

## Appendix B

Section 1. That Chapter 10, Administrative Sanctions, of Title 1, General Provisions, and Chapter 1.33, Code Infraction Sanctions, of Title 1, General Provisions, is repealed.

### ~~Chapter 10, Administrative Sanctions~~

#### ~~Sec. 1-260. Administrative process.~~

~~Where authorized in specific chapters within this Code, certain violations may be sanctioned administratively. The hearing on those violations shall be in the nature of an administrative proceeding as set forth in chapter 12 of title 2 of this Code.~~

#### ~~Sec. 1-261. Definitions.~~

~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Abate means to bring to a halt, eliminate or, where that is not possible or feasible, to suppress, reduce, and minimize.~~

~~Administrative hearing officer means a person appointed by the city manager, who acts pursuant to chapter 12 of title 2 of this Code, and who is authorized to hear administrative code violations, including public nuisance cases brought pursuant to chapter 11 of this title.~~

~~Respondent means a person or entity receiving a notice of an alleged Code violation.~~

~~Restorative justice means practices that emphasize repairing the harm caused to the community by public nuisances and other Code violations. Restorative justice practices include neighbor or community conferences, and other similar practices.~~

#### ~~Sec. 1-262. Each day of a Code violation is separate violation.~~

~~Each respondent is liable for a separate Code violation for each and every day during any portion of which any violation of any provision of this Code is committed, continued or permitted by a respondent, and shall be penalized accordingly. Each violation or public nuisance must be set forth on a notice form and served as set forth in chapter 12 of title 2 of this Code.~~

#### ~~Sec. 1-263. Minimum sanctions.~~

~~(a) In addition to fees and costs assessed by the administrative hearing officer, a respondent found liable for a violation of this Code shall pay a fine of not more than \$1,000.00, pursuant to the fine schedule below.~~

~~(1) Code violations other than for public nuisance.~~

~~a. The fine for a first violation shall be not less than \$600.00. The administrative hearing officer may suspend up to \$500.00 of the fine;~~

~~b. The fine for a second violation shall be not less than \$800.00. The administrative hearing officer may suspend up to \$300.00 of the fine;~~

~~c. The fine for a third or subsequent violation shall be not less than \$1,000.00. The administrative hearing officer may suspend up to \$500.00 of the fine.~~

~~(2) Public nuisance violations. Public nuisance violations, pursuant to chapter 11 of this title, shall be subject to a fine of not less than \$1,000.00.~~

~~(3) Any repeat violation that occurs less than 12 months from the date of a finding of liability shall cause the full amount of the fine that may have been suspended under subsection (a) of this section to be automatically reinstated in full, without a hearing.~~  
~~(b) In addition to fees and costs assessed by the administrative hearing officer and a fine, a respondent found liable for a violation of this Code shall pay the costs of any abatement action performed by the city ordered by the administrative hearing officer pursuant to section 1-264.~~

~~(c) Stipulations.~~

~~(1) If a property is brought into compliance by the compliance date set forth on the notice of violation, respondent's appearance at the hearing may be waived, the fine may be waived, and only fees and costs assessed in an amount set in accordance with chapter 2 of this title, if the following conditions are met:~~

~~a. Respondent agrees to plead liable for the Code violation, and signs a stipulation setting forth the liable plea, which stipulation shall be filed with the administrative hearing officer prior to or at the time set for the hearing;~~

~~b. Respondent pays the fine and all fees and costs assessed at the finance department by 5:00 p.m. two business days before the hearing; and~~

~~c. The city may agree to continue the hearing on one or all violations and may agree to enter into one or more stipulations for each case number.~~

~~(2) After a second or subsequent violation, if the property is brought into compliance by the compliance date set forth on the notice of violation, respondent's appearance at the hearing may be waived if the following conditions are met:~~

~~a. Respondent agrees to plead liable for the Code violation, signs a stipulation setting forth the liable plea, which stipulation shall be filed with the administrative hearing officer prior to or at the time set for the hearing; and~~

~~b. Respondent pays the fine and all fees and costs assessed at the finance department by 5:00 p.m. two business days before the hearing.~~

~~(3) If respondent signs a stipulation but fails to meet either of the conditions set forth under subsection (c)(1) or (2) of this section, respondent must appear at the scheduled hearing or be subject to entry of default judgment, as defined in chapter 12 of title 2 of this Code. In that event, the stipulation may be admitted into evidence at the hearing at the discretion of the administrative hearing officer.~~

~~(d) For the purposes of assessing sanctions for repeated or chronic violations pursuant to this chapter or chapter 11 of this title, the term "violation" includes each violation of the same Code section at any property or by the same owner, agent, contractor, or tenant regardless of property location within the city.~~

~~(e) A respondent found liable at a hearing by the administrative hearing officer for any violation of this Code shall pay the fine, fees, and costs assessed at the finance department by 5:00 p.m. two business days after the hearing.~~

~~(f) The administrative hearing officer may require respondent to perform a certain number of hours of community or useful public service, participate in a restorative justice program, or participate in relevant classes in addition to any other penalty authorized by this Code.~~

~~(g) If respondent fails to respond to a notice of Code violation or fails to appear at the hearing on the violation, a default judgment defined in chapter 12 of title 2 of this Code may be entered without proceeding with the hearing in the amount of the maximum administrative fine, plus any costs and fees assessed by the administrative hearing~~

officer. The administrative hearing officer may issue any other order authorized by chapter 12 of title 2 of this Code.

