect the property as soon as practicable to determine whether the violations listed in the notice of violation or the order have been corrected, and whether all necessary permits have been issued and final inspections have been performed. (3) The Director shall serve a notice of satisfaction to the responsible person or property owner in the manner provided in Section 12.2.210 of this Title, if the Director determines that: (4) All violations listed in the recorded notice of violation or order has been corrected; (5) All necessary permits have been issued and finalized; (6) All civil penalties assessed against the property have been paid or satisfied; and (7) The party requesting the notice of satisfaction has paid all administrative fees and costs. (8) If the Director denies a request to issue a notice of satisfaction, upon request the Director shall serve the responsible person with a written explanation setting forth the reasons for the denial. The written explanation shall be served by any of the methods of service listed in Section 12.1.210 of this Title.

**SECTION 65:**        **ADOPTION** “12.03.170 PROHIBITION AGAINST ISSUANCE OF MUNICIPAL PERMITS” of the Magna Municipal Code is hereby *added* as follows:

## A D O P T I O N

12.03.170 PROHIBITION AGAINST ISSUANCE OF MUNICIPAL PERMITS(*Added*)

The Municipality may withhold business licenses; permits for kennels; or permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of the real property or the structure. The Municipality may withhold permits until a notice of satisfaction has been issued by the Director. The Municipality may not withhold permits that are necessary to obtain a notice of satisfaction or that are necessary to correct serious health and safety violations.

**SECTION 66:**        **ADOPTION** “12.03.180 CANCELLATION OF RECORDED NOTICE OF VIOLATION” of the Magna Municipal Code is hereby *added* as follows:

## A D O P T I O N

12.03.180 CANCELLATION OF RECORDED NOTICE OF VIOLATION(*Added*)

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

**SECTION 67:**            **ADOPTION** "12.03.200 PART 2 - ADMINISTRATIVE CIVIL PENALTIES" of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.200 PART 2 - ADMINISTRATIVE CIVIL PENALTIES(*Added*)

**SECTION 68:**            **ADOPTION** "12.03.210 AUTHORITY" of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.210 AUTHORITY(*Added*)

(1) Any person violating any provision of the Municipal Code or applicable state codes may be subject to the assessment of civil penalties for each violation. (2) Each and every day a violation of any provision of the Municipal Code or applicable state codes 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 will be assessed with the criminal case. (4) Interest shall be assessed per Municipal policy, or at the judgment rate provided in Utah Code Ann. § 15-1-4 in the absence of a Municipal policy, on all outstanding civil penalties balances until the case has been paid in full. (5) Civil penalties for violations of any provision of the Municipal Code or applicable state codes shall be assessed pursuant to the Municipality's applicable fee schedule.

**SECTION 69:**            **ADOPTION** "12.03.220 PROCEDURES FOR ADDRESSING CIVIL PENALTIES" of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.220 PROCEDURES FOR ADDRESSING CIVIL PENALTIES(*Added*)



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(1) If a responsible person fails to bring a violation into compliance within ten days of service of the notice of violation, civil penalties shall be owed to the Municipality for each and every subsequent day of violation. (2) Civil penalties are assessed and owing immediately for any violation of the Municipal Code or applicable state codes for an administrative citation.

**SECTION 70:**            **ADOPTION** “12.03.230 DETERMINATION OF CIVIL PENALTIES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.230 DETERMINATION OF CIVIL PENALTIES(*Added*)

(1) Civil penalties shall be assessed per violation per day pursuant to the applicable Municipal fee schedule. (2) Civil penalties shall continue to accrue until the violation(s) has/have been brought into compliance with the Municipal Code or applicable state codes.

**SECTION 71:**            **ADOPTION** “12.03.240 MODIFICATION OF CIVIL PENALTIES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.240 MODIFICATION OF CIVIL PENALTIES(*Added*)

(1) Upon completion of the notice of violation or administrative enforcement order, the responsible person may request a modification of the civil penalties on a finding of good cause. (2) Civil penalties may be waived or modified by the administrative law judge, in his or her discretion, if there is a finding of good cause based on the responsible person's claim of nonconforming use or conditional use and: (3) The Municipality's need to verify the claim; or (4) The responsible person's filing of an application for either use before expiration of the date to correct.

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**SECTION 72:**        **ADOPTION** “12.03.250 FAILURE TO PAY PENALTIES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.250 FAILURE TO PAY PENALTIES(*Added*)

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 in the law.

