

Town of Leeds

Agenda Town of Leeds Town Council Wednesday, June 22, 2022

PUBLIC NOTICE is hereby given that the Town of Leeds Town Council will hold a **PUBLIC MEETING** on Wednesday, June 22, 2022, at 7:00 pm. The Town Council will meet in the Leeds Town Hall located at 218 N Main, Leeds, Utah.

Regular Meeting 7:00pm

1. Call to Order/Roll Call
2. Pledge of Allegiance
3. Declaration of Abstentions or Conflicts
4. Consent Agenda:
 - a. Tonight's Agenda
 - b. Meeting Minutes of June 8, 2022.
7. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
8. Announcements:
 - a. Update on Fourth of July celebration and social event
 - b. Ballot Drop Box Located at Town Hall Until 2:00 PM June 28th
9. Public Hearings: None
10. Action Items: None
11. Discussion Items:
 - a. Discussion Regarding Review of Ordinances
12. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
13. Staff Reports
14. Closed Meeting- A Closed Meeting may be held for any item identified under Utah Code section 52-4-205.
15. Adjournment

The Town of Leeds will make reasonable accommodations for persons needing assistance to participate in this public meeting. Persons requesting assistance are asked to call the Leeds Town Hall at 879-2447 at least 24 hours prior to the meeting.

The Town of Leeds is an equal opportunity provider and employer.

Certificate of Posting:

The undersigned Clerk/Recorder does hereby certify that the above notice was posted June 21, 2022 at these public places being at **Leeds Town Hall, Leeds Post Office, the Utah Public Meeting Notice website <http://pmn.utah.gov>, and the Town of Leeds website www.leadstown.org.**


Aseneth Steed, Clerk/Recorder

Town of Leeds

Town Council and Planning Commission Work Meeting for Wednesday, June 22, 2022

Joint Meeting 6:00 PM

Mayor Hoster: We have Craig Hall and Mark Rosenthal on Zoom

ROLL CALL:

	<u>Present</u>	<u>Absent</u>
MAYOR: BILL HOSTER	<u>X</u>	<u> </u>
COUNCILMEMBER: DANIELLE STIRLING	<u>X</u>	<u> </u>
COUNCILMEMBER: RON CUNDICK	<u> </u>	<u>X</u>
COUNCILMEMBER: STEPHEN WILSON	<u>X</u>	<u> </u>
COUNCILMEMBER: LORRIE HUNSAKER	<u>X</u>	<u> </u>

ROLL CALL:

	<u>Present</u>	<u>Absent</u>
CHAIRMAN: DANNY SWENSON	<u>X</u>	<u> </u>
COMMISSIONER: ALAN ROBERTS	<u>X</u>	<u> </u>
COMMISSIONER: KEN HADLEY	<u> </u>	<u>X</u>
COMMISSIONER: TOM DARTON	<u> </u>	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	<u> </u>

Commissioner Roberts made a motion to approve the Agenda of June 22, 2022.
Seconded by Councilmember Hunsaker.

ROLL CALL VOTE:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
MAYOR: Bill HOSTER	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
COUNCILMEMBER: DANIELLE STIRLING	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
COUNCILMEMBER: RON CUNDICK	<u> </u>	<u> </u>	<u> </u>	<u>X</u>
COUNCILMEMBER: STEPHEN WILSON	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
COUNCILMEMBER: LORRIE HUNSAKER	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

ROLL CALL VOTE:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
CHAIRMAN: DANNY SWENSON	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: ALAN ROBERTS	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
COMMISSIONER: KEN HADLEY	<u> </u>	<u> </u>	<u> </u>	<u>X</u>

COMMISSIONER: TOM DARTON				X
COMMISSIONER: MARK ROSENTHAL	X			

Councilmember Hunsaker made a motion to approve the Work Meeting Minutes of May 11, 2022. Seconded by Commissioner Roberts.

ROLL CALL VOTE:	Yea	Nay	Abstain	Absent
MAYOR: BILL HOSTER	X			
COUNCILMEMBER: DANIELLE STIRLING	X			
COUNCILMEMBER: RON CUNDICK				X
COUNCILMEMBER: STEPHEN WILSON	X			
COUNCILMEMBER: LORRIE HUNSAKER	X			

ROLL CALL VOTE:	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	X			
COMMISSIONER: ALAN ROBERTS	X			
COMMISSIONER: KEN HADLEY				X
COMMISSIONER: TOM DARTON				X
COMMISSIONER: MARK ROSENTHAL	X			

a. Discussion Regarding Review of Ordinances

Mayor Hoster introduced Craig Hall attending on Zoom to address the issue to nuisance ordinance and enforcement of Leeds Town ordinance.

Craig Hall: Let's take this from a ten-thousand-foot viewpoint. One of the first questions I ask the legislative body is how committed are you about enforcement? If you are not willing to make people mad we are wasting our time because people will get mad at Town Council. Allan remembers about three years ago when we went after the guy with all the cars on the main street . He lived in Texas and his son was running a car dealership here in Leeds and also in Cedar City. The son got really mad at us and we business here and in pushed back because the owner was the father in Texas and the Mayor, and the Town Council had resolved to clean up the mess. We were able to do it without filing any legal action. We did it through phone calls and letters. It worked, so Mayor, I would suggest we need look at the resolve of the Town Council and Planning Commission to stand up by

whatever you adopt. Now, the basic framework of the ordinances in front of you is you establish the scope of the quality or nature of the ordinance you want to pass. For example, trash, inoperable vehicles, weeds, junk. I think we already have a animal ordinance on the books. If you want to do that the method by which you enforce is the code officer or whom ever you task with the responsibility of enforcing the ordinance will send a nice letter. It would say something like I want to notify you of a violation on your property against town code. We ask you to see if you can correct it with 15 or 30 days, depending on what it is. If not, notice would say something like, if no result within 30 days possible civil violation citation may be issued, or you choose to go the criminal route, which I do not suggest in most instances. It is a civil notice saying that will give you a notice of violation and if you do not correct it with in so many days, a civil fine of let us say \$50 a day will accrue. The notice has within an opportunity for the property owner, to appeal that citation to a hearing officer. That is what the mayor mentioned, saying, I disagree that I am in violation thus I appeal to a hearing officer. The hearing officer decides, or let us assume they do not appeal, then the ordinance is before you the framework before you have a mechanism after we send them one additional notice the homeowners to go in and remedy the situation, such as cutting down all the weeds or removing the junk. And then we send them a Notice of Assessment for the actual cause plus handling fee to resolve that issue, and then a certain amount of time to pay that if they don't and we follow the procedure in the ordinance, we do have the right to send the notice of assessment to the county assessor put on that assessment on the next year's property tax bill. That is about a 10,000-foot overview. Again, I come back to the level of commitment has to be discussed because we can pass all the ordinances in the world but if we are not willing to work the ordinance, go to the end, if somebody says drop dead, and I guarantee some well, or just ignore you, as the ordinances do not work. Midvale city has run this program for a number of years, because 15 years ago Midvale was a pretty junky city. They hired two full time code enforcement officers and they went after. Over a period of years, they have resolved most of the issues in such a fashion that at this point, they only have one code enforcement officer. They do not have as many violations as they did 15 years ago. That is the 10,000-foot view. Now, does it cost some money to run that program? Absolutely. Does it cost some money to hire a hearing officer? Yes, generally speaking you can get by with the hearing officer for a couple of one hundred bucks per meeting may last an hour or so plus the time to write the decision and to notify the parties. The program can work. If you are committed to. I would not recommend, on most cases, criminal citations. First of all, we have a higher burden of proof. Second of all, we have to have a prosecutor. Third if they are found guilty this is not a Justice Court setting generally. Generally speaking, the Justice Court Judge will let you have time and do nothing more than the property owner said he will say, hey, the judge did not order me to remove it. I paid my one hundred bucks fine. So go away. Generally speaking, I do not recommend the criminal track. Civil track seems to be much more workable to achieve the goals and a desires of the town. I am happy to answer any questions. Sometimes the program is not Swift. If they wait to the 29th day on everything may take months to get some resolution, but you can get resolution.

Chairman Swenson: Danny Swenson, Craig, I am with Planning Commission. You mentioned in your in your opening assessment about next year's tax base. The thought

there being that would be where we would recover cost? All cost or does that include the penalty for their actions.

Craig Hall: The ordinance generally provides for civil fines to be recovered, like \$50 a day. There is a cap Unfortunately. I do not remember what the cap is. We do not want the \$50 a day to run for a year. That is a bunch of money. Usually there is a cap of 500 or 1000. But you are also entitled to recover the actual costs and remediating the problem. Let us say you remove junk; you have to rent a garbage bin. And let us say it is 150 \$200, to pay for the bin, time and effort and let us say it comes to \$1,000, you can get the civil fine plus the cost of remediating the program.

Chairman Swenson: Got it, thank you.

Scott Messel: Calling one eight hundred junk come and clean it up, we can get our money back.

Craig Hall: It does have to be in a competitive mode. So what I've advised my city from the past is once a year, early in early January, you bid out these types of services, so the contract on a fixed fee or an hourly basis, so that you don't have to go out to bid or find somebody every time that somebody's entered into a contract with the city for a period of time to provide those services.

Mayor Hoster: Craig, two thoughts. The first is that most civil circumstances involve damages. Is the city liable for not participating in some sort of an ordinance enforcement that results in damages to an individual? Does the city hold a liability in that?