~~Sec. 1-264. Abatement; emergency abatement.~~

~~(a) If the administrative hearing officer determines that the Code violation should be abated by the city, the administrative hearing officer shall issue an order for abatement by the city of the violation, charged to the owner of the property. A copy of such order shall be served on the owner of the property pursuant to chapter 12 of title 2 of this Code.~~

~~(b) Within 45 calendar days of the date that the property is abated pursuant to an abatement order, the city shall serve notice to the owner of the property pursuant to chapter 12 of title 2 of this Code of the following:~~

~~(1) The abatement action has taken place;~~

~~(2) The owner has been charged a reasonable amount for the abatement, together with an administrative fee set in accordance with chapter 2 of this title, plus 20 percent of the costs for abating the violation, inspections, and other expenses, to cover the city's costs for performing the abatement and to encourage citizen compliance with the Code; and~~

~~(3) That the owner has the right to move the administrative hearing officer for reconsideration of the abatement charges pursuant to chapter 12 of title 2 of this Code.~~

~~(c) If the owner does not move for reconsideration of the abatement charges, the costs of abatement shall become final and shall be collected in accordance with chapter 12 of title 2 of this Code.~~

~~(d) If the owner moves for reconsideration, and the abatement charges are upheld by the administrative hearing officer, the costs of abatement shall become final and shall be collected in accordance with chapter 12 of title 2 of this Code.~~

~~(e) If the city determines that a Code violation is a cause of imminent danger to the public health, safety, or welfare, the city may request an ex parte emergency abatement order from the administrative hearing officer, without providing notice to the owner.~~

~~(1) If the administrative hearing officer determines that the city has proven that such order is reasonably necessary to avoid imminent danger to the public health, safety, or welfare and that the violation should be abated, he shall issue an order for emergency abatement.~~

~~(2) The purpose of an emergency abatement order shall be to temporarily abate an alleged repeated or chronic violation pending the final determination of the violation at a hearing. An emergency abatement order may be issued by the administrative hearing officer pursuant to the provisions of this section even if the effect of such order is to change, rather than preserve, the status quo.~~

~~Sec. 1-265. Self-referral.~~

~~Any property owner who leases property for rent within the city may register a complaint with the code compliance office regarding conditions on the tenant-occupied property which are not in compliance with this Code. Any property owner who self-refers in this manner will not receive a notice of violation for that property for a 30-day period, provided that the property owner has provided the city with a copy of a valid lease which states that the tenant and property owner have agreed that property~~

~~maintenance is the obligation of the tenant. In addition, the property owner shall provide written evidence to the code compliance office demonstrating that the property owner has previously made the tenant aware of the violation and of the tenant's obligation to correct the violation. A property owner may only self refer once per violation per property per lease period.~~

~~Secs. 1-266—1-276. Reserved.~~

## ~~Chapter 1.33 Code Infraction Sanctions~~

### ~~1.33.010 – Code infractions.~~

~~Where authorized in specific Chapters within this Code, certain violations may be sanctioned administratively as a code infraction. All actions designated as code infractions shall be administrative and remedial in nature. The code infraction shall be in the nature of an administrative proceeding and shall proceed as set forth in Chapter 2.09 of this Code~~

### ~~1.33.015 – Definitions.~~

~~Violator or respondent shall mean any individual or legal entity receiving a notice of violation for a code infraction violation~~

### ~~1.33.020 – Each day of code infraction violation is separate violation.~~

~~Each person is liable of a separate code infraction violation for each and every day during any portion of which any violation of any provision of the ordinances of the City designated as a code infraction is committed, continued or permitted by any such person, and he or she shall be penalized accordingly. Each violation must be set forth on a notice of violation form and served as set forth in Subsection 2.09.120(d) of this Code~~

### ~~1.33.030 – Minimum sanctions.~~

~~(a) Any person found responsible for a violation of this Code authorized to be sanctioned as a code infraction shall pay an administrative fine of not more than one thousand dollars (\$1,000.00) plus costs and expenses.~~

#### ~~(b) Stipulations.~~

~~(1) In the event that the property is brought into compliance at least five (5) business days prior to the violator's first administrative hearing appearance, the fine shall be waived and administrative costs assessed, in an amount set in accordance with Section 1.05.010 of this Chapter, if the following conditions are met:~~

~~a. The violator agrees to plead liable for the code infraction, and the violator and a representative of the City division that issued the Notice of Violation sign a written stipulation setting forth the liable plea, which stipulation shall be filed with the Administrative Hearing Officer prior to or at the time set for the hearing.~~