**SECTION 73:**        **ADOPTION** “12.03.300 PART 3 - ABATEMENT OF VIOLATION” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.300 PART 3 - ABATEMENT OF VIOLATION(*Added*)

**SECTION 74:**        **ADOPTION** “12.03.310 AUTHORITY TO ABATE” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.310 AUTHORITY TO ABATE(*Added*)

The Director is authorized to enter upon any property or premises to abate the violation of the Municipal Code and applicable state codes pursuant to this Part. The Director is authorized to assess all costs for the abatement to the responsible person and use any remedy available under the law to collect the costs. If additional abatements are necessary within two years, treble costs may be assessed against the responsible person(s) for the actual abatement.

**SECTION 75:**        **ADOPTION** “12.03.320 PROCEDURES FOR ABATEMENT” of the Magna Municipal Code is hereby *added* as follows:

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## ADOPTION

### 12.03.320 PROCEDURES FOR ABATEMENT(*Added*)

(1) The Director may abate a violation pursuant to this Part after providing notice under Section 12.02.020 and by following the process set forth in Utah Code Ann. § 10-11-3 or any applicable successor statute(s) if the Responsible Party or Parties: a. Do not abate a violation within the time period prescribed in a notice issued pursuant to Sections 12.02.020 and 12.02.400, et seq.; and b. The Responsible Party or Parties did not file a request for an administrative code enforcement hearing under Section 12.02.530. (2) The Director may, in his or her discretion, request a default hearing pursuant to Section 12.02.504 but is not required to do so to abate the violation under this Part and may abate the violation without a default hearing pursuant to Utah Code Ann. § 10-11-3 or applicable successor statute(s). (3) The Director may use Municipal personnel or by a private contractor acting under his or her direction or the direction of the Municipality to abate the violation. (4) Municipal personnel or a private contractor may enter upon private property in a reasonable manner to abate the ordinance violation as specified in the notice of violation or administrative code enforcement order. (5) If the responsible person abates the violation before the Municipality performs the actual abatement pursuant to a notice of violation or administrative code enforcement order, the Director may still assess all costs incurred by the Municipality against the responsible person. (6) When the abatement is completed, the Director shall prepare an itemized statement of the work performed that complies with Utah Code Ann. § 10-11-3 or any applicable successor statute(s). (7) The Director shall serve the itemized statement on the responsible person in accordance with Utah Code Ann. § 10-11-3 or any applicable successor statute(s). (8) The Administrative Law Judge shall hear any appeals filed by a responsible person in response to an itemized statement issued under this Part and shall conduct such appeals and any related hearings in accordance with Utah Code Ann. § 10-11-3 or any applicable successor statute(s).

**SECTION 76:**        **ADOPTION** “12.03.400 PART 4 - COSTS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

### 12.03.400 PART 4 - COSTS(*Added*)

**SECTION 77:**        **ADOPTION** “12.03.410 DECLARATION OF PURPOSE” of the Magna Municipal Code is hereby *added* as follows:

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## ADOPTION

### 12.03.410 DECLARATION OF PURPOSE(*Added*)

(1) The Council finds that there is a need to recover costs incurred by enforcement officials and other Municipality personnel who spend considerable time inspecting and re-inspecting properties throughout the Municipality in an effort to ensure compliance with the Municipal Code or applicable state codes. (2) The Council further finds that the assessment of costs is an appropriate method to recover expenses incurred for actual costs of abating violations, re-inspection fees, filing fees, attorney fees, hearing officer fees, title search, and any additional actual costs incurred by the Municipality for each individual case. The assessment and collection of costs shall not preclude the imposition of any administrative or judicial civil penalties or fines for violations of the Municipal Code or applicable state codes.

**SECTION 78:**            **ADOPTION** “12.03.420 AUTHORITY” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

### 12.03.420 AUTHORITY(*Added*)

(1) Whenever actual costs are incurred by the Municipality on a property to obtain compliance with provisions of the Municipal Code and applicable state codes, the Director may assess costs against the responsible person. (2) Once a notice of violation has been issued, the property will be inspected one time. Any additional inspections shall be subject to re-inspection fees pursuant to the applicable Municipality’s fee schedule.

**SECTION 79:**            **ADOPTION** “12.03.430 NOTIFICATION OF ASSESSMENT REINSPECTION FEES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

### 12.03.430 NOTIFICATION OF ASSESSMENT REINSPECTION FEES(*Added*)

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(1) Notification of re-inspection fees shall be provided on the notice of violation served to the responsible person(s). (2) Re-inspection fees assessed or collected pursuant to this Part shall not be included in any other costs assessed. (3) 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 Part.

**SECTION 80:**            **ADOPTION** “12.03.440 FAILURE TO PAY TIMELY COSTS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.440 FAILURE TO PAY TIMELY COSTS(*Added*)

The failure of any person to pay assessed costs by the deadline specified in the invoice shall result in a late fee pursuant to Municipal policy.

