



Nibley City
Planning Commission
Wednesday, October 14, 2015
455 W. 3200 S.
Nibley, UT

5:30 p.m. Call to Order
Approval of Agenda
Approval of Minutes

CONDITIONAL USE PERMIT/BUSINESS LICENSE

Ameriglass LLC- discussion and consideration of a conditional use permit and business license for a home occupation (windshield repair) located at 874 W Park View Circle (Applicant: Ben Barnett)

Finish It Painting & Maintenance- discussion and consideration of a conditional use permit and business license for a home occupation (painting/remodeling) located at 1205 W 3200 S (Applicant: James Eldridge)

20/20 Window Cleaning- discussion and consideration of a conditional use permit and business license for a home occupation (window cleaning) located at 436 W 3650 S (Applicant: Taylor Forbush)

DAW Holdings, Inc dba Dave Wakefield Construction- discussion and consideration of a conditional use permit and business license for a home occupation (general contractor) located at 974 W 2880 S (Applicant: Dave Wakefield)

Affordable Cleaning Services- discussion and consideration of a conditional use permit and business license for a home occupation (residential/office cleaning) located at 2327 S 730 W (Applicant: Silvia Lugo)

Lutus United- discussion and consideration of a conditional use permit and business license for a mixed martial arts training facility in a commercial zone located at 1770 W 2690 S (Applicant: Kevin McBride)

WORKSHOP

Workshop discussion regarding code enforcement/administrative citation program

Discussion of update to Nibley City General Plan

Discussion/Report on the Utah League of Cities & Towns conference

*Planning Commission agenda items may be tabled if: 1) Additional information is needed in order to take action on the item; OR 2) The Planning Commission feels there are unresolved issues that may need further attention before the Commission is ready to make a motion. **No agenda item will begin after 10:00 p.m. without a unanimous vote of the Commission.** The Commission may carry over agenda items, scheduled late in the evening and not heard, to the next regularly scheduled meeting.*

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES WILL BE PROVIDED UPON REQUEST. FOR ASSISTANCE, PLEASE CALL 752-0431 A MINIMUM OF 24 HOURS BEFORE THE MEETING.



10/9/15

Hi everyone! This is what we have on the agenda for next week's meeting.

Ameriglass LLC- discussion and consideration of a conditional use permit and business license for a home occupation (windshield repair) located at 874 W Park View Circle (Applicant: Ben Barnett)

- This application is for a home occupation windshield repair business.
- Our home occupation definition is:
 - The use of a portion of a dwelling as an office, studio, or workroom for occupations which are conducted in the home and are incidental to the primary use as a home or residence; provided additionally that: 1) individuals who perform occupation related activities at the home occupation residence must also live at that residence; 2) individuals who do not live at the home occupation residence must not report to that residence for occupation related activities; and 3) the occupation shall not use any accessory building, yard, or any space outside the main building not normally associated with residential use. Applications meeting these criteria may (as determined by the appropriate land use authority) be classified a home occupation rather than being classified by the actual activity associated with the business, with the following exceptions. Child daycare/preschool for more than eight (8) children shall be classified as a commercial daycare rather than a home occupation. In addition, activities involving the sale, service, leasing and/or rental of motor vehicles shall not be classified as a home occupation.
- If a business meets the definition above, then it may be licensed as a home occupation, without regard for the type of business actually being conducted, provided that the business is legal and not otherwise specifically prohibited by ordinance.
- I believe that the business will be just repairing cracks and other damage that doesn't require a full windshield replacement. I would like to see that verified with Mr. Barnett so that there's not a problem with him storing large equipment at the residence.
- Mr. Barnett's business will be conducted off-site. He will receive referrals from insurance companies to do windshield repair at the customer's residence of place of business. There are no employees associated with the business. The equipment for windshield repair is minimal and does not require storage beyond what can be handled in Mr. Barnett's car.

- This business meets the requirements to be classified and approved as a home occupation.
 - The property is zoned Residential R-2A. The Nibley City Land Use Chart allows for home occupations, as a conditional use, in the R-2A zone.
- Because this business meets the definition of home occupation, I recommend approving the conditional use permit and have no suggested conditions beyond what is already in ordinance.

Finish It Painting & Maintenance- discussion and consideration of a conditional use permit and business license for a home occupation (painting/remodeling) located at 1205 W 3200 S (Applicant: James Eldridge)

- This application is for a home occupation painting/remodeling business.
- Our home occupation definition is:
 - The use of a portion of a dwelling as an office, studio, or workroom for occupations which are conducted in the home and are incidental to the primary use as a home or residence; provided additionally that: 1) individuals who perform occupation related activities at the home occupation residence must also live at that residence; 2) individuals who do not live at the home occupation residence must not report to that residence for occupation related activities; and 3) the occupation shall not use any accessory building, yard, or any space outside the main building not normally associated with residential use. Applications meeting these criteria may (as determined by the appropriate land use authority) be classified a home occupation rather than being classified by the actual activity associated with the business, with the following exceptions. Child daycare/preschool for more than eight (8) children shall be classified as a commercial daycare rather than a home occupation. In addition, activities involving the sale, service, leasing and/or rental of motor vehicles shall not be classified as a home occupation.
- If a business meets the definition above, then it may be licensed as a home occupation, without regard for the type of business actually being conducted, provided that the business is legal and not otherwise specifically prohibited by ordinance.
- Mr. Eldridge will not have any employees. He will not have any client visits. He will not conduct any part of the business in an accessory building.
- His business vehicles will be limited to one Grand Cherokee which can be parked in his driveway. He may have a logo on the vehicle, but other than that, there is no additional signage requested or planned.

- This business meets the requirements to be classified and approved as a home occupation.
 - The property is zoned Residential R-2A. The Nibley City Land Use Chart allows for home occupations, as a conditional use, in the R-2A zone.
- Because this business meets the definition of home occupation, I recommend approving the conditional use permit and have no suggested conditions beyond what is already in ordinance.

DAW Holdings, Inc dba Dave Wakefield Construction- discussion and consideration of a conditional use permit and business license for a home occupation (general contractor) located at 974 W 2880 S (Applicant: Dave Wakefield)

- This application is for a home occupation general contracting business.
- Our home occupation definition is:
 - The use of a portion of a dwelling as an office, studio, or workroom for occupations which are conducted in the home and are incidental to the primary use as a home or residence; provided additionally that: 1) individuals who perform occupation related activities at the home occupation residence must also live at that residence; 2) individuals who do not live at the home occupation residence must not report to that residence for occupation related activities; and 3) the occupation shall not use any accessory building, yard, or any space outside the main building not normally associated with residential use. Applications meeting these criteria may (as determined by the appropriate land use authority) be classified a home occupation rather than being classified by the actual activity associated with the business, with the following exceptions. Child daycare/preschool for more than eight (8) children shall be classified as a commercial daycare rather than a home occupation. In addition, activities involving the sale, service, leasing and/or rental of motor vehicles shall not be classified as a home occupation.
- If a business meets the definition above, then it may be licensed as a home occupation, without regard for the type of business actually being conducted, provided that the business is legal and not otherwise specifically prohibited by ordinance.
- Mr. Wakefield will not have any employees. He will not conduct any part of the business in an accessory building. Client visits would be limited to less than 5 per week.
- His business vehicles will be limited to one pickup truck which can be parked in his driveway. He may have a logo on the vehicle, but other than that, there is no additional signage requested or planned.
- This business meets the requirements to be classified and approved as a home occupation.