Craig Hall: Very remote? I would not worry about that.

Bill Hoster: Okay. And the second is, as you know, we are considering annexation activities in the near future here wanting to work with citizens who are not in leads for probably for that reason, they don't like all the ordinances and all the all the rules and regulations are associated with a municipality, it's almost like moving into an HOA. I am concerned about some of the dynamics that are in our town of I do not know, like you brought up that the animal ordinance. I mean, gosh, I am glad I did not attend that meeting, and just did it by zoom, because it was so hot and heated. I am really concerned about citizens seeing enforcement and not enforcement almost on equal planes of, of support, and saying, look, I do not appreciate my property value being diminished, because my neighbor has this hazard existing next to me. I do not want to be a part of Leeds because I want to have X number of chickens in my yard or something of that nature. So, you know, I look at the ordinances as they stand now. Some of them seems so outdated and antiquated that they have to be a part of the conversation in my opinion. If we were to enforce some of them.

Craig Hall: that is true, you got to be consistent. If you are not consistent.

Chairman Swenson: 100% consistent with the small one and the large one. \$50 \$1,000 has to be consistent.

Mark Rosenthal: What would you estimate the percentage of criminal charges that were actually pursued.

Craig Hall: Let me give you an example. This one that I did today I represent the city of Alpine. We had a lady that has seven dogs. She is ignoring the letter from the code enforcement officer. And I actually sent the letter from our office today saying you got until July 31, to bring it down to four. Four is the acceptable number in Alpine. Going back to your question, I would say, with the exception of animals, it is probably close to 100% civil. We have some vicious dogs, we have some dogs that bit people, perpetual running and at large cetera, et cetera, A different environment in Leeds. People just were not taking care of the animals and so city council, city manager and the mayor made the decision that on animals they would do criminal citations.

Councilmember Hunsaker: For health, safety, and welfare then it would go to criminal but otherwise we would just do the escalating civil fines.

Mayor Hoster: Yes,

Councilmember Hunsaker: Hey Craig, it is Lorrie Hunsaker. Do any towns have an enforcement officer like per case? Like we were doing with our hearing officers, so you would not have to have a full-time employee and just if there was, because we do not have that many issues that come up. Do any towns do that?

Craig Hall: Well, I can tell you? used to hire police officers to get paid on the number of tickets he wrote. I would not suggest you do that!

Councilmember Hunsaker: Okay.

Chairman Swenson: In regard to your comment. I had thought in the past, since we probably were not going to hire a code enforcement officer, what we always have is a mayor and in Planning Commissioner lead. It is always good to send two people out for any issue. We always have those two. They could work as complaints come in; the two heads of committees would go together. And to bring it back to committee.

Mayor Hoster: That's a good idea.

Craig Hall: I would say a couple of things. Number one, we always document, document, document. Pictures, a pictures are worth one thousand words. I would be very hesitant to send a Planning Commissioner and/or the mayor out to be the code enforcement officers. You have too many hats you wear, and that just complicates the issue. To be honest.

Mayor Hoster: I have talked with enforcement officer for La Verkin and because we had a complaint, the same complaint, on those signs. They also contacted Toquerville and La Verkin in because they have signs, apparently on their properties and their enforcement officer called us and spoke with me about enforcing that code there, and what have we

done and so forth? And I said, well, hey, why don't you come on over here and work a little bit? And she said, Yeah, I can, I can do that. And so cost on that would probably be somewhere in the neighborhood of 10 hours a week.

Chairman Swenson: We've asked, and I have thought about that coming up. We have asked, and yet, that is not going to change. Right? They are obviously not going to take them down, so it has to go to the next level.

Mayor Hoster: Right. They have not taken those down.

Chairman Swenson: Right. We just said Hey we would like you to and yep, it has not happened.

Craig Hall: Let me suggest this, is the Toquerville or La Verkin code enforcement officer full time?

Mayor Hoster: My understanding is she is part time.

Craig Hall: Okay. What I would suggest if you were intending to enter into such an arrangement, we do an interlocal agreement with La Verkin to pay them \$1,000 (I am just making this) a month for like number of hours. The individual is not important for working and you do not have retirement issues, etc., etc., etc. Because it is not our employee, we are just sharing services and be reimbursing them for their efforts. So, if you go that way, I suggest we enter into an interlocal agreement with Toquerville or whomever it may be to those services, and not with the individual threat.

Mayor Hoster: Team, I am hopeful that we can identify if this is something we should move before the Town Council for consideration. As it has been presented here, as I read this, there was not anything that I would actually strike on any of this, I thought it was very applicable for a town our size. Again, the only hesitations that I have are the costs that could be associated with this for the town and balancing that against the problem. Are we overreacting to the Nuisance Complaints? And then there's a couple of them that are outside of that realm, but not very many. If I could just get your opinions on that, and then we will move on to the annexation dialog.

Councilmember Stirling: What are the top five nuisances that you find at this point that people bring to you?

Mayor Hoster: The nuisances that I have heard since January, have been clutter, vehicles that are leaking material, whether it be gasoline or battery acid, driving, multiple vehicles. And yes, undriveable multiple vehicles. also parking in along the front of their property or their neighbor's property, trailers are being occupied, and that are draining they are black and gray water on to the streets. The others I have heard are dog problems, pet problems, those are well, and we had the signs. And I am trying to think if there was anything else that was significant. Someone living in the parking lot up over here in the strip mall. And then we just had a recent complaint about someone living in the motel over a here that is

condemned. Oh, and the graffiti. I think that kind of covers the extent of the of the complaints that we have had.

Councilmember Stirling: So, does the enforcement officer take the nuisance calls that you receive? Or do they go around as well?

Mayor Hoster: It is actually outlined in here that most of them are passive. So there once we receive a complaint then it is investigated. They do not typically go out and look for problems to write tickets on. Which I appreciated that perspective. Because that could really be bad to have someone trying to justify their job all day and really annoying our citizens, like sitting out here and clocking everyone who is going thirty-seven miles per hour and writing them tickets.

Councilmember Stirling: One thing that I kind of wanted to go over first. I think it might be advantageous to go over the actual ordinances that we have before we have somebody come in, because we have lived through the animal ordinance, I do not even know how many times, and let us say somebody decides to do the chicken thing again. We have it on the books that you can have so many. We need to go through these ordinances before, we actually have an enforcement officer that will come and say, hey, you have chickens, you have whatever animal and then blow this up. Again, because we have had years and years and years of individuals wanting to turn it one way or wanting to turn it another or wanting to have animals when they are not allowed to have animals. It is something to think about, if we really actually start having a code enforcement officer, we better be dedicated to the ordinances that we have.

Mayor Hoster: That's a strong point. And I think either way, if we go with an ordinance officer or not, we should address those so that they are appropriate, and they are not just wasted paper. Very good point. I agree. And I think if we do that regardless, and then assess, once they are done, do we want to have enforcement with what we have produced. In my opinion we found most of the time a letter will work. Once somebody is aware that they have had someone complain about them, they are a little embarrassed, or maybe I have to go out and visit a second time, I have had one circumstance where we did bring two property owners together with mediation. Hopefully, that is moving in a positive for direction, but for the most part, a letter has sufficed. What I am finding is our car city is growing. Some of the complaints might be expanding outside of the ordinance of nuisance. I am a little concerned about that. Some of the nuisance, violators have not reacted, and it is just a letter that gets kind of tossed, and they know it has no weight. And we have had, even on social media, some people complain that, oh, well, you know, Leeds does not do anything, just do what you want anyway which is not fair to the citizens of Leeds. So, I am hopeful that we can provide that service to our taxpayers of knowing that if we are in a community that that will all adhere to the ordinances as prescribed, and there is going to be the outliers and those outliers' kind of get enforcement. So, would everyone agree then that we definitely move forward with reassessing our ordinances and aligning them as appropriate, bringing those before Planning Commission and Town Council while also over the next 30 to 60 days giving consideration before about

proceeding forward with ordinance enforcement to Town Council to be under consideration? Are there any objections to that?

Commissioner Roberts: I am supportive of that. When we look at the ordinances, you need to make assignments, specific assignments, whether it is to the Planning Commission and allow the Commissioner chair to make those assignments, if that is where you want to start. More specifically on any of the land use stuff because if we just throw it out there, yeah, we need to look at, okay, that will sit there and hover around in the atmosphere for a long time. You need to specifically say, you are going to be looking at this particular ordinance and you this one and you this one.

Mayor Hoster: Well said. Councilwoman Hunsaker has some past work that has been done on allocation of those that she can share with us through email and not take up any more of our time. Some of those have been divvied out if we are in agreement of that. We will go ahead and receive those if there are further questions, please let me know. And then we can redress or reassess where those ordinances go, but at least that will allow us to get the ball rolling in the right direction. If we are in agreement that we will go ahead and take some more time, consider these, talk to your constituents, and identify if this is a method to move forward with. You have given us some careful thought. Any other comments on this before we move on to the annexation discussion? Any other comments or questions online there, Aseneth?

Craig Hall: Give Hyrum and I some latitude to clean up what we have given you. It needs some work before you start doing that, because we cut and pasted from the other cities that we have done, so let me clean it up a little bit in the next week or so. I will get it down to you, we will not spend too much time.