**SECTION 81:**            **ADOPTION** “12.03.500 PART 5 - ADMINISTRATIVE FEES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.500 PART 5 - ADMINISTRATIVE FEES(*Added*)

**SECTION 82:**            **ADOPTION** “12.03.510 ADMINISTRATIVE FEES” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.510 ADMINISTRATIVE FEES(*Added*)

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

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**SECTION 83:**        **ADOPTION** “12.03.600 PART 6 - INJUNCTIONS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.600 PART 6 - INJUNCTIONS(*Added*)

**SECTION 84:**        **ADOPTION** “12.03.610 CIVIL VIOLATIONS - INJUNCTIONS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.610 CIVIL VIOLATIONS - INJUNCTIONS(*Added*)

In addition to any other remedy provided under the Municipal Code or state codes, including criminal prosecution or administrative remedies, any provision of the Municipal Code may be enforced by injunction issued in the Third District Court upon a suit brought by the Municipality.

**SECTION 85:**        **ADOPTION** “12.03.700 PART 7 - PERFORMANCE BONDS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.700 PART 7 - PERFORMANCE BONDS(*Added*)

**SECTION 86:**        **ADOPTION** “12.03.710 PERFORMANCE BOND” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.03.710 PERFORMANCE BOND(*Added*)

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(1) As part of any notice, order, or action, the Director or Administrative Law Judge has the authority to require responsible persons to post a performance bond to ensure compliance with the Municipal Code, applicable state codes, or any judicial action. (2) If the responsible person fails to comply with the notice, order, or action, the bond will be forfeited to the Municipality. The bond will not be used to offset the other outstanding costs and fees associated with the case

**SECTION 87:**        **ADOPTION** “12.04.100 PART 1 - CODE ENFORCEMENT TAX LIENS” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.04.100 PART 1 - CODE ENFORCEMENT TAX LIENS(*Added*)

**SECTION 88:**        **ADOPTION** “12.04.110 DECLARATION OF PURPOSE” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.04.110 DECLARATION OF PURPOSE(*Added*)

The Council finds that recordation of code enforcement tax liens will assist in the collection of civil penalties, administrative costs, and administrative fees assessed by the administrative code enforcement hearing program or judicial orders. The Council further finds that collection of civil penalties, costs, and fees assessed for code enforcement violations is important in deterring future violations and maintaining the integrity of the Municipality's code enforcement system. The procedures established in this Part shall be used to complement existing administrative or judicial remedies that may be pursued to address violations of the Municipal Code or applicable state codes.

**SECTION 89:**        **ADOPTION** “12.04.120 PROCEDURES FOR TAX LIENS WITHOUT A JUDGEMENT” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.04.120 PROCEDURES FOR TAX LIENS WITHOUT A JUDGEMENT(*Added*)

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(1) Once the Municipality has abated a property for weeds, garbage, refuse, or unsightly or deleterious objects or structures, the Director shall prepare three copies of the Itemized Statement of Costs incurred in the removal and destruction of the violations and deliver them to the Mayor within 10 days after completion of the work of removing the violations. (2) The Director shall send, by registered mail to the property owner's last known address, a copy of the Itemized Statement of Costs informing him or her that a code enforcement tax lien is being recorded for the amount of actual costs of abatement. Payment shall be due within 20 calendar days from the date of mailing. (3) Upon receipt of the Itemized Statement of costs, the Mayor shall record a Code Enforcement Tax Lien against the property with the County Treasurer's office. (4) The failure of any person with a financial interest in the property to actually receive the notice of the lien shall not affect the validity of the lien or any proceedings taken to collect the outstanding costs of abatement.

**SECTION 90:**            **ADOPTION** “12.04.130 PROCEDURES FOR TAX LIENS WITH A JUDGEMENT” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.04.130 PROCEDURES FOR TAX LIENS WITH A JUDGEMENT(*Added*)

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

**SECTION 91:**            **ADOPTION** “12.04.140 CANCELLATION OF CODE ENFORCEMENT TAX LIEN” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.04.140 CANCELLATION OF CODE ENFORCEMENT TAX LIEN(*Added*)



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Once payment in full is received for the outstanding civil penalties and costs, or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the Director shall either record a notice of satisfaction of judgment, or provide the property owner or financial institution with the notice of satisfaction of judgment so that it can record this notice with the county recorder's office. The notice of satisfaction of judgment shall include the same information as provided for in the original code enforcement tax lien. Such notice of satisfaction of judgment shall cancel the code enforcement tax lien.