- The property is zoned Residential R-2A. The Nibley City Land Use Chart allows for home occupations, as a conditional use, in the R-2A zone.
- Because this business meets the definition of home occupation, I recommend approving the conditional use permit and have no suggested conditions beyond what is already in ordinance

Affordable Cleaning Services- discussion and consideration of a conditional use permit and business license for a home occupation (residential/office cleaning) located at 2327 S 730 W (Applicant: Silvia Lugo)

- This application is for a home occupation residential/office cleaning business.
- Our home occupation definition is:
 - The use of a portion of a dwelling as an office, studio, or workroom for occupations which are conducted in the home and are incidental to the primary use as a home or residence; provided additionally that: 1) individuals who perform occupation related activities at the home occupation residence must also live at that residence; 2) individuals who do not live at the home occupation residence must not report to that residence for occupation related activities; and 3) the occupation shall not use any accessory building, yard, or any space outside the main building not normally associated with residential use. Applications meeting these criteria may (as determined by the appropriate land use authority) be classified a home occupation rather than being classified by the actual activity associated with the business, with the following exceptions. Child daycare/preschool for more than eight (8) children shall be classified as a commercial daycare rather than a home occupation. In addition, activities involving the sale, service, leasing and/or rental of motor vehicles shall not be classified as a home occupation.
- If a business meets the definition above, then it may be licensed as a home occupation, without regard for the type of business actually being conducted, provided that the business is legal and not otherwise specifically prohibited by ordinance.
- Ms. Lugo will not have any employees. She will not have any client visits. She will not conduct any part of the business in an accessory building. She will not have any business related vehicles besides her personal vehicle.
- This business meets the requirements to be classified and approved as a home occupation.
 - The property is zoned Residential R-2A. The Nibley City Land Use Chart allows for home occupations, as a conditional use, in the R-2A zone.

- Because this business meets the definition of home occupation, I recommend approving the conditional use permit and have no suggested conditions beyond what is already in ordinance.

Lutus United- discussion and consideration of a conditional use permit and business license for a mixed martial arts training facility in a commercial zone located at 1770 W 2690 S (Applicant: Kevin McBride)

- This business is going to be located in the 4-Point Plaza. That is on the West side of Hwy 89, where the Valley Outlet, InStock Flooring and Bullfrog Spa are located. There is another building just west of Bullfrog, where the local Dairy Herdsman Improvement Association is located. If approved, Lutus United would go in next to the DHIA.
- Mr. McBride's business is proposed to operate from 6 am-9 pm, Monday through Saturday, and will operate as a mixed-martial arts training facility. There will not be any events there- typically, MMA events in the Valley are held at the Eccles Ice Arena or other places designed for an audience.
- If you aren't familiar with MMA and want to learn more, there are several resources online you can look up and get an idea of what it entails. A few of them are:
 - <http://www.ufc.com/discover/sport>
 - https://en.wikipedia.org/wiki/Mixed_martial_arts
 - <http://www.dummies.com/how-to/content/rules-of-mixed-martial-arts-fighting.html>
- The Nibley City Code 10-2 defines "RECREATION/ ENTERTAINMENT, COMMERCIAL" as:
 - A place and/or building, or portion thereof, that is used or is intended for fee based, indoor or outdoor recreation of all types. This term includes, but is not limited to, bowling alleys, skating rinks, billiard and pool halls, dance hall, amusement center, movie theaters, arcades, athletic clubs, equestrian facilities, indoor tennis/racquetball courts, miniature golf courses, athletic training centers, gyms, and the like.
- As an athletic training facility, Mr. McBride's training facility meets the requirement to be defined as a commercial recreation/entertainment business. Businesses meeting this definition are conditionally permitted in commercial zones.
- Although they are going into an existing building, the building is just a shell and there are improvements they need to complete before occupying the space. Mr. McBride has already been in contact with the County Building Inspector, Paul Berntson, and Paul has given them the list of things they need to do and provide prior to being able to occupy and open the space.
- This application meets the requirements to be granted a conditional use permit and business license. Staff recommendation is that it be issued, with the following conditions:

- No license will be issued until we receive verification that the business has completed all of the County Building Inspector's requirements for the building.
- No events, sanctioned or otherwise, can take place at the location. It is to be used strictly for training purposes.

Workshop discussion regarding code enforcement/administrative citation program

- I want to have a discussion about what types of policies and procedures you would like to see implemented in an administrative citation program. Initially, this was on the agenda for the 9/9 meeting, but we didn't have a quorum that night so we haven't discussed it on the record. Also, for that meeting, I presented a sample ordinance from South Salt Lake- I wanted to use that as a starting point for the discussion. However, since that time, I've realized that there are other ordinances which would give us a better framework. The one example I'd like you to look at for Wednesday is from Milford, Utah. I've been spending a lot of time going over it this week and, while I definitely think there are some changes we will need to make in order to make it suitable for Nibley, Milford's ordinance is a better starting point than the one I previously had shared with you all.
- One of the primary drivers behind this is that, at a certain point, we run out of enforcement options on code

Discussion of update to Nibley City General Plan

- This will be brief. I just want to give you an update of where we are at in the process and where we are going.

Discussion/Report on the Utah League of Cities & Towns conference

- For those who were able to attend the ULCT Planner's Day, if you are comfortable sharing and discussing anything learned/gained at the conference, I think it would be an excellent opportunity to talk about what we can do to improve Nibley, based on what we all learned.

~~We did receive a commercial business license application. However, the applicant didn't put the business location on the application, and I can't get hold of him to find out where the business is going to be located. If I hear back from him today, I may add some additional information on that business first thing Tuesday morning (we are closed Monday and I am out of the office this afternoon). Unless you hear from me, just assume that I wasn't able to make contact with him and so the application won't be on the agenda.~~

Have an excellent weekend! See you soon.

Shari

8/13/2015



APPLICATION FOR CONDITIONAL USE PERMIT/BUSINESS LICENSE

Office Use Only
Date Received 8/13/2015
Fee Paid 25.00
Rec'd By Diane

Name Ben Barnett
Address 874 W. Park view circle Nibley UT, 84321
Phone 435-754-5767 Cell Fax
Email

Please describe the reason you are requesting a conditional use permit/business license:

Home Office Sales Manufacturing Day Care
Other (please describe):

Proposed business name: Ameriglass LLC

Description of business: We get referrals from insurance companies to go to the residence or business of a customer to fix the windshield.

Describe how the proposed business activity will or will not affect the residential neighborhood surrounding the business location: It will not affect anything. Very small equipment is used to repair the windshield.