~~b. The violator pays the administrative costs at the Building Inspection Division or the Finance Department by 5:00 p.m. two (2) business days before the hearing.~~

~~c. The violator has not been found liable for any code infraction violations in the three-hundred sixty five calendar day period prior to the date of the current violation.~~

d. ~~The parties may agree to continue the hearing on one (1) or all violations and may agree to enter into one (1) or more stipulations for each case number. A fee is assessed per stipulation in an amount set in accordance with Section 1.05.010 of this Chapter.~~  
~~(2) In the event that a property is brought into compliance at least five (5) business days prior to the violator's administrative hearing on a second violation, the violator's appearance may be waived, provided that the violator pays the fine and all administrative costs at the Building Inspection Division or the Finance Department by 5:00 p.m. two (2) business days before the hearing.~~  
~~(3) In the event the violator signs a written stipulation but fails to meet one (1) or more of the conditions set forth under Paragraph (1) or (2) above, the violator will be required to appear at the scheduled hearing. In this event, the stipulation may be admitted into evidence at the administrative hearing at the discretion of the Administrative Hearing Officer.~~

(c) ~~For purposes of assessing sanctions for repeated violations pursuant to this Section, violation includes each violation at any property or for an owner, agent, contractor or tenant, regardless of property location within the City; and violation is limited to a violation of the same Code section.~~

(d) ~~A person found liable by the Administrative Hearing Officer for any violation of this Code charged as a code infraction shall pay the fine and costs assessed, which may include all reasonable costs, direct and indirect, which the City has proved were incurred in connection with the code infraction. All such fines and costs shall be paid at the Finance Department during business hours immediately following such a finding.~~

(e) ~~The Administrative Hearing Officer may require the violator to perform a certain number of hours of community or useful public service, require the violator to participate in a restorative justice program or require the violator to participate in good neighbor or other classes in addition to any other penalty authorized by this Chapter.~~

(f) ~~The Administrative Hearing Officer may enter an order for injunctive relief and/or any other remedies authorized by law.~~

(g) ~~The Administrative Hearing Officer may issue any orders necessary to abate the infraction, which abatement order shall provide that a Code Enforcement Officer, building official, police officer or his or her designee may, without a court order, take reasonable steps to abate a code infraction and prevent it from recurring as long as the same may be accomplished without entering any building upon the parcel.~~

(h) ~~If a violator fails to answer a notice of violation for a code infraction or fails to appear before the Administrative Hearing Officer for such infraction, a default judgment may be entered in the amount of the maximum administrative penalty, plus all costs, expenses, fees and damages. The Administrative Hearing Officer may issue any other order authorized by this Chapter; however, if there are multiple violations within one (1) case, the Administrative Hearing Officer may impose the maximum administrative penalty either once per case or per violation, at the discretion of the Administrative Hearing Officer.~~

(i) ~~In the event a violator fails to pay a code infraction penalty, costs, damages or expenses within thirty (30) calendar days after the payment is due, the City may pursue any legal means for collection. Where the code infraction involves property and the owner of the property is the violator, the City may obtain a lien against the property. The lien shall have priority over all liens, except general taxes and prior special assessments. If the violator fails to pay the lien for thirty (30) calendar days, the lien may be certified by the Director of Finance to the County Treasurer to be placed upon the~~

tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten percent penalty to defray the cost of collection, as provided by state law.

~~(j) The Administrative Hearing Officer may waive all or a portion of the code infraction penalty and costs if the Hearing Officer determines the violator to be indigent upon the violator's presentation of written credible evidence of indigency.~~

~~(1) Credible evidence of indigency may include, but is not limited to, tax returns, W-2 statements and eligibility statements from any county social service agency.~~

~~(2) Indigency, for purposes of this Chapter, means the violator meets one (1) of the following:~~

~~a. Total household income is at or below one hundred thirty-five percent (135%) of the poverty level as determined by the United States Department of Health and Human Services; and liquid assets are equal to or less than one thousand five hundred dollars (\$1,500.00).~~

~~b. Total household income is up to twenty five percent (25%) above the current federal poverty guidelines as published in the federal register; and liquid assets are equal to or less than one thousand five hundred dollars (\$1,500.00); and reasonable monthly expenses equal or exceed monthly income.~~  
~~(3) The Administrative Hearing Officer will adopt procedures to institute this Section, including a determination of what constitutes reasonable monthly expenses~~

#### ~~1.33.035— Self referral.~~

~~Any property owner who leases his or her property or unit for rent within the City may register a complaint with the Code Enforcement division regarding conditions on his or her tenant-occupied property or unit which are not in compliance with this Code. Any property owner who self-refers in this manner will not receive a notice of violation for that property for a thirty-day period, provided that the property owner has provided the City with a copy of a valid lease which states that the tenant and property owner have agreed that property maintenance is the obligation of the tenant. In addition, the property owner shall provide written evidence to Code Enforcement personnel demonstrating that the property owner has previously made the tenant aware of the violation and of the tenant's obligation to correct the violation. A property owner may only self-refer once per code violation per unit or property per lease period~~

#### ~~1.33.040— Failure to comply with orders of Administrative Hearing Officer.~~

~~Failure to comply with any order issued by the Administrative Hearing Officer shall constitute a criminal violation of this Code and violators may be subject to prosecution in front of the Municipal Judge and be penalized pursuant to Chapter 1.32 of this Title.~~

Section 2. Chapter 11, Parking Infraction Sanctions, of Title 1, General Provisions is repealed.