Mayor Hoster: Okay, awesome, that will be great so attending members understand that we'll be receiving a new version of this proposal for code enforcement. If there is nothing else, I would like to spend the remaining time discussing our annexation of which our attorney Craig Hall has been instrumental on as well as our town planner, Scott Messel with regard to how that process works. If I could take a moment and just kind of tee things up.

I am going to be very candid; I know this is public record. I will be a little bit conservative in my choice of words. I want to make it very clear that I believe, after hearing from a lot of our constituents, that if we don't have any say about what is going on with the Mills Property, if we don't have any ownership, or control over that Mills Property, anything and everything can come to fruition of whatever is at the whim of the town of Toquerville. We have been civil with Toquerville, I have no problems with Toquerville. I want to make that perfectly clear. What we have is a developer who has started to position the county, the Town of Leeds, and the town of Toquerville against each other. I have had conversations with the city manager of Toquerville as well as their mayor, as well as our county commissioner, Gil Almquist, and identified what their attempt to do is get a resort zoning for that property, which is going to include the five-star hotel, the wave pool, the multiple overnight vacation rentals, and also for commercial development. All of those things are not bad. But what I do see is that this resides on the absolute outskirts of that

town, it is not going to impact them negatively for infrastructure at all. Will it impact negatively on the Town of Leeds currently today? No, the exit is way up there and it probably would not. But the reality is UDOT is already talking about putting an exit down here on Ninth north, or somewhere nearby, because the developer has said we need an entrance and an exit. These conversations are already starting. Given that background and understanding that now, if they do put an exit toward the south of that it can impact us negatively, as well as this bypass road that is going around Toquerville. They want to run a connection on Babylon. Will that happen in my lifetime? I do not know. But what I do want to make sure is that we are planning for the future of our town. I see that this is one of the most pivotal points of our administration to make sure that we are making the right plans and foundation to assure the success and future of the Town of Leeds. That is consistent with our General Plan and with our Annexation Policy Plan. In our General Plan there is this effort to try and remain rural, but we also realize the effective growth needs to be managed. Per quote, in our Annexation Plan, that area does reside within our annexation boundary. What I want to ask this committee in this work session is if this is something that we want to pursue, annexing it into Leeds? If that be the fact, we have a series of steps that have to happen sequentially, and they have to happen fast. The developers have already petitioned, without advising anybody even the county, they have contacted and formally petitioned Toquerville for annexation. Michelle Poet provided me a copy of some of Toquerville efforts toward their General Plan update. I understand they are also in dialogue with their city manager for an Annexation Plan Update to incorporate that Mills area. They can overlap, there is nothing wrong with that. We hold a good position in the fact that we kind of beat them to the punch a little bit in having our General Plan done before there's. That is about it. Now, if this goes before the county committee, I cannot remember the name of it, and they look at all of the evidence, we are probably in more favor if we have a couple of other things in alignment. I am rambling a little bit with a lot of information. So, I apologize. The other key component of this is that it is really up to the property owners, when it comes down to annexation. Given that consideration, we have an option, and that option is to play the ratios. By playing the ratios I mean that we are going to target 50% of the property geography and one-third of the assessed value.

Craig Hall verified that it was one-third of the assessed value.

Mayor Hoster: So, that is our when we walk into Vegas ratio. If we have that, now we can get those people who do not want to join in to join in, which would be the Mills property. Now, it sounds a little bit, I don't know. Maybe forceful?

Craig Hall: Land grabbing.

Mayor Hoster: Land grabbing is a good one but darn it Craig, that is not the one I was looking for. That one is a little mean. We are trying to annex areas into our town to make sure that if there are developments that are going to impact Leeds that we have a say in it. To do that requires us to take this path. I wish there were another path. I truly do, but that is not the case. In initial dialogue with the mayor of Toquerville, we thought maybe we can have some sort of inner-local agreement, further investigation reveals we cannot

do that. So that one is out the window. We have tried to look at all of the other options that could exist that would enable Leeds to have a say and a financial tax base. There has to be a huge tax base benefit. So, there is that component. Considering all of these components, I guess the first thing I need to identify is if this committee believes that annexation the property is what is best for the Town of Leeds. If it is not, that is fine, too. That is something to have open dialogue about. I would like to open it up with this,

Chairman Swenson: you have to consider that it really does not matter whether this proposed property use goes through or not. Something sometime will. It is going to expand. Something down the road is going to go through and we need to head that direction, or we need to say, whatever is going to happen is going to happen. We are not going to be a part of it. It is really pretty simple. You know it would be foolish not to be part of it or have control and to take the tax benefit. I have heard rumors, I was not around at all but, you have the Walmart distribution that was sent in, there was a proposal for us to incorporate that area and at that time. We did not want to. Whatever the reason may be, we do not have that tax base either. So, all that is gone, right? This is the future. Something is going to be there. Whether we have water now or not we need to be part of it. Otherwise. I mean, we are going to have complainants one way or the other. Our complaints are going to be of no value if we do not have ownership.

Mayor Hoster: I think Susan's comment about the water is very relevant at this point. I have been in a lot of discussions with the Water Conservancy District as well as Ash Creek Special Services District. Both of those have been attached to the development up here and that will add some complexity to our water system and our sewer system. We will have a part of town that is on the Water Conservancy. We will have a part of town that is on the LDWA. Now, the way that those would facilitate are different. We could look at the LDWA providing that water up there if the water resources are available in LDWA. We do not want it to compromise current residents and the Will Serve letter could be provided by the Water Conservancy up there. It would just be bought from the Town of Leeds, and then resold probably through LDWA to that area should that happen. Since that has been brought up, those dialogues have occurred. How will that happen? If we do not annex it, it goes through Washington Conservancy District anyway.

Commissioner Roberts: Ultimately what it comes down to, Craig, correct me if I am wrong on this, municipalities do not annex. Property owners petition for annexation. If you cannot get property owners on board, it is a moot point anyway. We could sit here and talk about what we would like it to be. I will give you a couple of examples because I personally approached two large property owners in the past as a mayor. One was Jerry Glazier on the mining property, to bring that into the town of Leeds hoping to gather up some federal lands with an annexation. Jerry declined. I needed large property owners, so I went to Cockerel, and he also declined. Their reasoning was they did not want their properties subjected to the rules and regulations of the Town of Leeds or any other town. The mining property had even more value because that mining property has the ability to mine, still. They literally could do mining on that property. They have that right. When it comes into the Town of Leeds or any other municipality, that right very easily could be squashed. I

just use that as an example of the property owners may want to leave be the way they are.

Mayor Hoster: Yes, it is a great point. And, Craig, I am going to just add context to that appeal. If you will answer that, and we only have about 10 minutes. I will be quick. My understanding is if we get the surrounding properties, and we have the 51% of geography one-third of the value that are in favor of the annexation, the Mills property would have to fall in, being adjacent to the application. Is that correct?

Craig Hall: I do not think you are accurate in the way you describe that. If you drew in the annexation petition boundaries to include the Mills property and got fifty-one percent, I would suggest at least 60% so if we lose somebody we still get our fifty-one, but if we have our 51%, including the Mills property, they cannot do anything about it. But you have to draw your boundaries big enough to enclose the Mills Property. As I understand that we have about 1,100 acres, and the Mills property is approximately two hundred, more or less and we need to remember, as you and I talked the other day, we do have one parcel that is in the...I am going to screw this name up... Agricultural Protection area, and they can exclude themselves. So even if we have 50, 60, 70, 80 100% of the property and the owner of the Ag protection areas says, I do not want in, they are out. Regardless of what our numbers are.

Mayor Hoster: Can you address for everyone how that would work if they did want to come in and yet retain that AG-protection?

Craig Hall: I do not know, Mayor. I do not understand how they would maintain that AG-protection area if we annexed them, so I need to do a little more homework on the process. I am not sure.

Mayor Hoster: Oh, okay. I was under the impression they were able to retain that, and it worked in the opposite direction negatively toward them. Scott has something to add to that.

Scott Messel: Yes, my understanding with AG-protection is that it was set up as a way to keep some of the feedlots or larger operations. It came out in the nineties, back when Draper was really developing and there was pressure from development moving in around agricultural properties to get them to cease operation. The Ag-protection was set up so whether it was in a city or out of a city it could still operate within that AG-protection. It is the right to have your farm operations on there without the issue of nuisance enforcement and that type of concern.

Craig Hall: Scott, you are absolutely right. There was an example in Spanish Fork with a meatpacking company got run out of town also in Draper, Dale T Smith meatpacking property in the west side of the freeway. I think Mayor Smith was the mayor of Draper a long time ago, he chose to relocate his business. He was not forced out.

Commissioner Roberts: there is two different things here, Craig. One is the agriculture protection. But the other is if it is put into a conservation. If the property was put into that agriculture conservation, those are two different things.

Craig Hall: Right. You are talking about a conservation easement. On that the land cannot be sold for condominiums, for example, because they have taken away that bundle of rights to build the condominium by the recordation of the conservation easement. You are absolutely correct. That is different issues. That is how most cities protect Open Space.

Mayor Hoster: In summary and conclusion, then, it stands to reason that if the Town of Leeds elects to pursue our annexation plan, what we have is the ability to then petition to the landowners the reasons why it would be beneficial to annex with the Town of Leeds, which is a segue from our previous conversation on modifying some of the ordinances. Nonetheless, to continue the thought, is the Town of Leeds petitioning these property owners with the advantages of being a part of the Town of Leeds, and if we are able to secure 51% plus of the landowners with 1/3, the value we can secure the Mills property into our area and be able to have some sort of a say, no matter what development goes within that area.