Do you plan to employ persons not living at this address as part of the business? Y (N)

Will those employees be working in your home or at another location? Please describe: N/A

Do you plan to conduct any of the business in an accessory building at this address? Y (N)

How many clients will visit this location weekly? _____

Describe how you will provide parking for client visits (if applicable): N/A

Will you have business vehicles which will require parking accommodations? Y (N)

If so, please describe the vehicles and parking plans: N/A

How many business shipments do you anticipate sending and receiving from this location each month and how will these deliveries be shipped? 1-2 via UPS

Will you be able to provide adequate indoor storage for these deliveries? (Y) N

If applicable, describe any signs at this address which will advertise the business: N/A

Nibley City Planning & Zoning

October 14 @ 5:30 pm



APPLICATION FOR CONDITIONAL USE PERMIT/BUSINESS LICENSE

Office Use Only
Date Received: 9/20/2015
Fee Paid: 825.00
Rec'd By: [Signature]

Name: JAMES EDRIDGE
Address: 1205 WEST 3200 SOUTH
Phone: 801-910-8320 Cell:
Fax: N/A
Email: finishit@live.com

Please describe the reason you are requesting a conditional use permit/business license:

X Home Office
Sales
Manufacturing
Day Care
Other (please describe):

Proposed business name: FINISH FT PAINTING & MAINTENANCE

Description of business: PAINTING & REMODELING

Describe how the proposed business activity will or will not affect the residential neighborhood surrounding the business location: IT WILL HAVE NO AFFECT.

Do you plan to employ persons not living at this address as part of the business? Y (N)

Will those employees be working in your home or at another location? Please describe: N/A

Do you plan to conduct any of the business in an accessory building at this address? Y (N)

How many clients will visit this location weekly? NONE

Describe how you will provide parking for client visits (if applicable): N/A

Will you have business vehicles which will require parking accommodations? Y (N)

If so, please describe the vehicles and parking plans: JEEP GRAND CHEROKEE (IN THE DRIVEWAY)

How many business shipments do you anticipate sending and receiving from this location each month and how will these deliveries be shipped? 1 PER MONTH VIA UPS

Will you be able to provide adequate indoor storage for these deliveries? Y (N)

If applicable, describe any signs at this address which will advertise the business: NONE AS A PART OF PHYSICAL LOCATION HOWEVER, VEHICLES MAY HAVE A LOGO.

Nibley City Planning & Zoning

Oct 14, 2015



APPLICATION FOR CONDITIONAL USE PERMIT/BUSINESS LICENSE

Office Use Only	
Date Received	9/22/15
Fee Paid	25.00
Rec'd By	Stephen Nelson

Name David Wakefield
 Address 974 W 2880 S
 Phone 435-232-2386 Cell 435-232-2386 Fax _____
 Email dave.wake1117@gmail.com

Please describe the reason you are requesting a conditional use permit/business license:

Home Office Sales Manufacturing Day Care
 Other (please describe): _____

Proposed business name: DAW Holdings, Inc. DBA Dave Wakefield Const.

Description of business: General contractor

Describe how the proposed business activity will or will not affect the residential neighborhood surrounding the business location: Should not affect the neighborhood, I'll be using an office to work & meet with clients

Do you plan to employ persons not living at this address as part of the business? Y N

Will those employees be working in your home or at another location? Please describe: another location job sites

Do you plan to conduct any of the business in an accessory building at this address? Y N

How many clients will visit this location weekly? 0-4

Describe how you will provide parking for client visits (if applicable): my driveway

Will you have business vehicles which will require parking accommodations? Y N

If so, please describe the vehicles and parking plans: my pickup truck - driveway

How many business shipments do you anticipate sending and receiving from this location each month and how will these deliveries be shipped? I have a P.O. Box

Will you be able to provide adequate indoor storage for these deliveries? Y N

If applicable, describe any signs at this address which will advertise the business: NO business signs except whats on my truck

Nibley City Planning & Zoning

September 23 @ 5:30 pm
Resubmitted October 14
@ 5:30 pm

APPLICATION FOR CONDITIONAL USE PERMIT/BUSINESS LICENSE



*Affordable
Cleaning
services*
* Name change

Office Use Only	
Date Received	<u>9/8/2015</u>
Fee Paid	_____
Rec'd By	<u>[Signature]</u>

Name SILVIA LUGO
 Address 23275 430 W
 Phone 4357 312 2443 Cell _____ Fax _____
 Email _____

Please describe the reason you are requesting a conditional use permit/business license:

Home Office _____ Sales _____ Manufacturing _____ Day Care
 _____ Other (please describe): _____

Proposed business name: Lugo Cleaning

Description of business: cleaning houses and offices

Describe how the proposed business activity will or will not affect the residential neighborhood surrounding the business location: won't affect

Do you plan to employ persons not living at this address as part of the business? Y N

Will those employees be working in your home or at another location? Please describe: _____

Do you plan to conduct any of the business in an accessory building at this address? Y N

How many clients will visit this location weekly? 0

Describe how you will provide parking for client visits (if applicable): _____

Will you have business vehicles which will require parking accommodations? Y N

If so, please describe the vehicles and parking plans: _____

How many business shipments do you anticipate sending and receiving from this location each month and how will these deliveries be shipped? 0

Will you be able to provide adequate indoor storage for these deliveries? Y N

If applicable, describe any signs at this address which will advertise the business: _____

Nibley City Planning & Zoning

October 14th 5:30 pm



NIBLEY CITY Commercial Business License Application

Office Use Only	
Date Received	12/1/2015
Fee Paid	25.00
P&Z Meeting	Oct 14

Please type or print in black or blue ink

Business Name	LUTUSUNITED	Local Business Phone #	435-730-0965
Business Address	1770 W 2600 S	City/State/Zip	NIBLEY UT
Billing Address	6910 S. 4000 W.	City/State/Zip	WELLSVILLE UT 84339
State Tax ID	5809441800000000 14127969002 WTH	DBA/Corp	<input checked="" type="radio"/> Sole Prop./Partnership (circle)
Describe the Nature of the Business (attach additional sheets if necessary) MIXED MARTIAL ARTS TRAINING FACILITY			
Do you use, store or manufacture any chemical, combustible, or hazardous materials? Yes <input type="radio"/> No <input checked="" type="radio"/> If "Y", attach additional sheets explaining the type of chemicals and how they will be used, stored, or manufactured.			
Are you moving into a new or already existing building? New <input type="radio"/> Existing <input checked="" type="radio"/>			
Sexually Oriented Business? *	Yes <input type="radio"/> No <input checked="" type="radio"/>	Alcohol Sales/Consumption?*	Yes <input type="radio"/> No <input checked="" type="radio"/>
* Answering yes to either of the above subjects a business owner to additional licensing requirements. See staff for additional information prior to submitting this application.			
Projected Opening Date	Oct. 1, 2015	Days/Hours of Operation	6AM - 9PM M-Sat

Officers/Owners (attach additional sheets if necessary)

	Owner/Office #1	Owner/Officer #2	Owner/Officer #3
Name (first/middle/last)	Kevin L. McBride		
Home Address	6910 S. 4000 W. Wellsville		
Home Phone	435-730-0965		
DOB (mm/dd/yyyy)	03/24/1976		
Misc. Info/Pro. Licenses			
Driver's License #/State			

I certify that the information contained in this application is true and correct. I agree to conduct my business in accordance with Nibley City ordinances and any other State or Federal statutes or laws governing operation of such business. Further, I understand that false disclosure of information on this application or failure to comply with said ordinances, laws and statutes may result in the revocation of my business license.