#### Chapter 11, Parking Infraction Sanctions.

##### Sec. 1-277. Enforcement and sanctions.

~~(a) The city manager shall by administrative rule designate those employees who are authorized to issue citations for parking infractions pursuant to this Code. These~~

~~employees shall be designated as parking enforcement officers. All employees of the police department are designated parking enforcement officers.~~

~~(b) Any person who violates any ordinance designated as a parking infraction shall be penalized by a fine of not more than \$500.00 per violation and shall be required to pay all assessed costs and fees.~~

~~(c) The city manager shall by administrative rule designate those employees who shall specify by suitable schedules, the fees, costs and fees for violations of title 16, chapter 2, including any costs and fees for failing to respond in a timely manner. The designee may adopt schedules or procedures which authorize a reduction in fines for violations of title 16, chapter 2.~~

#### ~~Sec. 1-278. Definitions.~~

~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Motor vehicle or vehicle means any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle; except that the term "motor vehicle" or "vehicle" does not include electrical assisted bicycles, low-power scooters, wheelchairs, or vehicles moved solely by human power. For the purposes of this chapter, the terms "motor vehicle" and "vehicle" shall include a trailer. Trailer means any wheeled vehicle, without motive power, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public roadways.~~

#### ~~Sec. 1-279. Notice and procedure for parking violations.~~

~~(a) If any motor vehicle is found parked, standing, or stopped in violation of the parking ordinances or rules promulgated by the city, the vehicle may be affixed with a penalty assessment citation ("citation").~~

~~(1) The citing parking enforcement officer shall note the vehicle license plate number and any other information concerning the motor vehicle that will identify it and, if the driver is not present, shall conspicuously affix the citation to the motor vehicle.~~

~~(2) The citation shall include information about the particular parking, standing or stopping violation that has occurred at that time and place, set forth the amount of the penalty assessment, state the procedure for payment of the penalty assessment, the method by which the alleged violation may be protested, and notice of procedures to collect delinquent assessments.~~

~~(b) Any person charged with a parking infraction for which a citation may be issued and for which payment of a fine may be made to the parking services office shall have the option of paying such fine within the date, time and at a place specified in the citation.~~

~~(1) Payment of a citation by the person to whom the citation is served shall constitute an acknowledgment by such person of his violation of the Code as stated in such citation.~~

~~(2) Payment of the prescribed fine shall be deemed a complete satisfaction for the violation, and the city, upon accepting the prescribed fine, shall upon request issue a~~

receipt acknowledging payment thereof. Checks tendered and accepted, and on which payment is received, shall be deemed sufficient receipt.

(3) Parking citations may be paid or appealed electronically, via mail or in person at the location identified on the citation.

(c) If the driver or owner of a motor vehicle charged with a violation of any parking, standing or stopping provision of this Code fails to respond to a citation affixed to the vehicle, the city shall send, at the cost of the owner, another notice 30 days from the infraction date by mail to the registered owner of the vehicle to which the original notice was affixed, warning him that payment of the citation is past due and, in addition, in the event such notice is disregarded for a period of 30 days from the date of mailing, the vehicle is subject to immobilization and the procedures described in this chapter.

(d) The parking services office shall adopt procedures for the collection of delinquent parking violations, which may include the engaging of collection services. The owner shall additionally pay any associated collection costs, fees and/or commissions for these collection services.

(e) Any person cited for a violation of a parking infraction who believes that such citation has been issued in error shall have the right to contest the validity of the citation.

(1) The first appeal of a citation must occur within 15 days of the citation to the parking services office. Where the parking services office finds that the violation has not been established, the citation shall be dismissed. Where the parking services office finds that the violation has been established, the parking services office shall uphold the citation and order the registered owner of the vehicle to pay the applicable fines, penalty and costs within seven days of the date of the decision of the parking services office.

(2) The decision of the parking services office may be appealed to the parking referee within seven days of parking services decision to uphold the citation. Where it has been established that a violation was committed by a preponderance of the evidence, the parking referee shall uphold the citation and order the registered owner of the vehicle to pay the applicable fines, penalties and costs as ordered by parking referee within 45 days. Such costs may include administrative costs as determined by the city manager. A copy of such order shall be issued to the registered owner of the vehicle.

Sec. 1-280. Responsibilities of person who receives citation; liability of vehicle owner.