Craig Hall: that is a fair statement, Mayor. The Mills property folks are going to play Toquerville and Leeds.

Mayor Hoster: Yes sir, so before this committee, I would ask if this is something we would like to pursue? If we do not, the answer is either way, have credibility. We need to identify if we want to move in that direction. What it will take is volunteers to petition those landowners with the reasons why they would want to be a part of Leeds. If we can achieve that fifty-one plus percent and 1/3 value, then we have a position to be able to secure the Mills Property into the Town of Leeds. As mentioned in the email that I sent out, we may have to consider some areas that are not areas we have considered in the past which could be Homespun; depending on how the current property owners in that area respond. If some of them say we do not want that. We may have to go over and talk to Homespun and see what our options are there. My whole goal is to say, "How can we do it?" and to present that, which I am trying to do tonight. If that is something that we want to do, this is how we can do it.

Chairman Swenson: If we do not do it, we get what we get.

Mayor Hoster: Right, If we do not do it, we get what we get.

Councilmember Wilson: We're stuck with it, could be good could be bad.

Mayor Hoster: I've spent the last two months trying to find out how we can do it.

Councilmember Wilson: And so, it has come down to basically this is our option and I guess the developers probably chosen to go with Toquerville. You have been working with him, and I suppose it's probably easier for them, but.

Mayor Hoster: My understanding is, they have had a shift in some management there. I have not validated it yet, but their concern was it takes forever to get anything done in Leeds. We have volunteers who work to try and facilitate this town. If we get these larger developments it is going to require a staff of people that come in, and we have to have a full time building department person that is going to process building permits and facilitating those things. Toquerville has committed to do that for them. They are not sitting on this. We just saw interest rates go up another point and a half, so they are worried about those things, and financing their operations, understandably.

Commissioner Roberts: They ought to be more worried about the wind than their financing. That wind is a lot worse than the financing is ever going to be.

Scott Messel: Softball fields and wind.

Councilmember Stirling: One of the things we need to look at more so is when you annex into the town who actually determines the zoning at that point. How are we going to know what parcels are coming in at what capability to be able to facilitate infrastructure.

Commissioner Roberts: Generally, the property owner is the one that is deciding what is the zone of what I want. I am coming into your town, here is what I want to be able to do with my property. The property owner is first in line of saying here is what I would like my zoning to be. If it is open space, and it comes in and the property owner does not say anything, it stays what it was when it was annexed.

Scott Messel: Yes, the state code calls it out and says the municipality can determine what the zoning is at the time the property is an annexed or accepted. Often, I have seen with jurisdictions when someone is annexed into the city, the property owner developer at that time is already working with the municipality in determining what type of zone.

Mayor Hoster: In the annexation plan, what we intentionally did was provide the five-acre parcels. That is the largest that we could do within building so that whatever the landowner wanted to do, would be workable from that angle. According to Brad, they could choose to go either up or go down depending on them. That is what we did on all of the annexation plan outside of the boundaries of Leeds proper. It is that five-acre ability to go residential five acre.

Councilmember Stirling: And I understand that, but the bigger picture is how much of Leeds can actually sustain this land coming in. How can we actually sustain these individuals? Because if we are going to be talking to them, and they are going to be saying, you know, we want to do a development of five hundred homes, 7,000 homes for some of these developers, they have big ideas. We need to understand what is in the capital facilities plan that we can actually maintain because why bring them in if we are just going to set them up for failure. We are going to be setting ourselves up for failure if they come in with a particular zoning and they say this is what we want but Leeds cannot sustain that.

Commissioner Roberts: Well, you have to be professional. You either step up to the plate as a municipality, or stop being a municipality. That may sound harsh, I have made this argument in the past. Why does areas incorporate to begin with, so they can manage what is happening around them? If they do not want to invest in the ability to do that, then go back to the counties where you came from. That sounds harsh, and there is not a county out there that wants to do that. Not even. Not even! They do not want to do that. They would rather some other town gobble you up then to come back in the county, but that is really what it comes down to. If you are not looking at being able to manage what is going on within your area, then pretty soon you are just a small dog. You just exist. In my opinion, that is a lot of what Leeds has done is just existed because They fought any kind of development. We will not get into the specifics. But there is a number of them that you would look at and just wonder. That Hurricane Industrial Park is a perfect example. There was just so much pushback because of fear of some growth, that the landowner goes, I am going to another municipality. There is not a doubt in my mind what the mayor said about the owners of this property up here. Leeds is not easy to work with. You do not believe me? You talk to any mayor that is in this county. They all know what Leeds has been like in the past. These developers go, we are going to Toquerville.

Now, we have battled with Toquerville. I thought we had a better understanding of where our potential annexations are. Keep in mind when we set up these potential boundaries, it is not set in stone until properties start looking for annexation. That is what locks them into municipalities. We spent a lot of money battling Toquerville. Do you remember that? And a lot of heated discussion. That discussion was driven by some specific landowners. Those boundaries were adjusted to accommodate those loud landowners. I say, if Toquerville annexes in this property, including the public lands that come with it, which is far more than the Mill's property and that is what thereafter, thereafter public lands and public lands should be for public use, I say right on for public use. But if you look at Homespun, they can push back all they want. If it creates a substantial Peninsula, they will pull that in immediately, because the County Boundary Committee will look at that and say, you are not going to create that island. If you have sufficient property value, you are bringing that in. You got to look at the entire dynamics of it.

Mayor Hoster: To add on to that, which I think is kind of why anybody would want to do that is that if we do not, like Danny's point, we will not control what is going to happen to the north of them, which will negatively impact their properties.

Scott Messel: The impact without the benefit?

Councilmember Stirling: I completely agree with you. But what my point is, is that we have to look at the zoning now versus later, because if we are going to allow say somebody wants quarter acre lots, and we know we cannot sustain that, not because we do not want to, but water is absolutely depleting in Washington County. At this point, there is not that much left.

Mayor Hoster: Another really good point.

Councilmember Stirling: If we are looking at doing this, I am not against the annexation, what I am against is not analyzing that zoning with a fine-tooth comb to see actually what Washington County Conservancy can actually do versus saying, go ahead and come in, you can have as many high-density houses and then we cannot sustain that. That was my only point on the zoning part.


Mayor Hoster: Well taken and I got you. A lot of that does reside in Washington County conservancy right now. And they are actually divvying out the will serve letters right now, as we speak. We are not at the table. We are on the standby table. So, this dynamic is certainly a component of that discussion with them.

Ladies and gentlemen, thank you so very much for your time input and consideration into this meeting. We have gone over on the work meeting. I do need to segue into our Town Council Meeting. At this time if there are no other further comments or suggestions. I wish to adjourn.

Commissioner Roberts a motioned to adjourn.

Adjournment 7:06 PM

Approved this 13th Day of July 2022.



Bill Hoster, Mayor



Alan Roberts, Commissioner

ATTEST:



Aseneth Steed, Town Clerk/Recorder

17.01.010 Short Title

This Title shall be known as the “Administrative Code Enforcement” or “ACE” program. This Title shall also be known as Title 17 of the Leeds Municipal Code. It may be cited and pleaded under either designation.

17.01.020 Purpose And Introduction

The Town Council finds that the enforcement of the Leeds Municipal 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 Town Council recognizes that code enforcement is effective only when done fairly and consistently. The Town Council further finds that an enforcement system that allows a combination of judicial and administrative and judicial remedies is effective in correcting a Violation, as hereinafter defined.

The Town may enforce a Violation as allowed by law, including, but not limited to, enforcement via two primary methods: (1) administrative actions, and (2) judicial actions in the form of civil or criminal procedures.

Administrative code enforcement attempts to resolve a Violation without the use of litigation in a judicial court system. Administrative code enforcement is generally a “first-resort” enforcement tool, mostly an informal process and typically faster and less costly than judicial remedies. Failure to comply with an administrative code enforcement action may require the Town Attorney to file a judicial action to gain compliance.

Civil and criminal judicial remedies for code enforcement are characterized by, for example, a judge, attorneys, an official courtroom and other formal procedures related thereto.

A civil judicial case involves the determination of whether a party was injured/harmed and how much the party should be compensated for the same. General consequences of a civil case are monetary punishments in the form of fines and/or an order to do or cease to do something.

A criminal judicial case involves a government entity or other entity endowed with law enforcement powers arresting and trying someone in a court of law for a crime that was committed. Typical consequences of a criminal case are jail time, monetary punishments in the form of fines and a misdemeanor or felony charge being placed on the guilty party’s permanent record.

17.01.030 Scope

The provisions of this Title may be applied to all – Violations that occur within Leeds Town limits and such territory outside Leeds Town limits over which the Town has jurisdiction or control by virtue of any constitutional provision or law. This Title establishes an additional remedy – administrative code enforcement – that may be used by the Town to achieve compliance with applicable codes. No remedy provided herein is intended to be exclusive and shall be in addition to any other remedy given to the Town here under or now or hereafter existing at law.