Signature of Applicant Kevin McBride Date 9-26-2015
 Print Name KEVIN MCBRIDE Title OWNER

Administrative Procedures

Title 3

ADMINISTRATION PROCEDURES

Chapters:

- 3.01 Administrative Enforcement
- 3.02 Administrative Enforcement Hearing Procedures
- 3.03 Administrative Abatement
- 3.04 Emergency Abatement
- 3.05 Administrative Citations
- 3.06 Costs and Fees
- 3.09 Assessment of the Various Fees

Chapter 3.01

Administrative Enforcement

Sections:

- 3.01.010 Short Title
- 3.01.020 Purpose
- 3.01.030 Scope
- 3.01.040 Existing Law Continued
- 3.01.050 Criminal Prosecution Right
- 3.01.060 Effect of Headings
- 3.01.070 Severability
- 3.01.080 Civil Liability
- 3.01.090 General Rules of Interpretation
- 3.01.100 Definitions Applicable to Title Generally
- 3.01.110 Acts Include Causing, Aiding and Abetting
- 3.01.120 Service of Notice Requirement
- 3.01.130 General Enforcement Authority
- 3.01.140 Adoption of Policy and Procedures
- 3.01.150 Authority to Inspect
- 3.01.160 False Information or Refusal Prohibited
- 3.01.170 Failure to Obey a Subpoena

Section 3.01.010 Short Title

This Chapter shall be known as the “Administrative Enforcement.” This Chapter shall also be known as Chapter 3.01 of the Milford City Code. It may be cited and pleaded under either designation.

Section 3.01.020 Purpose

The Municipal Council finds that the enforcement of the Milford City Code and applicable state codes is an important public activity. Code enforcement is vital to the protection of the public's health, safety, welfare, and quality of life. The Municipal Council recognizes that code

enforcement is effective only when done quickly and fairly. The Municipal Council further finds that an enforcement system that allows a combination of judicial and administrative remedies is effective in correcting violations.

Section 3.01.030 Scope

The provisions of this Chapter, Chapter 3.02, Chapter 3.03, Chapter 3.04, Chapter 3.05 and Chapter 3.06, may be applied to all violations of the Milford City Code or applicable state codes which occur within Milford City limits and such territory outside Milford City limits over which the City has jurisdiction or control by virtue of any constitutional provision or law. These provisions establish an additional remedy that may be used by the City to achieve compliance with applicable codes.

Section 3.01.040 Existing Law Continued

The provisions of this Chapter, Chapter 3.02, Chapter 3.03, Chapter 3.04, Chapter 3.05 and Chapter 3.06, shall not invalidate any other title, chapter, or ordinance of the Milford City Code, but shall be read in conjunction with those titles, chapters, and ordinances and shall be used as an additional remedy for enforcement of violations thereof.

Section 3.01.050 Criminal Prosecution Right

The City shall have sole discretion in deciding whether to file a civil or criminal judicial case or pursue a administrative enforcement action for the violation of any of its ordinances or applicable code requirements. The enactment of this Chapter, Chapter 3.02, Chapter 3.03, Chapter 3.04, Chapter 3.05 and Chapter 3.06, shall not be construed to limit the City's right to prosecute any violation as a criminal offense. If the City chooses to file both an administrative action and criminal charges for the same violation on the same day, no civil fees shall be assessed in the administrative action, but all other remedies contained herein shall be available.

Section 3.01.060 Effect of Headings

Title, chapter, 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 this Title.

Section 3.01.070 Severability

If any 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 Municipal Council hereby declares that it would have adopted this Title and each 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 made to this Title.

Section 3.01.080 Civil Liability

By establishing performance standards or by establishing obligations to act, it is the intent of the Municipal Council that Milford City employees and officers are exercising discretionary

authority in pursuit of an essential governmental function and that any such standards or obligations shall not be construed as creating a ministerial duty for purposes of tort liability.

Section 3.01.090 General Rules of Interpretation

For purposes of this Chapter, Chapter 3.02, Chapter 3.03, Chapter 3.04, Chapter 3.05 and Chapter 3.06 :

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 ordinary usage of the language.
6. Unless otherwise specified, the terms "hereof," "herein," and similar terms refer to this Title as a whole.

Section 3.01.100 Definitions Applicable to Title Generally

In the construction of this Chapter, Chapter 3.02, Chapter 3.03, Chapter 3.04, Chapter 3.05 and Chapter 3.06, the following words and phrases shall be as defined as set forth in this section unless a different meaning is specifically defined elsewhere in the Chapters and specifically stated to apply:

1. "Administrative Citation" means a citation issued to a responsible person which gives notice of a violation and the civil fee for such violation.
2. "Administrative Enforcement Order" means an order issued by a hearing examiner. The order may include an order to abate the violation, pay civil fees and administrative costs, or take any other action as authorized or required by this Title and applicable state codes.
3. "Administrative Enforcement Hearing" means a hearing held pursuant to the procedures established by this Title and at the request of a responsible person.
4. "City" means the City of Milford, Utah, including the Mayor, Chief Administrative Officer, and all other employees of the administrative branch of the City.
5. "Director" means the Mayor or his designee.
6. "Enforcement Official" means any person authorized by the City to enforce violations of the Milford City Code or applicable state codes including, but not limited to, zoning officers, police officers, building inspection officials, fire marshal, and animal control officers.
7. "Hearing Examiner" means a person appointed by the Mayor or his designee to preside over administrative enforcement hearings.
8. "Imminent Life Safety Hazard" means any condition that creates a serious and immediate danger to life, property, health, or public safety.
9. "Mayor" means the Mayor of Milford City.
10. "Municipal Council" means the Municipal Council of Milford City.
11. "Notice of Compliance" means a document or form approved by the Code Enforcement Officer which indicates that a property complies with the requirements outlined in a notice of violation.
12. "Notice of Emergency Abatement" means a written notice that informs a responsible person of emergency abatement actions taken by the City and the costs of those actions, and

orders payment for those costs.

13. "Notice of Itemized Bill for Costs" means a written notice to a responsible person, itemizing the City's costs and ordering payment of those costs.

14. "Notice of Violation" means a written notice that informs a responsible person of code violations and orders certain steps to correct the violations.

15. "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.

16. "Property Owner" means the record owner of real property as shown on the records of the Beaver County Assessor.

17. "Responsible Person" means the person(s) determined by the City who is responsible for causing or maintaining a violation of the Milford City Code or applicable state codes. The term "Responsible Person" shall include, but is not limited to, a property owner, agent, tenant, lessee, occupant, architect, builder, contractor, or other person who individually or together with another person is responsible for the violation of any provision of the Milford City Code or applicable state codes.