**SECTION 92:**        **ADOPTION** “12.04.200 PART 2 - WRIT OF EXECUTION” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.04.200 PART 2 - WRIT OF EXECUTION(*Added*)

**SECTION 93:**        **ADOPTION** “12.04.210 RECOVERY OF COSTS BY WRIT OF EXECUTION” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.04.210 RECOVERY OF COSTS BY WRIT OF EXECUTION(*Added*)

After obtaining a judgment, the Director may collect the obligation by use of all appropriate legal means. This may include the execution on personal property owned by the responsible person by filing a writ with the applicable court.

**SECTION 94:**        **ADOPTION** “12.04.300 PART 3 - WRIT OF GARNISHMENT” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.04.300 PART 3 - WRIT OF GARNISHMENT(*Added*)

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**SECTION 95:**        **ADOPTION** “12.04.310 RECOVERY OF COSTS BY WRIT OF GARNISHMENT” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.04.310 RECOVERY OF COSTS BY WRIT OF GARNISHMENT(*Added*)

After obtaining a judgment, the Director may collect the obligation by use of all appropriate legal means. This may include the garnishment of paychecks, financial accounts, and other income or financial assets by filing a writ with the applicable court.

**SECTION 96:**        **ADOPTION** “12.04.400 PART 4 - ALLOCATION OF FUNDS COLLECTED UNDER ADMINISTRATIVE CODE ENFORCEMENT HEARING PROGRAM” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.04.400 PART 4 - ALLOCATION OF FUNDS COLLECTED UNDER ADMINISTRATIVE CODE ENFORCEMENT HEARING PROGRAM(*Added*)

**SECTION 97:**        **ADOPTION** “12.04.410 ABATEMENT FUND” of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.04.410 ABATEMENT FUND(*Added*)

There is hereby established a revolving fund to be known as the "Abatement Fund" to defray costs of administrative and judicial abatements. The fund shall be reimbursed by collection from the property or property owner as specified in this Title and by the courts. The Council shall establish accounting procedures to ensure proper account identification, credit, and collection. This fund may be operated and used in conjunction with procedures ordered or authorized under the abatement provision of this Title.

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**SECTION 98:**            **ADOPTION** “12.04.420 REPAYMENT TO ABATEMENT FUND”  
of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.04.420 REPAYMENT TO ABATEMENT FUND(*Added*)

All monies recovered from the sale or transfer of property or by payment for the actual abatement costs shall be paid to the Municipality’s Treasurer, who shall credit the appropriate amount to the Abatement Fund.

**SECTION 99:**            **ADOPTION** “12.04.430 CODE ENFORCEMENT  
ADMINISTRATIVE FEES AND COSTS FUND” of the Magna Municipal Code is hereby *added*  
as follows:

## ADOPTION

12.04.430 CODE ENFORCEMENT ADMINISTRATIVE FEES AND COSTS FUND(*Added*)

Administrative fees and administrative costs, except for actual abatement costs, collected pursuant to this Part shall be deposited in a fund established by the Council for the enhancement of the Municipality's code enforcement efforts and to reimburse the Municipality for investigative costs and costs associated with the hearing process. Fees and costs deposited in this fund shall be appropriated and allocated in a manner determined by the Council. The Council shall establish accounting procedures in consultation with the Municipality’s Auditor to ensure proper account identification, credit, and collection.

**SECTION 100:**            **ADOPTION** “12.04.440 ALLOCATION OF CIVIL PENALTIES”  
of the Magna Municipal Code is hereby *added* as follows:

## ADOPTION

12.04.440 ALLOCATION OF CIVIL PENALTIES(*Added*)

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

**SECTION 101:**            AMENDMENT “Title 12 CODE ENFORCEMENT AND COMMUNITY PRESERVATION” of the Magna Municipal Code is hereby *amended* as follows:

## A M E N D M E N T

Title 12 CODE ENFORCEMENT AND COMMUNITY PRESERVATION

**SECTION 102:**            REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

**SECTION 103:**            EFFECTIVE DATE This Ordinance shall be in full force and effect from 15 days after required approval and publication according to law.

PASSED AND ADOPTED BY THE MAGNA COUNCIL \_\_\_\_\_.

	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Councilmember Ferguson	_____	_____	_____	_____
Councilmember Hull	_____	_____	_____	_____
Mayor Peay	_____	_____	_____	_____
Councilmember Peel	_____	_____	_____	_____
Councilmember Prokopis	_____	_____	_____	_____

Presiding Officer

Attest

\_\_\_\_\_  
Dan W. Peay, Mayor, Magna

\_\_\_\_\_  
Sherrie Swensen, County Clerk/  
Metro Township Clerk-Recorder  
Magna