While the Town’s population remains relatively small and its administrative staffing resources are limited, it anticipates that most, if not all, of this administrative code enforcement program will be reactive in operation – responding to inquiries, complaints, etc. submitted to the Town by citizens and others. As the Town’s population grows and its administrative staffing levels expand, it projects that the operation of this administrative code enforcement program may become more proactive in nature – Enforcement Officials (as hereinafter defined) or others patrolling the Town actively identifying Violations and pursuing their correction. The preceding sentences in this paragraph shall not limit the Town’s operation of this administrative code enforcement program; it, at its sole discretion, may carry out this administrative code enforcement program reactively, proactively or in any and all other manners pursuant to this Title at any and all times. For example, the Town’s operation of this administrative code enforcement program

primarily in a reactive manner shall not limit or prohibit the Town from proactive administrative code enforcement efforts and vice versa.

17.01.040 Existing Law Continued

The provisions of this Title shall not invalidate any other title, chapter, or ordinance of the Leeds Municipal 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.

17.01.050 Criminal Prosecution Right

The Town shall have sole discretion in deciding whether to file a civil or criminal judicial case or pursue an administrative enforcement action for a Violation. The enactment of this Title shall not be construed to limit the Town's right to prosecute Violations as a criminal offense. The Town may use any of the remedies available under the law in both civil and criminal prosecution.

Although most Violations may be enforced through this Title, the following circumstances are examples of when the Town may choose to pursue criminal prosecution. This list provides potentially common situations for criminal prosecution; however, the list is not comprehensive and does not limit in any way the Town's right to prosecute a Violation as a criminal offense.

1. The Responsible Person, as hereinafter defined, has one prior Violation within the last year.
2. The Violation caused bodily injury, substantial bodily injury, or serious bodily injury to an individual, all of which shall have the same definition as in Utah Code.
3. The Responsible Person, in a single criminal episode, violated one or more provisions of the Utah Criminal Code as well as one or more provisions of the Leeds Municipal Code, and all violations are being charged as a single criminal episode as defined in Utah Code.
4. The Responsible Person is being charged with any violation of the Leeds Municipal Code.
5. The Violation caused substantial property damage or a significant health or safety risk to the public.
6. The failure of a Responsible Person to comply with the terms, conditions, requirements, deadlines, etc. of an Administrative Notice (as hereinafter defined), Administrative Enforcement Order (as hereinafter defined) or any other order or notice issued pursuant to this Title.

17.01.060 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.

17.01.070 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 or competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Title. The Town 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.

17.01.080 Civil Liability

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

17.01.090 General Rules Of Interpretation

For purposes of this Title:

1. "Shall" is mandatory; "may" is permissive.
2. Unless otherwise specified, the terms "hereof," "herein," and similar terms refer to this Title as a whole.
3. Words of the masculine gender mean and include correlative words of the feminine and neuter genders, and words indicating a singular number mean and include the plural number and vice versa.

17.01.100 Definitions Applicable To Title Generally

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

"Administrative Notice" means a citation issued to a Responsible Person that gives reasonable Notice of a Violation and the civil-penalty for such Violation.

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

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

"Town" means the Town of Leeds, Utah, including the Mayor, Town Administrator, and all other employees of the Town.

"Town Council" means the Town Council of Leeds Town.

"Day" refers to calendar days.

"Director" means an individual(s) as designated by the Mayor's Office.

"Enforcement Official" means any person authorized by the Town to determine and enforce a Violations of the Leeds Municipal Code or applicable state codes including, but not limited to the Director, zoning officials, police officers, building inspection officials, code enforcement officers, fire marshal, fire officers, and animal control officers.

"Hearing Officer" means a natural person appointed by the Mayor or his/her designee to preside over Administrative Enforcement Hearings.

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

"Mayor" means the mayor of Leeds Town.

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

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

"Notice of Itemized Bill for Costs" means a Written notice, itemizing the Town's costs and ordering payment of those costs.

"Notice of Violation" means a Written notice that informs a Responsible Person of a Violation and orders certain remedial steps to correct said Violations.

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

“Personal Service” means the method of service for any notice or document that is performed by, in-person meeting or any other form of in-person or person-to-person communication, including those promulgated by Utah Rules of Civil Procedure Rule 4.

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

“Responsible Person” means the Person(s) determined by the Town who is responsible for causing or maintaining a Violation. 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 a Violation.

“Title” means this title of the Leeds Municipal Code, the “administrative code enforcement” program, or the “ACE” program.

“Violation” means any condition caused, maintained, or permitted to exist in violation of any provision, statute, or requirement of the Leeds Municipal Code or applicable state codes.

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

Written” or “Writing” includes handwritten, typewritten, photocopied, computer printed, or facsimile.

17.01.110 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.

17.01.120 Notice And Service Requirements

1. Notices required to be given under this Title shall be in the English language.
2. Whenever-service is required to be given under this Title, service shall be made by any of the methods listed below, unless different provisions are otherwise specifically stated to apply. Personal Services should be tried before serving notice in the other methods indicated below.
 0. Personal Service
 1. Regular or Certified mail, postage prepaid, to the last known address of a Responsible Person.
 2. Posting the notice conspicuously on or in front of the property. If the property is not inhabited, then the notice must also be mailed. The form of the posted notice shall be approved by the Director.
 3. Publish in a newspaper of general circulation if and only if: the identity or whereabouts of the person to be served are unknown and cannot be ascertained through reasonable diligence; service is impracticable under the circumstances; or there exists good cause to believe that the Person to be served is avoiding service.
3. Service by regular mail in the manner set forth above shall be deemed served on the seventh day after the date of mailing when mailed in the continental United States. Service by regular mail to all other addresses shall deemed served on the tenth day after the date of mailing.

4. If service complies with the requirements of this section, it shall be deemed a valid service even if a party claims to have not received the service and it shall not affect the validity of any proceedings taken under this Title.
5. The failure of a Person, other than a Responsible Person, to be served in accordance with this section shall not affect the validity of any proceedings here under.
6. Whenever a document is recorded with the county recorder as authorized or required by this Title or applicable state codes, recordation shall provide constructive notice of the information contained in the recorded documents.

17.01.130 General Enforcement Authority

Whenever an Enforcement Official finds that a Violation has occurred or continues to exist, he/she may undertake any of the procedures herein. Enforcement Officials have the authority to gain compliance with the provisions of the Leeds Municipal Code and applicable state codes subject to the provisions of this Title. Such authority shall include the power to issue Notices of Violation and Administrative Notices, inspect public and private property, abate public and private property, and to use any remedy available under this Title or law, including, but not limited to, judicial and administrative remedies.

17.01.140 Adoption Of Policy And Procedures

The Mayor is authorized to develop policies and procedures relating to the hearing procedures, scope of hearings, subpoena powers, and other matters relating to the Administrative Code Enforcement program.

17.01.150 Authority To Inspect

Enforcement Officials are hereby authorized, in accordance with applicable law and with cause, to enter upon any property or premises to ascertain whether the provisions of the Leeds Municipal Code or applicable state codes are being obeyed and to make any reasonable, lawful examination or survey necessary in the performance of enforcement duties, including, but not limited to, determining compliance with the Leeds Municipal Code or applicable state codes. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner based upon cause. If a Property Owner or Responsible Person refuses to allow an Enforcement Official to enter property, the-Town shall obtain a search warrant before entering the property.

17.01.160 False Information Or Refusal Prohibited

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

17.01.170 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. Failure to obey a subpoena may constitute contempt and may be prosecuted as a class B misdemeanor.

17.01.180 Power To Arrest

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

17.01.190 Records Retention

Unless otherwise stipulated by a Town-wide records retention policy, the Town will keep all records it creates or receives regarding proceedings under this Title as follows:

1. Written communications and interoffice records for three (3) years and
2. All other records for a minimum of three (3) years.

17.02 Administrative Code Enforcement Procedures

17.02.010 Administrative Notice

17.02.020 Notice Of Violation

17.02.030 Emergency Abatement

17.02.040 Administrative Code Enforcement Hearing

17.02.010 Administrative Notice

17.02.010.1 Purpose And Authority

17.02.010.2 Procedures For Administrative Notices

17.02.010.3 Contents Of Administrative Notice

17.02.010.4 Civil Penalties Assessed

17.02.010.5 Inspections And Compliance

17.02.010.1 Purpose And Authority

The Town Council finds that there is a need for a method of enforcement for Violations that are minor in nature and not initially or generally desirable to be abated by the Town (if such abatement action is or becomes necessary). The Town Council further finds that an appropriate alternative method of enforcement for Violations of this nature is by Administrative Notice. Violations not of this nature may generally be enforced by procedures associated with a Notice of Violation, which are described in Section 17.02.020 herein. The procedures established in this subsection shall be an alternative and in addition to other administrative enforcement, including, but not limited to, a Notice of Violation; criminal; civil; or any other legal remedy established by law that may be pursued to address Violations. The utilization of an Administrative Notice is at the sole discretion of the Town.

An Enforcement Official may issue an Administrative Notice to a Responsible Person for a Violation. A civil penalty shall be assessed by means of an Administrative Notice issued by the Enforcement Official, and shall be payable directly to the Town Treasurer's Office. Penalties assessed by means of an Administrative Notice shall be collected in accordance with the procedures specified in the remedies section of this Title.

17.02.010.2 Procedures For Administrative Notices

Upon discovering a Violation that the Town may deem to be minor in nature and not initially or generally desirable to be abated by the Town, the Town may issue an Administrative Notice to the Responsible Person.