18. "Written" includes handwritten, typewritten, photocopied, computer printed, or facsimile.

Section 3.01.110 Acts Include Causing, Aiding and Abetting

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

Section 3.01.120 Service of Notice Requirement

1. Whenever a notice is required to be given under this Chapter, Chapter 3.02, Chapter 3.03, Chapter 3.04, Chapter 3.05 and Chapter 3.06, the notice shall be served by one of the following methods, unless different provisions are otherwise specifically stated to apply:

A. Personal service;

B. Regular mail, postage prepaid, to the last known address of a responsible person;

C. Posting the notice conspicuously on or in front of the property. The form of the posted notice shall be approved by the Director; or

D. Published in a newspaper of general circulation.

2. Failure of a responsible person to actually receive notice shall not affect the validity of any action taken hereunder if notice has been served in the manner set forth above.

3. Service by regular mail in the manner set forth above shall be deemed served on the fourth day after the date of mailing.

4. The failure of a person, other than a responsible person, to be served notice in accordance with this Section shall not affect the validity of any proceeding taken hereunder.

Section 3.01.130 General Enforcement Authority

Whenever an enforcement official finds that a violation of the Milford City Code or applicable state codes has occurred or continues to exist, he may undertake any of the procedures herein. The director or any designated enforcement official shall have the authority to gain compliance with the provisions of the Milford City Code and applicable state codes subject to the provisions

of this Chapter, Chapter 3.02, Chapter 3.03, Chapter 3.04, Chapter 3.05 and Chapter 3.06. Such authority shall include the power to issue notices of violation and administrative citations, inspect public and private property, abate nuisances on public and private property, and to use any remedy available under this Title or law.

Section 3.01.140 Adoption of Policy and Procedures

The Mayor shall establish policies and procedures for the holding of administrative enforcement hearings, the appointment of hearing examiners, and the use of the administrative procedures herein by enforcement officials.

Section 3.01.150 Authority to Inspect

Enforcement officials are hereby authorized, in accordance with applicable law, to enter upon any property or premises to ascertain whether the provisions of the Milford City Code or applicable state codes are being obeyed and to make any reasonable examination or survey necessary to determine compliance with the Milford City Code or applicable state codes. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner. If a property owner or responsible person refuses to allow enforcement official to enter property, the enforcement official shall obtain a search warrant before entering the property.

Section 3.01.160 False Information or Refusal Prohibited

It shall be unlawful for any person to willfully make a false statement or refuse to give his name or address with intent to deceive or interfere with an enforcement officer when in the performance of his official duties under the provisions of this Title. A violation of this Section shall be a Class B misdemeanor.

Section 3.01.170 Failure to Obey a Subpoena

It shall be unlawful for any person to willfully refuse or fail to obey a subpoena issued for an administrative enforcement hearing. A violation of this Section shall be a class B misdemeanor.

Chapter 3.02

Administrative Enforcement Hearing Procedures

Sections:

3.02.010 Administrative Enforcement Hearings

3.02.020 Request for Administrative Enforcement Hearing

3.02.030 Notification of Administrative Enforcement Hearing

3.02.040 Appointment and Qualifications of Hearing Examiner

3.02.050 Powers of Hearing Examiner

3.02.060 Procedures at Administrative Enforcement Hearing

3.02.070 Failure to Attend Administrative Enforcement Hearing

3.02.080 Administrative Enforcement Order

3.02.090 Failure to Comply

3.02.100 Appeal

Section 3.02.010 Administrative Enforcement Hearings

It is the purpose and intent of the Municipal Council that any responsible person shall be afforded due process of law during the enforcement process. Due process of law shall require adequate notice, an opportunity to request and to participate in any hearing, and an adequate explanation of the reasons justifying any resulting action. The following procedures are intended to establish a forum to resolve and correct violations of the Milford City Code and applicable state codes fairly, quickly, and efficiently while providing due process.

Section 3.02.020 Request for Administrative Enforcement Hearing

1. A responsible person served with one of the following documents or notices shall have the right to request an administrative enforcement hearing, if the request is filed within ten (10) 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; or
 - D. Notice of emergency abatement.
2. The request for an administrative enforcement hearing shall be made in writing.
3. As soon as practicable after receiving the written notice of the request for an administrative enforcement hearing, the Mayor or his designee shall appoint a hearing examiner who shall schedule a date, time, and place for the administrative enforcement hearing.
4. Failure to request an administrative enforcement hearing within ten calendar days from the date of service of any of the notices in subsection (1) above shall constitute a waiver of the right to an administrative enforcement hearing and the right to an appeal.
5. Within twenty (20) days of the issuance of a Notice Violation, the City may request an administrative enforcement hearing for the purpose of compelling a responsible person to comply with correction required on a Notice of Violation.
6. If a responsible person fails to request a hearing after being issued a Notice of Violation as provided herein, the corrective action detailed on the Notice of Violation shall be considered the administrative enforcement order pursuant to Section 3.02.080, Milford City Code.

Section 3.02.030 Notification of Administrative Enforcement Hearing

1. Written notice of the date, time, and place of the administrative enforcement hearing shall be served to the responsible person as soon as practicable prior to its date.
2. The notice shall be served by any of the methods of service set forth in Section 3.01.120 of this Chapter.

Section 3.02.040 Appointment and Qualifications of Hearing Examiner

1. The Mayor or his designee shall appoint hearing examiners to preside at administrative enforcement hearings.
2. A hearing examiner:

- A. Shall have no personal or financial interest in the matter for which he is conducting a hearing; and
- B. May be a City employee.

Section 3.02.050 Powers of Hearing Examiner

1. A hearing examiner shall have authority to hold an administrative enforcement hearing for violations of the Milford City Code and applicable state codes.
2. A hearing examiner may continue a hearing for good cause shown by one of the parties or if the hearing examiner independently determines that due process has not been adequately afforded to such party.
3. At the request of any party to an administrative enforcement hearing, a hearing examiner may sign subpoenas for witnesses, documents, and other evidence where the attendance of the witness or the admission of evidence is deemed helpful by the hearing examiner to decide issues at the hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena.
4. A hearing examiner has continuing jurisdiction over the subject matter of an administrative enforcement hearing for the purposes of granting a continuance; ordering compliance by issuing an administrative enforcement order; ensuring compliance of that order, which includes authorizing the City to enter and abate a violation; modifying an administrative enforcement order; or, where extraordinary circumstances exist, granting a new hearing.
5. A hearing examiner may require a responsible person to post a performance bond to ensure compliance with an administrative enforcement order, but only if agreed to by the enforcement official handling the matter for the City.
6. A hearing examiner shall not make determinations as to the existence of nonconforming rights. If a responsible person claims a nonconforming right as a defense, the Hearing examiner shall continue the administrative enforcement hearing and shall refer the matter to the Milford City Board of Adjustment for a determination as to the existence of the nonconforming right. The Board of Adjustment's decision shall be binding on the hearing examiner. The responsible person shall bear the costs of the appeal to the Board of Adjustment.