(a) Person receiving citation. Any person who receives a citation shall respond to such citation within the date, time and at a place specified in the citation by either paying the fine set forth in the citation or exercising the dispute options set forth in the citation.

(b) Vehicle owner. If the owner of a vehicle subject to a citation has not responded to the citation within the date, time and at a place specified in the citation, the owner shall be subject to the fines and fees established in accordance with this Code.

(c) Owner liable. The registered owner of a vehicle at the time the violation occurred shall be liable for all unpaid fines and fees.

Sec. 1-281. Immobilization authority.

(a) Pursuant to section 16-601, the city has the authority to arrange for the removal, towing and storage of motor vehicles illegally parked or abandoned.

(b) When a driver, owner or person in charge of a vehicle has failed to respond to a citation issued pursuant to this Code, and has also failed to respond to an additional



~~notice sent to the registered owner, parking enforcement officers are authorized to immobilize such vehicle for a period of 72 hours by installing on, or attaching to such vehicle, a device designed to restrict the normal movement of such vehicle.~~

~~(c) Following immobilization of the vehicle, the parking enforcement officer shall conspicuously affix to such vehicle a notice, in writing, on a form provided by the parking services office, advising the owner, driver or person in charge of such vehicle, that such vehicle has been immobilized by the city for violation of one or more of the provisions of this Code, and that release from such immobilization may be obtained in a designated manner; that unless arrangements are made for the release of such vehicle within 72 hours the vehicle will be impounded at the direction of the parking enforcement officer, and that removing or attempting to remove the device before a release is obtained is unlawful.~~

~~(d) If the vehicle has remained immobilized for a period of 72 hours and release has not been obtained, the parking enforcement officer shall have the vehicle impounded pursuant to the provisions outlined in this Code.~~

~~(e) Parking restrictions that are otherwise applicable shall not apply while a vehicle is immobilized.~~

~~Secs. 1-282—1-290. Reserved.~~

Section 3. Chapter 12, Public Nuisance Violations, of Title 1, General Provisions, and Chapter 1.35, Good Neighbor Ordinance of Title 1, General Provisions, is repealed.

## ~~CHAPTER 12. PUBLIC NUISANCE VIOLATIONS~~

~~Sec. 1-291. Purpose; cooperative compliance efforts.~~

~~The purpose of this chapter is to promote the health, safety and welfare of the residents of the city by encouraging and promoting compliance with this Code. In furtherance of this policy, the city shall provide enforcement mechanisms to reduce chronic violations of the Code as further outlined in this chapter.~~

~~Sec. 1-292. Definitions.~~

~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Chronic violation property* means a parcel of real property or a unit within a complex for which activities have resulted in a conviction of or finding of liability for public nuisance violations, as defined in this chapter, against a person or business owning or occupying the property:~~

~~(1) Three times within a 12-month period, or five times within an 18-month period if the property contains only one dwelling unit or business;~~

~~(2) Four times within a 12-month period, or six times within an 18-month period for a complex consisting of four or fewer dwelling units and/or businesses;~~

~~(3) Five times within a 12-month period, or seven times within an 18-month period for a complex consisting of more than four but fewer than nine dwelling units and/or businesses;~~

~~(4) Six times within a 12-month period, or eight times within an 18-month period for a complex consisting of nine or more dwelling units and/or businesses;~~

~~(5) For the purposes of counting only, multiple violations occurring on the same day count as one violation.~~

~~Chronic violator means a person or business who or which has been convicted of or found liable for three public nuisance violations, as defined in this chapter, within a 12-month period, or five public nuisance violations within an 18-month period. For the purposes of counting only, multiple violations occurring on the same day shall be counted as one violation. A chronic violator can be a property owner, agent, or tenant. Public nuisance violation means a conviction or finding of liability under any nontraffic laws of the city, county, or the state, that harms the health, safety, or welfare of the residents of the city.~~

~~Sec. 1-293. Chronic violator databases; chronic violation property database.~~

~~(a) Chronic violator database.~~

~~(1) Maintenance of database. The city shall maintain a database of the name of any property owner, agent or tenant who has been declared a chronic violator pursuant to section 1-295. The database shall be available to the general public.~~

~~(2) Removal from database. The city shall remove the name of a property owner, agent, or tenant from the chronic violator database when the city learns or is notified that the property owner, agent, or tenant has not been convicted or found liable for any public nuisance violations within 12 months of placement on the database.~~

~~(b) Chronic violation property database.~~

~~(1) Maintenance of database. The city shall maintain a database of the addresses of each property parcel or unit within complexes that has been declared to be a chronic violation property pursuant to section 1-295. The database shall be available to the general public.~~

~~(2) Removal from database. The city shall remove the address from the database when the city learns or is notified of one of the following events:~~

~~a. That the parcel or unit has not been the location of a conviction or finding of liability for any public nuisance violations within 12 months of the placement on the database;~~

~~or~~

~~b. That the parcel or unit has been transferred in a documented transaction, subject to the requirements outlined in section 1-298.~~