1. An Enforcement Official shall attempt to serve an Administrative Notice to the Responsible Person via Personal Service. When Personal Service is successful, the Enforcement Official should document the service of the Administrative Notice. If Personal Service is unsuccessful, then an Enforcement Official shall immediately serve the Administrative Notice on the Responsible Person via any of the other methods provided for in this Title.
2. The Enforcement Official shall attempt to obtain the signature of the Responsible Person on the Administrative Notice. If the Responsible Person refuses or fails to sign the Administrative Notice, such failure or refusal shall not affect the validity of the Administrative Notice and subsequent proceedings.
 0. A Responsible Person has the right to an Administrative Enforcement Hearing concerning the Administrative Notice.
3. More than one Administrative Notice may be issued against the same Responsible Person if the additional Administrative Notice encompasses different dates or different Violations.

17.02.010.3 Contents Of Administrative Notice

Each Administrative Notice shall contain the following information:

1. The date, location, and explanation of all Violations;
2. Code sections violated;
3. The amount of the civil penalty imposed for each Violation;
4. An explanation of how the civil penalty shall be paid, the time period in which the civil penalty shall be paid, and the consequences of failure to pay the civil penalty;
5. Identify the right to and the procedures for requesting an Administrative Enforcement Hearing;
6. A demand that the Responsible Person cease and desist from further action causing the Violation and commence and complete all action to correct the Violation as directed by the Town; and
7. The signature of the Enforcement Official and, if possible, the signature of the Responsible Person.

17.02.010.4 Civil Penalties Assessed

1. Civil penalties shall be due and payable immediately upon service of an Administrative Notice.
2. The civil penalty for each Violation listed on the Administrative Notice shall be as identified in the Town's fee schedule.
3. Civil penalties shall be double (i) if they are paid after sixty (60) Days of the date of the Administrative Notice or (ii) if the Violation remains uncorrected after sixty (60) Days of the date of the Administrative Notice.
4. Civil penalties shall be triple (i) if they are paid after sixty (120) Days of the date of the Administrative Notice or (ii) if the Violation remains uncorrected after sixty (120) Days of the date of the Administrative Notice.
5. Payment of any civil penalty shall not excuse a failure to correct a Violation or any recurrence of the Violation, nor shall it bar further enforcement action by the Town.
6. Civil penalties shall be paid to the Leeds Town Treasurer.

17.02.010.5 Inspections And Compliance

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

A Violation is recognized as corrected and resolved only upon the issuance by the Town of a Notice of Compliance.

17.02.020 Notice Of Violation

[17.02.020.1 Authority](#)

[17.02.020.2 Procedures For Notices Of Violation](#)

[17.02.020.3 Inspections And Compliance](#)

[17.02.020.4 Failure To Correct](#)

17.02.020.1 Authority

Any Violation may be abated by the Town pursuant to the procedures set forth in this chapter. However, the method of enforcement described in this chapter is typically for, but not limited to, Violations that are major in nature, found to exist on real property, and generally desirable to be abated by the Town (if such abatement action is or becomes necessary). Violations less in nature than this may generally be enforced by procedures associated with an Administrative Notice, which are described in Section 17.02.010 herein. The procedures established in this chapter shall be an alternative and in addition to other administrative enforcement, including, but not limited to, an Administrative Notice; criminal; civil; or any

other legal remedy established by law that may be pursued to address Violations. The utilization of a Notice of Violation is at the sole discretion of the Town.

17.02.020.2 Procedures For Notices Of Violation

Whenever an Enforcement Official determines that a Violation that is major in nature and generally desirable to be abated by the Town (if such abatement action is or becomes necessary) has occurred or continues to exist, the Town may issue a Notice of Violation to the Responsible Person.

1. An Enforcement Official may serve a Warning Notice of such Violation on the Responsible Person. The Warning Notice should contain the information required in a Notice of Violation and provide ten (10) Days to correct the Violation.
 0. An Enforcement Official shall attempt to serve a Notice of Violation on the Responsible Person via Personal Service. When Personal Service is successful, an Enforcement Official should document the service of such notice.
 1. If Personal Service is unsuccessful, then an Enforcement Official shall serve the Notice of Violation on the Responsible Person via any of the other methods provided for in this Title.
2. If the Violation continues on the eleventh Day after the Warning Notice, then an Enforcement Official shall serve a Notice of Violation on the Responsible Person. The Notice of Violation shall include the following information:
 0. Name of the Responsible Person.
 1. Street address or other generally accepted description of the location of Violation.
 2. Date Violation observed.
 3. Citation of all specific code sections applicable to the Violation and a description of the Violation
 4. All remedial action required to permanently correct any Violation, which may include corrections, repairs, demolition, removal, or other appropriate action.
 5. Specific date to correct the Violation.
 6. 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: civil penalties; revocation of permits; recordation of the Notice of Violation; withholding of municipal permits; abatement of the Violation; costs; administrative fees; criminal or civil prosecution; and any other legal remedies.
 7. Statement that civil penalties will begin to accrue immediately on expiration of the date to correct the Violation.
 8. The amount of the civil penalty for each Violation and a statement that the civil penalty shall accrue daily until the Violation is corrected.
 9. Statement 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 of Violation. The Responsible Person may request an Administrative Enforcement Hearing on the renewed violations by following the same procedure as provided for the original notice.
 10. Demand that the Responsible Person cease and desist from further action causing the Violation and commence and complete all action to correct the Violations as directed by the Town.
 11. Procedures to request an Administrative Enforcement Hearing, and consequences for failure to request such hearing.
 12. Statement that when the Violation is brought into compliance, the Responsible Person must request an inspection to be performed by the Town and notice of reinspection fees, if reinspection is required.
3. More than one Notice of Violation may be issued against the same Responsible Person if the additional Notice of Violation encompasses different dates or different Violations.

4. A Responsible Person has the right to an Administrative Enforcement Hearing concerning the Notice of Violation.

17.02.020.3 Inspections And Compliance

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

17.02.020.4 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. Failure by a Responsible Person to bring a Violation into compliance as and when specified in the Notice of Violation may result in, but limited to, any of the following:

1. The assessment of civil penalties owed to the Town against the Responsible Person for each and every subsequent Day of Violation without additional notice to the Responsible Person required.
2. Civil or criminal prosecution actions by the Town against the Responsible Person.

17.02.030 Emergency Abatement

17.02.030.1 Authority

17.02.030.2 Procedures

17.02.030.1 Authority

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

17.02.030.2 Procedures

1. The Director shall pursue only the minimum level of correction or abatement necessary to eliminate the immediacy of a hazard. Costs incurred by the Town during the Imminent Life Safety Hazard abatement process shall be assessed and recovered against the Responsible Person, including

property (real, personal, intangible or otherwise) that is associated with the subject Imminent Life Safety Hazard.

2. The Director may also pursue any other administrative or judicial remedy to abate any remaining Violations (i.e. those that are deemed to not be Imminent Life Safety Hazards).
3. Within ten (10) Days of completion of an abatement of an Imminent Life Safety Hazard, the Town shall serve the Property Owner or Responsible Person with a Notice of Emergency Abatement.
 0. A Responsible Person has the right to an Administrative Enforcement Hearing concerning the Notice of Emergency Abatement.

17.02.040 Administrative Code Enforcement Hearing

17.02.040.1 Purpose

17.02.040.2 Request For Administrative Enforcement Hearing

17.02.040.3 Notification Of Administrative Enforcement Hearing

17.02.040.4 Appointment And Qualifications Of Hearing Officer

17.02.040.5 Powers Of Hearing Officer

17.02.040.6 Procedures At Administrative Enforcement Hearing

17.02.040.7 Failure To Attend Administrative Enforcement Hearing

17.02.040.8 Administrative Enforcement Order

17.02.040.9 Failure To Comply With Administrative Enforcement Order

17.02.040.10 Appeal

17.02.040.1 Purpose

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

17.02.040.2 Request For Administrative Enforcement Hearing

1. A Responsible Person served with one of the following documents or notices shall have the right to request an Administrative Enforcement Hearing. Such request shall be filed within ten (10) Days from the date of service of one of the following:
 0. Notice of Violation;
 1. Notice of Itemized Bill for costs;
 2. Notice of Emergency Abatement.
2. Said request, including all information concerning the Responsible Person's right to an Administrative Enforcement Hearing, shall be provided in English.
3. The request for an Administrative Enforcement Hearing shall be made in writing to the Director.
4. As soon as practicable after the Town's receipt of the written notice of the request for an Administrative Enforcement Hearing, a Hearing Officer shall schedule a date, time, and place for the Administrative Enforcement Hearing.
5. Failure to request an Administrative Enforcement Hearing within ten (10) Days from the date of service of any of the notices in subsection (A) of this section shall constitute a waiver of the right to an Administrative Enforcement Hearing. The right to appeal said failure may be waived by the Town upon showing proof of a verifiable extenuating circumstance.
6. If a Responsible Person fails to request an Administrative Enforcement 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 this Title.

7. As an alternative to subsection (f) of this section, if a Responsible Person fails to request an Administrative Enforcement Hearing as provided herein, such failure shall be considered a waiver by the Responsible Person of their right to said hearing and a default shall enter against the Responsible Person and the Town may seek to have an Administrative Enforcement Order issued by the Hearing Officer without further notice to the Responsible Person.
8. If the Responsible Person fails to request a hearing before the expiration of the ten (10) Day deadline, the case may be set for a default hearing.