Section 3.02.060 Procedures at Administrative Enforcement Hearing

1. Administrative enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery shall not apply; however, an informal exchange of discovery may be required. Any such request shall be in writing. Failure to request discovery shall not be a basis for a continuance. Complainant information shall not be disclosed or released unless the complainant is a witness at the hearing. The procedure and format of the administrative enforcement hearing shall follow duly adopted policies and procedures.
2. The City shall bear the burden of proof to establish the existence of a violation of the Milford City Code or applicable state codes.
3. Such proof shall be established by a preponderance of the evidence.
4. Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his 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 administrative enforcement hearings shall be open to the public and shall be recorded by

audiotape. In the discretion of the hearing examiner, administrative enforcement hearings may be held at the location of the violation.

6. The responsible person shall have the right to be represented by an attorney. If an attorney will be representing a responsible person at a hearing, notice of the attorney's name, address, and telephone number shall be given to the City at least one day prior to the hearing. If such notice is not given, the hearing may be continued at the City's request, and all costs of the continuance shall be assessed to the responsible person.

7. The burden to prove any raised defenses shall be upon the party raising any such defense.

Section 3.02.070 Failure to Attend Administrative Enforcement Hearing

A responsible person who fails to appear at an administrative enforcement hearing shall be deemed to have waived the right to such hearing, the adjudication of issues related to the hearing, and the right to appeal, provided that proper notice of the hearing has been given as provided in Section 3.01.120.

Section 3.02.080 Administrative Enforcement Order

1. A responsible person and the City may enter into a stipulated agreement, which shall be signed by both parties. Such agreement shall be entered as an administrative enforcement order. Entry of such agreement shall constitute a waiver of the right to an administrative enforcement hearing and the right to appeal.

2. After all evidence and testimony are presented, the hearing examiner shall issue a written administrative enforcement order that affirms or rejects the notice or citation.

3. A hearing examiner may issue an administrative enforcement order that requires a responsible person to cease from violating the Milford City Code or applicable state codes and to take any necessary corrective action.

4. A hearing examiner may order the City to enter the property and abate all violations, including the removal of animals in violation of an applicable code requirement.

5. A hearing examiner may revoke a kennel permit, an animal license, or the right to possess animals as provided in the Milford City Code.

6. As part of an administrative enforcement order, a hearing examiner may establish specific deadlines for the payment of fees and costs, and condition the total or partial assessment of civil fees on the responsible person's ability to take necessary corrective actions by specified deadlines.

7. A hearing examiner may issue an administrative enforcement order imposing civil fees. Such fees shall continue to accrue until the responsible person complies with the hearing examiner's decision and corrects the violation.

8. A hearing examiner may schedule subsequent review hearings as may be necessary or as requested by the City to ensure compliance with an administrative enforcement order.

9. A hearing examiner may order a responsible person to post a performance bond to ensure compliance with an administrative enforcement order, but only if agreed to by the enforcement official handling the matter for the City.

10. An administrative enforcement order shall become final on the date of signing by a hearing examiner.

11. An administrative enforcement order shall be served on all parties by any one of the

methods listed in Section 3.01.120 of this Chapter. When required by this Chapter, the director shall record the administrative enforcement order with the Beaver County Recorder's Office.

12. After a hearing examiner has issued an administrative enforcement order, the director shall monitor the matter for compliance with the administrative enforcement order.

Section 3.02.090 Failure to Comply

It shall be unlawful for any responsible person to fail to comply with the terms and deadlines set forth in a final administrative enforcement order. A violation of this Section shall be a class B misdemeanor.

Section 3.02.100 Appeal

1. Any responsible person adversely affected by a final administrative enforcement order made in the exercise of the provisions of this Chapter may file a petition for review in the district court.

2. The petition shall be barred unless it is filed within thirty (30) days after the administrative enforcement order is final.

3. In the petition, the plaintiff may only allege that the administrative enforcement order was arbitrary, capricious or illegal.

4. The court shall:

A. Presume that the administrative enforcement order is valid;

B. Review the record to determine whether the order was arbitrary, capricious, or illegal; and

C. Affirm the administrative enforcement order if it is supported by substantial evidence in the record.

5. The record of the proceedings including minutes, findings, orders and, if available, a true and correct transcript of the proceeding shall be transmitted to the reviewing court. If the proceeding was tape recorded, a transcript of such tape recording shall be deemed a true and correct transcript for purposes of this subsection.

6. If there is a record, court review shall be limited to the record of the proceeding. The court may not accept or consider any evidence outside such record unless that evidence was offered to the hearing examiner and the court determines that it was improperly excluded by the hearing examiner. The court may call witnesses and take evidence if there is no record.

7. The filing of a petition does not stay execution of an administrative enforcement order. Before filing a petition, a responsible person may request the hearing examiner to stay an administrative enforcement order. Upon receipt of a request to stay, the hearing examiner may order the administrative enforcement order to be stayed pending district court review if the hearing examiner finds such stay to be in the best interest of the City.

Chapter 3.03

Administrative Abatement

Sections:

3.03.010 Administrative Abatement.

3.03.020 Notice of Violation.

3.03.030 Requesting Hearings

- 3.03.040 Failure to Correct
- 3.03.050 Inspections
- 3.03.060 Authority to Abate
- 3.03.070 Procedures for Abatement
- 3.03.080 Procedures for Recordation
- 3.03.090 Notice of Compliance
- 3.03.100 Prohibition Against Issuance of Municipal Permits
- 3.03.110 Civil Fees

Section 3.03.010 Administrative Abatement.

Any condition caused, maintained, or permitted to exist in violation of any provision of the Milford City Code or applicable state codes may be abated by the City pursuant to the procedures set forth in this Chapter.

Section 3.03.020 Notice of Violation.

1. Whenever an enforcement official determines that a violation of the Milford City Code or applicable state codes has occurred or continues to exist, a notice of violation may be issued to the responsible person. The notice of violation shall include the following information:
 - A. Name of the responsible person.
 - B. Street address of violation.
 - C. Date violation observed.
 - D. All code sections violated and a description of the condition that violates the applicable code.
 - E. All remedial action required to permanently correcting any violation, which may include corrections, repairs, demolition, removal, or other appropriate action.
 - F. Specific date to correct the violation set forth in a notice of violation.
 - G. 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 fees; revocation of permits; recordation of the notice of violation; withholding of municipal permits; abatement of the violation; costs; administrative fees; and any other legal remedies.
 - H. Statement that civil fees will begin to accrue immediately on expiration of the date to correct violation.
 - I. The amount of the civil fee for each violation and a statement that the civil fee shall accrue daily until the violation is corrected.
 - J. Demand that the responsible person cease and desist from further action causing the violation and commence and complete all action to correct violations as directed by the City.
 - K. Procedures to request an administrative enforcement hearing, and consequences for failure to request such hearing.
 - L. Statement that when the violation is brought into compliance the responsible person must request an inspection.
2. The notice of violation shall be served by one of the methods of service listed in Section 3.01.120 of this Chapter.