~~Sec. 1-294. Action against chronic violator/chronic violation property; procedures in general.~~

~~An action against a chronic violator or chronic violation property shall be in the nature of an administrative hearing process generally governed by chapter 10 of this title and chapter 12 of title 2 of this Code. Because such actions may affect the marketability of real property, the city may record with the county clerk and recorder a notice of lis pendens against the real property involved to fully inform and protect the interests of any bona fide innocent third party purchaser.~~

~~Sec. 1-295. Declaration of chronic violator/chronic violation property; remedies.~~

~~(a) The administrative hearing officer shall declare a property owner, agent, or tenant a chronic violator if:~~

~~(1) At hearing, the city establishes the number and time period of public nuisance violations required by this chapter;~~

~~(2) The property owner, agent, or tenant fails to appear at a hearing, notice of which was served pursuant to chapter 12 of title 2 of this Code;~~

~~(3) The property owner, agent, or tenant stipulates, in accordance with chapter 10 of this title, to the declaration; and~~

~~(4) The administrative hearing officer shall order:~~

~~a. Placement on the database described in section 1-293(a); and~~

~~b. Payment of fees and costs as set forth in chapter 12 of title 2 of this Code, unless the city and the owner, agent, or tenant stipulates to orders and remedies, emergency or permanent, that are different from those provided in this chapter or chapter 10 of this title.~~

~~Nothing in this chapter shall be construed as limiting the city from pursuing any other remedies available at law or in equity, including referral to the county district attorney for consideration of charges pursuant to C.R.S. § 16-13-301 et seq.~~

~~(b) The administrative hearing officer shall declare a parcel of real property or a unit within a complex a chronic violation property if:~~

~~(1) At hearing, the city establishes the number and time period of public nuisance violations required by this chapter;~~

~~(2) The person or business owning or occupying the parcel or unit fails to appear at a hearing, notice of which was served pursuant to chapter 12 of title 2 of this Code;~~

~~(3) The person or business stipulates, in accordance with chapter 10 of this title, to the declaration; and~~

~~(4) The administrative hearing officer shall order:~~

~~a. Placement of the address on the database described in section 1-293(a); and~~

~~b. Payment of fees and costs as set forth in 2-1030; and~~

~~The city conduct periodic inspections of the address to check for violations of this Code. The frequency of such inspections and the duration of the increased inspection period shall be determined solely by the city; unless the city and the person or business stipulate to orders and remedies, emergency or permanent, that are different from those provided in this chapter or chapter 10 of this title. Nothing in this chapter shall be construed as limiting the city from pursuing any other remedies available at law or in equity, including referral to the county district attorney for consideration of charges pursuant to C.R.S. § 16-13-301 et seq.~~

#### ~~Sec. 1-296. Affirmative defenses:~~

~~If the subject parcel of real property or unit within a complex is leased and the public nuisance violations were committed by tenants or occupants of the parcel or unit, it shall be a defense to an action described in section 1-294, that the owner or agent of the subject parcel or unit has:~~

~~(1) Evicted, or attempted to evict by commencing and pursuing with due diligence appropriate court proceedings, all of the tenants or occupants who committed the public nuisance violations;~~

~~(2) Considering the nature and extent of the public nuisance violations, undertaken and pursued with due diligence reasonable means to avoid a recurrence of similar violations on the subject parcel or unit; or~~

~~(3) Self-referred pursuant to chapter 10 of this title; however, self-referral is only an affirmative defense if the violation reported is the same violation as the public nuisance violation.~~

~~Sec. 1-297. Limitation of actions.~~

~~Actions under this chapter shall be filed no later than 365 days after the last in the series of public nuisance violations occurs. However, this limitation shall not be construed to prevent the introduction of evidence of any public nuisance violations regardless of the date of occurrence at a hearing for the purpose of showing a pattern of conduct or for any other purpose.~~

~~Sec. 1-298. Effect of property conveyance.~~

~~When title to a parcel of real property or a unit within a complex is conveyed, any public nuisance violation existing at the time of the conveyance that could be used under this chapter to prove that the parcel or unit is a chronic violation property shall not be so used unless a reason for the conveyance was to avoid such declaration. Further, if a parcel or unit had been declared a chronic violation property prior to the time of the conveyance, it shall be removed from the database unless a reason for the conveyance was to obtain removal from the database. It shall be a rebuttable presumption that a reason for the conveyance was to avoid such declaration or obtain removal from the database if:~~

- ~~(1) The parcel or unit was conveyed for less than fair market value;~~
- ~~(2) The parcel or unit was conveyed to an entity controlled directly or indirectly by the person or entity conveying the parcel or unit; or~~
- ~~(3) The parcel or unit was conveyed to a relative of the person conveying the parcel or unit.~~