17.02.040.3 Notification Of Administrative Enforcement Hearing

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

17.02.040.4 Appointment And Qualifications Of Hearing Officer

1. The Mayor or his/her designee shall appoint a Hearing Officer to preside at Administrative Enforcement Hearings.
2. A Hearing Officer:
 - a. Shall have no personal, financial, or other conflict of interest in the matter for which the hearing is being held.
 - b. May not be a Town employee.

17.02.040.5 Powers Of Hearing Officer

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

A Hearing Officer shall not make determinations as to the existence of nonconforming rights. If a Responsible Person claims a nonconforming right as a defense, the Hearing Officer shall continue the Administrative Enforcement Hearing and shall refer the matter to the appropriate Leeds Town Land Use Authority for a determination as to the existence of the nonconforming right. The Land Use Authority's decision shall be binding. The Responsible Person shall bear the costs of the appeal petitions.

17.02.040.6 Procedures At Administrative Enforcement Hearing

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

17.02.040.7 Failure To Attend Administrative Enforcement Hearing

A Responsible Person who fails to appear at an Administrative Enforcement Hearing shall be deemed to have waived the right to such hearing, the adjudication of issues related to the hearing, and the right to appeal, and such failure will result in a default judgment for the Town, provided that proper notice of the hearing has been given as provided in Section 7.01.120.

17.02.040.8 Administrative Enforcement Order

1. A Responsible Person and the Town may enter into a stipulated agreement, which shall be signed by both parties, at any time. Such agreement shall be entered as an Administrative Enforcement Order (Question on this). Entry of such agreement shall constitute a waiver of the right to further Administrative Enforcement Hearings and the right to appeal.
2. After all evidence and testimony are presented, the Hearing Officer shall issue a Written Administrative Enforcement Order within ten Days that affirms, modifies or rejects the notice or citation. The Hearing Officer may increase or decrease the total amount of civil penalties and costs that are due pursuant to the Town's fee schedule and the procedures in this Title. Such fees shall continue to accrue until the Responsible Person complies with the Hearing Officer's decision and corrects the Violation.

3. A Hearing Officer may issue an Administrative Enforcement Order that requires a Responsible Person to cease and desist from violating the Leeds Municipal Code or applicable state codes and to take any necessary corrective action.
4. A Hearing Officer may order the Town to enter the property and abate all Violations, including the removal of animals and any and all other personal property that are in Violation of applicable code requirements.
5. A Hearing Officer may revoke a kennel permit, an animal license, or the right to possess animals as provided in the Leeds Municipal Code.
6. As part of an Administrative Enforcement Order, a Hearing Officer may establish specific deadlines for the payment of fees and costs, and condition the total or partial assessment of civil penalties on the Responsible Person's ability to take necessary corrective actions by the specified deadlines.
7. A Hearing Officer may schedule subsequent ~~review~~ hearings as may be necessary or as requested by the Town to ensure compliance with an Administrative Enforcement Order.
8. A Hearing Officer may order a Responsible Person to post a cash performance bond to ensure compliance with an Administrative Enforcement Order, but only if agreed to by the Enforcement Official handling the matter for the Town.
9. An Administrative Enforcement Order shall become final on the date of signing by the Hearing Officer.
10. A copy of the Administrative Enforcement Order shall be served on all parties pursuant to the method of service provided in this Title. When required by this Title, the Director shall record the Administrative Enforcement Order with the Washington County Recorder's office.
11. After a Hearing Officer has issued an Administrative Enforcement Order, the Director shall monitor the matter for compliance with the Administrative Enforcement Order.

17.02.040.9 Failure To Comply With Administrative Enforcement Order

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

17.02.040.10 Appeal

1. Any Responsible Person or the Town adversely affected by an Administrative Enforcement Order made in the exercise of the provisions of this Title may, at his or her own expense, file a petition for review in the District Court of Washington County, Utah ("the Court")
2. The petition shall be barred unless it is filed within thirty (30) Days after the Administrative Enforcement Order is final.
3. In the petition, the appellant may only allege that the Administrative Enforcement Order was arbitrary, or capricious, or illegal.
4. Within one hundred-twenty (120) Days after submitting the petition, the party petitioning for appeal shall request a copy of the record of the proceedings that is the subject of appeal, including transcripts of hearings when necessary. A transcript of the recording shall be deemed a true and correct transcript for purposes of this subsection. The Town shall not submit copies of files or transcripts to the Court until the party petitioning for appeal has paid all required costs. The petitioning party's failure to properly arrange for copies of the record or to pay the full costs for the record, within one hundred-eighty (180) Days after the petition for review was filed shall be grounds for dismissal of the petition.
 0. If a transcript of a hearing cannot be prepared because a tape recording is incomplete or unintelligible, the Court may, in its discretion, remand the matter to the Hearing Officer

for a supplemental proceeding to complete the record. The Court may limit the scope of the supplemental proceeding to issues that, in the Court's opinion, need to be clarified.

5. Court review shall be limited to the record of the proceeding. The Court may not accept or consider any evidence outside such record unless that evidence was offered to the Hearing Officer and the Court determines that it was improperly excluded by the Hearing Officer.
6. The Court shall:
 0. Presume that the Administrative Enforcement Order is valid;
 1. Review the record to determine whether the Administrative Enforcement Order was arbitrary, capricious, or illegal; and
 2. Affirm the Administrative Enforcement Order if it is supported by substantial evidence.

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

17.03 Administrative And Judicial Remedies

[17.03.010 Recordation Of Notices Of Violation; Notices Of Compliance](#)

[17.03.020 Administrative Civil Penalties](#)

[17.03.030 Administrative Abatement](#)

[17.03.040 Costs And Fees](#)

17.03.010 Recordation Of Notices Of Violation; Notices Of Compliance

[17.03.010.1 Purpose](#)

[17.03.010.2 Authority](#)

[17.03.010.3 Procedures For Recordation](#)

[17.03.010.4 Notice Of Recordation](#)

[17.03.010.5 Failure To Request](#)

[17.03.010.6 Notice Of Compliance](#)

[17.03.010.7 Prohibition Against Issuance Of Municipal Permits](#)

17.03.010.1 Purpose

The Town Council finds that there is a need for alternative methods of enforcement for Violations that are found to exist on real property. The Town 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 a Violation.

17.03.010.2 Authority

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

17.03.010.3 Procedures For Recordation

1. Once the Town has issued a Notice of Violation to a Responsible Person, and the Violation continues and remains uncorrected after the deadline established in the Notice of Violation, and no request for an Administrative Enforcement Hearing has been filed, the Town may record a Notice of Violation with the Recorder's Office of Washington County.

2. If an Administrative Enforcement Hearing is held, and an Administrative Enforcement Order is issued in the Town's favor, the Town may record the Administrative Enforcement Order with the Recorder's Office of Washington County.
3. The recordation shall include the name of the Property Owner, the parcel number(s), the legal description of the parcel(s) and a copy of the Notice of Violation or Administrative Enforcement Order.
4. The recordation does not encumber the subject property, but merely places future interested parties on notice of any continuing Violation found upon the subject property.

17.03.010.4 Notice Of Recordation

A notice of the recordation shall be served on the Responsible Person and the Property Owner pursuant to any of the methods of service set forth in this Title.

17.03.010.5 Failure To Request

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

17.03.010.6 Notice Of Compliance

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

1. When the Director receives such request, the Director shall inspect the property as soon as practicable to determine whether the Violation has been corrected, and whether all necessary permits have been issued and final inspections have been performed as required by applicable codes.
2. The Director shall serve a Notice of Compliance to the Responsible Person or Property Owner in the manner provided in this Title within ten (10) business days of an inspection in which the Director finds correction of a Violation and determines that:
 0. All Violations listed in the Notice of Violation or Administrative Enforcement Order have been corrected;
 1. All necessary permits have been issued and finalized;
 2. All assessed civil penalties have been paid; and
 3. All assessed costs and administrative fees have been paid.
3. The Town shall record the Notice of Compliance with the Washington County Recorder's Office, if the related Notice of Violation was recorded. Recordation of the Notice of Compliance shall have the effect of canceling the recorded Notice of Violation.
4. If after inspection, the Director determines that the property fails to meet the requirements for a Notice of Compliance, the Director shall, upon Written request from the Responsible Person or the Property Owner, provide a Written explanation setting forth the reasons for failure to qualify for a Notice of Compliance. The Written explanation shall be served by any of the methods of service listed in this Title.
5. No delay or omission on the part of the Town to exercise any right or power accruing upon any Violation shall impair any such right or power or shall be construed to be a waiver of any such Violation or acquiescence therein and such right and power may be exercised as often as may be deemed expedient. The Town's issuing of a Notice of Compliance in any instance shall not constitute continuing consent to subsequent instances and in all cases a Notice of Compliance may be granted or withheld at the sole discretion of the Town. No prior Notice of Compliance shall affect any subsequent Violation or shall impair any of the Town's rights or remedies on said subsequent Violation. Every substantive right and every remedy conferred upon the Town may be enforced and exercised as often as may be deemed expedient.