Section 3.03.030 Requesting Hearings

A responsible person shall have the right to an administrative enforcement hearing. A request for such hearing shall be in writing and shall be filed within ten (10) days from the date of service of the notice of violation. Failure to request an administrative enforcement hearing as provided shall constitute a waiver to an administrative enforcement hearing and a waiver of the right to appeal.

Section 3.03.040 Failure to Correct

It shall be unlawful for any responsible person to fail to comply with the terms and deadlines set forth in a notice of violation. A violation of this Section shall be a class B misdemeanor.

Section 3.03.050 Inspections

It shall be the duty of the responsible person to request an inspection when a violation has been corrected. If no inspection is requested, it shall be deemed prima facie evidence that the violation remains uncorrected. If more than one inspection is necessary, an inspection fee of thirty dollars (\$30) shall be assessed for each subsequent inspection.

Section 3.03.060 Authority to Abate

The director is hereby authorized to enter upon any property or premises to abate a violation of the Milford City Code and applicable state codes as set forth in Section 3.01.150. The director shall assess all costs for abatement to the responsible person and may use any remedy available under the law to collect such costs. If additional abatement is necessary within two (2) years, treble costs shall be assessed against the responsible person for the actual abatement.

Section 3.03.070 Procedures for Abatement

1. Violations may be abated by City personnel or by a private contractor acting under the direction of the City.
2. City personnel or a private contractor may enter upon private property in a reasonable manner to abate a violation as specified in the notice of violation or administrative enforcement order.
3. If a responsible person abates the violation before the City abates the violation pursuant to a notice of violation or administrative enforcement order, the director shall nevertheless assess all costs actually incurred by the City against the responsible person.
4. When abatement is completed, the director shall prepare a notice of itemized bill for costs.
5. The director shall serve the notice of itemized bill for costs by registered mail to the last known address of the responsible person. The notice shall demand full payment within twenty (20) days to the Milford City Finance Department.
6. The responsible person shall have a right to an administrative enforcement hearing to contest the notice of itemized bill for costs. A request for such hearing shall be in writing and shall be filed within ten days from the date of service of the notice of itemized bill for costs. Failure to request an administrative enforcement hearing as provided shall constitute a waiver to such hearing and a waiver of the right to appeal.

Section 3.03.080 Procedures for Recordation

1. For violations of the Milford City Code and any other applicable code, when a notice of violation has been served on a responsible person, and the violation remains uncorrected after the date to correct set forth in the notice of violation, and a request for an administrative enforcement hearing has not been timely requested, the director shall record the notice of violation with the Beaver County Recorder's Office.
2. If an administrative enforcement hearing is held, and an administrative enforcement order is issued, the director shall record the administrative enforcement order with the Beaver County Recorder's Office.
3. The recordation of an administrative enforcement order shall not be deemed an encumbrance on the property, but shall merely place interested parties on notice of any continuing violation found upon the property.
4. 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 3.01.120 of this Chapter.

Section 3.03.090 Notice of Compliance

1. When a violation is corrected, a responsible person shall request an inspection from the director.
2. When the director receives such request, the director shall reinspect the property as soon as practicable to determine whether the violation has been corrected, and whether all necessary permits have been issued and final inspections have been performed as required by applicable codes.
3. The director shall serve a notice of compliance to the responsible person and property owner in the manner provided in Section 3.01.120. herein if the director determines that:
 - A. All violations listed in the recorded notice of violation or administrative enforcement order have been corrected;
 - B. All necessary permits have been issued and finalized;
 - C. All assessed civil fees have been paid; and
 - D. All assessed administrative fees and costs have been paid.
4. The director shall record the notice of compliance with the Beaver County Recorder's Office. Recordation of the notice of compliance shall have the effect of canceling the recorded notice of violation.

Section 3.03.100 Prohibition Against Issuance of Municipal Permits

The City shall 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 where a violation is located. The City shall withhold such permits until a notice of compliance has been issued by the director. The City shall not withhold permits necessary to obtain a notice of compliance or to correct serious health and safety violations.

Section 3.03.110 Civil Fees

1. If a responsible person fails to correct a violation by the correction date listed in a notice of violation or in an administrative enforcement order, civil fees shall be owed to the City as follows:

- A. for any violation set forth on Table 1 - Civil Fees, the civil fee shall be as shown on the table.
 - B. for any other violation not included on Table 1 - Civil Fees the civil fee for each violation shall be thirty dollars (\$30) plus an additional civil fee of thirty dollars (\$30) for each and every subsequent day of violation for each separate violation until the violation is corrected. The maximum amount of civil fees accruable under this Subsection (b) for each violation listed in a notice of violation or in an administrative enforcement order shall be six hundred dollars (\$600).
2. Payment of any civil fee shall not excuse any failure to correct a violation or the reoccurrence of the violation, nor shall it bar further enforcement action by the City.
 3. Civil fees shall be paid to the Milford City Finance Department.

Chapter 3.04

Emergency Abatement

Sections:

3.04.010 Emergency Abatement

3.04.020 Procedures

Section 3.04.010 Emergency Abatement

1. Immediate correction or elimination, the director shall exercise the following powers without prior notice to the responsible person:
 - A. Order the immediate vacation of any tenants, and prohibit occupancy until all repairs are completed;
 - B. Post the premises as unsafe, substandard, or dangerous;
 - C. Board, fence, or secure the building or site;
 - D. Raze and grade that portion of the building or site to prevent further collapse, and remove any hazard to the general public;
 - E. Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or
 - F. Take any other action appropriate to eliminate the emergency.
2. The director may, based on probable cause, enter property without a search warrant or court order to accomplish the above-listed acts.

Section 3.04.020 Procedures

1. The director shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of a hazard. Costs incurred by the City during the emergency abatement process shall be assessed and recovered against the responsible person.
2. The director may also pursue any other administrative or judicial remedy to abate any remaining violations.
3. After an emergency abatement, the City shall, within ten (10) days, serve a notice of itemized bill for costs to the responsible person for the abatement action taken. Such notice shall include a description of the imminent life safety hazard.
4. A responsible person has the right to an administrative enforcement hearing. A request for

such hearing shall be in writing and shall be filed within ten (10) days from the date of service of the notice of itemized bill for costs. Failure to request an administrative enforcement hearing as provided herein shall constitute a waiver to an administrative enforcement hearing and a waiver to the right to appeal.

Chapter 3.05

Administrative Citations

Sections:

3.05.010 Purpose

3.05.020 Administrative Citations

3.05.030 Contents of Citations

3.05.040 Civil Fees Assessed

Section 3.05.010 Purpose

The Municipal Council finds that an appropriate method of enforcement for violations of the Milford City Code and applicable state codes is by administrative citation. The procedures established in this Chapter shall be an alternative and in addition to those procedures set forth in Chapter 3.03.

Section 3.05.020 Administrative Citations

1. Upon discovering a violation of the Milford City Code or applicable state codes that does not require a notice of violation an enforcement official shall serve an administrative citation on the responsible person.
2. The administrative citation shall be served in the manner prescribed in Section 3.01.120.
3. The enforcement official shall attempt to obtain the signature of the responsible person on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, such failure or refusal shall not affect the validity of the citation and subsequent proceedings.