~~Chapter 1.35—Good Neighbor Ordinance~~

~~1.35.010—Purpose; cooperative compliance efforts.~~

~~The purpose of this Chapter is to promote the health, safety and welfare of the residents of the City by encouraging good neighbor relations and to promote compliance with this Code. In furtherance of this policy, the City shall provide enforcement mechanisms to prosecute chronic offenders of this Code or otherwise abate chronic offenses as further outlined in this Chapter~~

~~1.35.020—Definitions.~~

~~Abate means to bring to a halt, eliminate or, where that is not possible or feasible, to suppress, reduce and minimize.~~

~~Action plan means any agreement entered into by the City and a violator designed to eliminate nuisances from a property or properties.~~

~~Administrative Hearing Officer means those individuals appointed by the City Manager and who act pursuant to Chapter 2.09 of this Code who are authorized to hear code infraction and/or chronic offender cases.~~

~~Affirmative defense means a situation or condition that is raised by a violator in response to an alleged violation which, if proven to be true, relieves the respondent from responsibility for the violation.~~

~~Arm's-length transaction means a transaction between two (2) otherwise unrelated or unaffiliated parties.~~

~~Building means a structure which has the capacity to contain and is designed for the shelter of humans, animals or property. Building shall include any house, office building, store, warehouse or structure of any kind, whether or not such structure is permanently~~

affixed to the ground upon which it is situated, and any trailer, semi-trailer, trailer coach, mobile home or other vehicle designed or used for occupancy by persons for any purpose.

*Business* means any organization or entity that operates on a property, including but not limited to sole proprietorships, corporations, partnerships, limited liability corporations and nonprofit corporations. A business for purposes of this Chapter shall be deemed to be the same entity, regardless of changes in its legal formation, if changes are done in a transaction that has not been done at arm's length.

*Chronic offender* means an individual or business who or which has been convicted of three (3) nuisance violations of this Code within a twelve-month period, or five (5) nuisance violations of this Code within an eighteen-month period. For purposes of this Chapter, the convictions required must have occurred as the result of nuisance violations that did not occur on the same day. A chronic offender can be a property owner, agent or tenant.

*Chronic offense complaint* means the document which the City files to begin the process of declaring an individual or business a chronic offender, or declaring a property a chronic offense property.

*Chronic offense property* means a parcel of real property on which activities have resulted in three (3) nuisance convictions against any individual or business within a twelve-month period, or five (5) nuisance convictions against any individual or business within an eighteen-month period. A chronic offense property is also a parcel of real estate consisting of a complex of multiple individual residences or dwelling units and/or businesses, on which activities have resulted in four (4) nuisance convictions against any individual or business within a twelve-month period or six (6) nuisance convictions against any individual or business within an eighteen-month period for a complex of four (4) or less dwelling units and/or businesses; or five (5) nuisance convictions against any individual or business within a twelve-month period or seven (7) nuisance convictions against any individual or business within an eighteen-month period for a complex of more than four (4) but less than nine (9) dwelling units and/or businesses; or six (6) nuisance convictions against any individual or business within a twelve-month period or eight (8) nuisance convictions against any individual or business within an eighteen-month period for a complex of nine (9) or more dwelling units and/or businesses. For purposes of this Chapter, the required convictions must have occurred as the result of violations that did not occur on the same day.

*Leasehold interest* means a lessor's or lessee's interest in real property under a verbal or written lease agreement.

*Legal or equitable interest* means and includes every legal and equitable interest, title, estate, tenancy and right of possession recognized by law or equity, including but not limited to freeholds, life estates, future interests, condominium rights, time-share rights, leaseholds, easements, licenses, liens, deeds of trust, contractual rights, mortgages, security interests and any right or obligation to manage or act as agent or trustee for any person holding any of the property interests set forth above.

*Municipal Court or Court* means the Municipal Court of the City as established in the City Charter and Chapter 2.08 of this Code.

*Nuisance violation* means any nontraffic conviction of the laws of, respectively, the City, County or State, which disturbs the peace of the neighborhood or otherwise harms

the health, safety or welfare of the residents of the City, to specifically include any and all convictions pursuant to Titles 6, 7, 9, 10, 13 and 18 of this Code.

*Real property or property* means land and all improvements, buildings and structures, and all estates, rights and interests, legal or equitable, in the same, including but not limited to all forms of ownership and title, future interests, condominium rights, time-share rights, easements, water rights, mineral rights, oil and gas rights, space rights and air rights.

*Respondent* means the property itself, any person owning or claiming any legal or equitable interest or right of possession in the property, all tenants and occupants at the property, all managers and agents for any person claiming a legal or equitable interest in the property, any person committing, conducting, promoting, facilitating or aiding the commission of or flight from a code infraction and any other person whose involvement may be necessary to carry into effect the Administrative Hearing Officer's orders.

*Unit* means each individual dwelling space within a multi-unit dwelling which is capable of legally being occupied as a separate dwelling space.