17.03.010.7 Prohibition Against Issuance Of Municipal Permits

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

17.03.020 Administrative Civil Penalties

17.03.020.1 Authority

17.03.020.2 Procedures For Assessing Civil Penalties

17.03.020.3 Determination Of Civil Penalties

17.03.020.4 Modification Of Civil Penalties

17.03.020.5 Failure To Pay Penalties

17.03.020.1 Authority

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

17.03.020.2 Procedures For Assessing Civil Penalties

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

17.03.020.3 Determination Of Civil Penalties

1. For a Notice of Violation, civil penalties shall be assessed per Violation per Day pursuant to the Town fee schedule.
2. Civil penalties shall continue to accrue until the Violation(s) has/have been brought into compliance.

17.03.020.4 Modification Of Civil Penalties

1. The Town or Hearing Officer may waive or modify civil penalties on a finding of good cause and conditioned on, but not limited to, correction of Violation(s).
 0. In the event that the Responsible Person fails to correct the Violation(s) or to pay reduced civil penalties, then the civil penalty reduction may be rescinded and the Responsible Person shall then owe the original amount of civil penalties assessed as if the reduction had not been given and have the continued requirement to correct the Violation(s).

2. Nonconforming or conditional use: Civil penalties may be waived or modified by the Town or Hearing Officer if there is a finding of good cause based on the Responsible Person's Written claim of nonconforming use or conditional use and:
 0. The Town's need to verify the claim; or
 1. The Responsible Person's filing of an application for nonconforming or conditional use before expiration of the date to correct.

17.03.020.5 Failure To Pay Penalties

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

17.03.030 Administrative Abatement

17.03.030.1 Authority To Abate

17.03.030.2 Procedures For Abatement

17.03.030.1 Authority To Abate

Enforcement Officials are hereby authorized; to enter upon any property or premises to abate or cause to be abated a Violation. 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 abatements are necessary within two (2) years, costs may be assessed against the Responsible Person(s) for the actual abatement

17.03.030.2 Procedures For Abatement

1. Violations may be abated by Town personnel or by a private party acting under the direction of the Town.
2. Town personnel or a private party may enter upon private property in a reasonable manner to abate a Violation as specified in the Notice of Violation or Administrative Enforcement Order.
3. If a Responsible Person abates the Violation before the Town abates the Violation pursuant to a Notice of Violation or Administrative Enforcement Order, the Director shall nevertheless assess all costs incurred by the Town 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 of Itemized Bill for Costs shall demand full payment within twenty (20) Days to the Leeds Town Treasurer.
6. The Responsible Person shall have a right to an Administrative Enforcement Hearing to contest the Notice of Itemized Bill for Costs. Such hearing shall be pursuant to an in conformity with this Title.

17.03.040 Costs And Fees

17.03.040.1 Purpose And Introduction

17.03.040.2 Authority

17.03.040.3 Failure To Timely Pay Costs

17.03.040.4 Administrative Fees

17.03.040.5 Injunctions

17.03.040.6 Performance Bonds

17.03.040.7 Recovery Of Administrative Code Enforcement Penalties And Costs

17.03.040.1 Purpose And Introduction

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

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

17.03.040.2 Authority

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

17.03.040.3 Failure To Timely Pay Costs

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

17.03.040.4 Administrative Fees

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

17.03.040.5 Injunctions

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

17.03.040.6 Performance Bonds

1. As part of any notice, order, or action, the Town or a Hearing Officer has the authority to require a Responsible Person to post a performance bond to ensure compliance with the Town Code, applicable state codes, or any judicial action.

2. If a Responsible Person fails to comply with the notice, order or action, then the bond will be forfeited to the Town. The bond is to be used for abatement costs and will not be used to offset any other outstanding costs and fees associated with the Violation.

17.03.040.7 Recovery Of Administrative Code Enforcement Penalties And Costs

This subsection (a) identifies various methods the Town may use to recover administrative code enforcement penalties and costs; and (b) details the Town's allocation of these collected penalties and costs.

1. Code Enforcement Tax Liens

- a) **Purpose.** The Town Council finds that recordation of code enforcement tax liens will assist in the collection of civil penalties, administrative costs and administrative fees assessed by this Administrative Code Enforcement program or judicial orders. The Town Council further finds that collection of civil penalties, costs, and fees assessed for Violations is important in deterring future Violations and maintaining the integrity of the Town's code enforcement system. The procedures established in this subsection shall be used to complement existing administrative or judicial remedies that may be pursued to address Violations.
 - b) **Procedures For Tax Code Enforcement Tax Lien Without A Judgment.** The Director shall provide a copy of a Notice of Itemized Bill for Costs to the Town Treasurer. Upon receipt of the Notice of Itemized Bill for Costs, the Town Treasurer shall (i) record a code enforcement tax lien as to the Notice of Itemized Bill for Costs against the property upon which a Violation exists with the Washington County Recorder and (ii) if applicable, file the code enforcement tax lien with the Washington County Treasurer. The Town shall serve a notice of the code enforcement tax lien recordation on the Responsible Person and the Property Owner pursuant to any of the methods of service set forth in this Title. The failure of any Person with a financial interest in the property to receive the notice of the lien shall not affect the validity of the lien or any proceedings taken to collect the amounts associated with the code enforcement tax lien.
 - c) **Procedures For Tax Code Enforcement Tax Lien With A Judgment.** Once a judgment has been obtained from the appropriate court assessing costs against the Responsible Person, the Director may record a code enforcement tax lien against any real property owned by the Responsible Person.
 - d) **Cancellation Of Code Enforcement Tax Lien.** Once payment in full is received for the outstanding civil penalties, administrative costs and administrative fees, including, but not limited to, through foreclosure of the code enforcement tax lien as permitted by law, or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the Director shall record a Notice of Compliance. The Notice of Compliance shall include the same information as provided for in the original code enforcement tax lien and shall cancel the code enforcement tax lien.
2. **Writ Of Execution.** After obtaining a judgment, the Town may collect the associated obligation by use of all appropriate legal means. This may include the execution on personal property owned by the Responsible Person by filing a writ with the applicable court.
 3. **Writ Of Garnishment.** After obtaining a judgment, the Town may collect the associated obligation by use of all appropriate legal means. This may include the garnishment of paychecks, financial accounts, and other income or financial assets by filing a writ with the applicable court.
 4. **Allocation Of Civil Penalties.** Collected civil penalties shall be deposited in the General Fund of the Town. Civil penalties deposited in this fund may be allocated pursuant to the Town's budget process and as authorized by applicable law. The Town shall establish accounting procedures to ensure proper account identification, credit, and collection.

Penalty For Violation Of Ordinance:

A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of the town shall be guilty of an infraction unless the violation is made a misdemeanor by ordinance.

B. 1. Except in ordinances where a different punishment is prescribed by any ordinance of the town, any person convicted of a class B misdemeanor for violation of an ordinance of the town is punishable by a fine of one thousand dollars (\$1,000.00), or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment.

2. Except in ordinances where a different punishment is prescribed by any ordinance of the town, any person convicted of a class C misdemeanor for violation of an ordinance of the town is punishable by a fine of seven hundred fifty dollars (\$750.00), or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment.

C. Any person convicted of an infraction for violation of an ordinance of the town is punishable by a penalty of not more than seven hundred fifty dollars (\$750.00).

D. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the town is committed, continued or permitted by any such person, and such person shall be punishable accordingly.

Dear Town Council, Planning Commission and Contractors:

I will be out of town on a family vacation beginning Sunday June 12th, through Sunday, June 19th, available by email, phone, or text.

I wish to bring to your attention again, the serious concerns regarding the annexation of the "Mill's" property (purchased by Eastward Management Group – the ARC Development). As revealed during Town Council by the CEO of Eastward Management, their intention is to make this a resort: 5-star hotel, multiple high-density condos for single-night rentals, and commercialization.

The developers have officially petitioned the town of Toquerville for annexation. Toquerville has just started their General Plan process, as well as their annexation plans (this matters). Toquerville intends to modify ordinances to accommodate the resort.

According to our town attorney, Craig Hall, we have about 60-days to see if we can achieve 50% of the owners with over 1/3 of the entire property values to decide they want to annex with Leeds. This will force the "Mill's" property into annexation with Leeds, versus Toquerville.

My position, as shared by several other Council Members and citizens of Leeds, is that if Toquerville is able to annex this property, which they fully intend to do, the development will be to maximize tax revenues on the absolute outskirts of their town, negatively effecting Leeds, and no negative impact upon Toquerville.

All tax revenues of this development will go directly to Toquerville. There will be no interlocal agreement for sharing any tax revenues.

This matter is of the utmost importance to the Town of Leeds and her future. Therefore, I wish to organize and schedule a work meeting with the Planning Commission, Town Council members and Contract support to address next steps, if it is the consensus to move towards annexing the property of concern.

If we are to proceed forward in annexing this local into Leeds, It will be crucial we act on this immediately by speaking with the property owners effected:

- Wright Direction, LLC
- Mark Five Inv, LLC
- Hunger Hole, LLC
- Good Jackie TR
- Pensco Trust Co, LLC
- Spruce, LLC
- Susan Savage, TR
- Peart Land & Development, LLC
- Sagewood Ranches, LLC
- Howard Alan L & Sandra
- BLM

We may also need to consider the Homespun area (dealing with ratios).

Please plan to be available Wednesday, June 22nd, at 5:00 PM, before Town Council, to join the work meeting. If you wish to further discuss, please feel free to call me, directly (801-597-6568).

Respectfully,
Bill Hoster, Mayor
Leeds, UT
mayor@leedstown.org

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