Section 3.05.030 Contents of Citations

Each administrative citation shall contain the following information:

1. The date and location of all violations;
2. Code sections violated;
3. The amount of the civil fee imposed for each violation;
4. An explanation of how the civil fee shall be paid, the time period in which the civil fee shall be paid, and the consequences of failure to pay the civil fee;
5. Identify the right to and the procedures for requesting an administrative enforcement hearing.
6. The signature of the enforcement official and, if possible, the signature of the responsible person.

Section 3.05.040 Civil Fees Assessed

1. Civil fees shall be due and payable immediately upon service of an administrative citation.

2. The civil fee for each violation listed on the administrative citation shall be twenty-five dollars (\$25) if paid within ten (10) days of service.
3. Civil fees shall be double if paid after ten (10) days but within twenty (20) days of service.
4. Civil fees shall be triple if paid after twenty (20) days but within thirty (30) days of service.
5. Payment of any civil fee shall not excuse a failure to correct a violation or any reoccurrence of the violation, nor shall it bar further enforcement action by the City.
6. Civil fees shall be paid to the Milford City Finance Department.

Table 1 – Civil Fees

Type of Violation	Reference	Civil Fee (per day)		Civil Fee (per day)	
		1 st Offense	1 st Offense Max	2 nd Offense	2 nd Offense Max
Occupancy	Title 13	\$25/person	\$2,500/person	\$50/person	\$5,000/person
Accessory Bldg	Title 13	\$25	\$2,000	\$50	\$4,000
Junk Vehicle	Title 7.02	\$30	\$1,200	\$40	\$2,400
Trash, Junk, etc	Title 7.02	\$30	\$1,200	\$40	\$2,400
Weeds	Title 7.02	\$30	\$1,200	\$40	\$2,400
Landscaping	Title 13	\$30	\$1,200	\$40	\$2,400
Fences	Title 13	\$30	\$1,200	\$40	\$2,400
Signs	Title 13	\$30	\$1,200	\$40	\$2,400
Dumping	Title 7.02	\$30	\$1,200	\$40	\$2,400
Building Permit	Title 2	\$30	\$1,200	\$40	\$2,400
Business Lic.	Title 6	\$30	\$1,200	\$40	\$2,400
Home Occ.	Title 13	\$30	\$1,200	\$40	\$2,400
Parking	Title 13	\$30	\$1,200	\$40	\$2,400
Nuisance	Title 7.02	\$30	\$1,200	\$40	\$2,400
Non-Permitted Use	Title 13	\$30	\$1,200	\$40	\$2,400
Variance	Title 3	\$30	\$1,200	\$40	\$2,400
Failure to Comply	Title 13	\$30	\$1,200	\$40	\$2,400

Chapter 3.06

Costs and Fees

Sections:

3.06.010 Purpose

3.06.020 Assessment of Costs

3.06.030 Failure to Timely Pay Costs

3.06.040 Administrative Cost Fund

3.06.050 Allocation of Civil Fees

Section 3.06.010 Purpose

1. The Municipal Council finds that costs incurred by enforcement officials and other City personnel to correct violations should be recovered from the responsible person.
2. The Municipal Council further finds that the assessment of costs is an appropriate method to recover expenses incurred for actual costs of abating violations, reinspection fees, filing fees,

attorney fees, hearing examiner fees, title search, and any additional actual costs incurred by the City for each individual case. The assessment and collection of costs shall not preclude the imposition of any judicial fees or fines for violations of the Milford City Code or applicable state codes.

Section 3.06.020 Assessment of Costs

1. Whenever actual costs are incurred by the City to enforce the Milford City Code and applicable state codes, such costs shall be assessed against the responsible person.
2. The director shall serve the responsible person with a notice of itemized bill for costs.
3. The responsible person shall have a right to an administrative enforcement hearing. A request for such hearing shall be in writing and shall be filed within ten (10) days from the date of service of the notice of itemized bill for costs. Failure to request an administrative enforcement hearing as provided shall constitute a waiver to an administrative enforcement hearing and a waiver of the right to appeal.

Section 3.06.030 Failure to Timely Pay Costs

The failure of any person to pay assessed costs by the deadline specified in an invoice shall result in a late fee calculated at the rate of one and one-half (1½) percent per month.

Section 3.06.040 Administrative Cost Fund

Administrative costs and fees collected pursuant to Chapter 3.01, Chapter 3.02, Chapter 3.03, Chapter 3.04, Chapter 3.05 and Chapter 3.06 shall be deposited in a fund, as established by the City for the enhancement of the City's code enforcement efforts and to reimburse City departments for costs associated with the administration of Chapter 3.01, Chapter 3.02, Chapter 3.03, Chapter 3.04, Chapter 3.05 and Chapter 3.06. Fees and costs deposited in this fund shall be allocated pursuant to the City's budget process and as authorized by applicable law.

Section 3.06.050 Allocation of Civil Fees

Civil fees collected pursuant to Chapter 3.01, Chapter 3.02, Chapter 3.03, Chapter 3.04, Chapter 3.05 and Chapter 3.06 shall be deposited in the Milford City general fund. Civil fees deposited in the general fund may be allocated pursuant to the City's budget process and as authorized by applicable law.

Chapter 3.09

Assessment of the Various Fees

Sections:

3.09.010 Fees and Charges Fixed By Resolution

3.09.020 Interest and Fees on Unpaid Accounts

Section 3.09.010 Fees and Charges Fixed By Resolution

1. Fees and charges to be imposed for the programs and services described hereafter shall be established and amended by resolutions of the Municipal Council.

2. This section applies to the following programs and services:
 - A. All public services and uses at the city cemetery.
 - B. The programs pertaining to the city recreation.
 - C. Costs to replace equipment and materials used by participants of the City Recreation programs and not returned to the City. Costs to be assessed at the actual costs of the replacement.
 - D. Use of the municipal golf course
 - E. All services, uses and programs at the Milford City swimming pool facility.
 - F. Fees for the use of City equipment and man hours.
 - G. Cost of materials used in the installation of connections for water and sewer including pressure-reducing equipment.
 - H. Cost to replace media materials from the Milford City Library and not returned. Cost will be assessed at the actual cost of replacement.
 - I. Fees for administration and postage pertaining to the activities of the Milford Beautification Board. Cost to include the current fees set by the United States Postal Service.
 - J. Cost for facility rentals in the Milford City Government Offices.

Section 3.09.020 Interest and Fees on Unpaid Accounts

1. Interest calculated at the rate of two (2) percent per month on overdue and unpaid money shall be paid by all purchasers from Milford City of any Milford City programs and services. This section does not apply to licenses regulated under Chapter 6.01.
2. Fees will be imposed for the collection of past due accounts at the cost of \$50.00 resulting in collections through any collection agency or small claims court. Additional costs to be imposed are the cost of registered mail and all collection fees assessed by any and all collection agencies or small claims court. Said fees will be figured in the amount before forwarding to the collection agency.
3. Fees will be assessed for all returned checks at the cost of \$20.00 per incident.