#### ~~1.35.030 - Chronic offender databases; chronic offense property database.~~

##### ~~(a) Chronic offender tenant database.~~

~~(1) Maintenance of database. The City shall maintain a database of the name of any tenant who has been found to be a chronic offender pursuant to this Chapter. The database shall be available to the general public.~~

~~(2) Removal from database. The City shall remove the names of tenants from the database when the City learns or is notified that the tenant has not been cited or convicted of any nuisance violations within twelve (12) months of the tenant's placement on the chronic offender tenant database.~~

##### ~~(b) Chronic offender owner/agent database.~~

~~(1) Maintenance of database. The City shall maintain a database of the name of any property owner or agent who has been found to be a chronic offender pursuant to this Chapter. The database shall be available to the general public.~~

~~(2) Removal from database. The City shall remove the names of property owners or agents from the database when the City is notified that the property owner has not been cited or convicted of any nuisance violations within twelve (12) months of the property owner's placement on the chronic offender owner database.~~

##### ~~(c) Chronic offense property database.~~

~~(1) Maintenance of database. The City shall maintain a database of the addresses of all properties or units which have been declared to be a chronic offense property pursuant to this Chapter. The database shall be available to the general public.~~

~~(2) Removal from database. The City shall remove the address of a property from the database when the City learns or is notified of one (1) of the following events:~~

~~a. That the property has not been the location for a cited nuisance violation within twelve (12) months of the placement of the property address on the chronic offense property database;~~

~~b. That the property has been transferred in an arm's-length transaction to an individual who has no relationship to the prior property owner.~~

#### ~~1.35.040 - Chronic offense property/chronic offender complaint; procedures in general.~~

~~(a) Any chronic offender or chronic offense property action commenced shall be in the nature of an administrative proceeding. All issues of fact and law in such actions shall~~

~~be tried to the Administrative Hearing Officer. No equitable or affirmative defenses may be set up or maintained in any such action except as provided in Section 1.35.100 below. Injunctive remedies under this Chapter may be directed toward the real property or toward a particular person.~~

~~(b) An action under this Chapter shall be commenced by the serving of a chronic offense property/chronic offender complaint with the Administrative Hearing Officer, which may be accompanied by a motion for an emergency abatement order. The complaint shall be signed by an agent of the City, which may include, but is not limited to, employees of the Community Development Department or the City Attorney's Office on behalf of the City.~~

~~(c) Chronic offense property/chronic offender violations under the provisions of this Chapter shall be strict liability violations. No culpable mental state of any type or degree shall be required to establish a chronic offense property/chronic offender violation under this Chapter or to obtain approval for the remedies provided under this Chapter. Proceedings under this Chapter shall generally be governed by Section 2.09.110 of this Code.~~

~~(d) In the event that the City pursues any criminal penalties provided in any other section of this Code, any other civil remedies or the remedies of any administrative action, the remedies in this Chapter shall not be delayed or held in abeyance pending the outcome of any proceedings in the criminal, civil or administrative action or any action filed by any other person, unless all parties to the action under this Chapter so stipulate.~~

~~(e) Actions under this Chapter may be consolidated with another civil action under this Chapter involving the same individual or business, or the same parcel of real property. Actions under this Chapter shall not be consolidated with any other civil or criminal action. No party may file any counterclaim, cross-claim, third party claim or set off of any kind in any action under this Chapter.~~

~~(f) Chronic offense property/chronic offender violations may include actions affecting the use, possession and enjoyment of real property. Accordingly, the City may file and record with the County Clerk and Recorder a notice of lis pendens against the real property involved to fully inform and protect the interests of any bona fide innocent third party purchaser.~~

~~(g) Neither party must, but either party may, be represented by an attorney. Chronic offense property/chronic offender violations may be administratively presented by the City Attorney's Office or by those Code Enforcement personnel authorized to do so by the Director of Community Development. The Director of Community Development shall ensure that any Code Enforcement personnel authorized to administratively present these violations have received appropriate training.~~

~~(h) Neither party shall have the right to cross-examination. The Administrative Hearing Officer may, in his or her discretion, allow either party to ask questions of any witnesses, or may himself or herself ask questions of any witnesses.~~

~~(i) If the chronic offense property/chronic offender violation is proven by a preponderance of the evidence, the Administrative Hearing Officer shall enter the appropriate findings and shall assess the appropriate sanction and costs as set forth in this Code. Minimum sanctions shall be as set forth in Chapter 1.33 of this Title.~~

~~(j) The parties to an action under this Chapter may voluntarily stipulate to any remedy deemed appropriate by the parties. Approval of the Administrative Hearing Officer to all stipulations is required~~

~~1.35.050 – Parties to action; intervention.~~

~~(a) The parties to a chronic offense property/chronic offender violation action include the City and the respondent(s). No respondent shall be deemed a necessary or indispensable party.~~

~~(b) Any person holding any legal or equitable interest or right of possession in the property who has not been named as a respondent may intervene as respondent. No other parties may intervene~~

~~1.35.060 – Service of chronic offense property/chronic offender violation complaint.~~

~~(a) Personal service upon the respondent is preferred and may be made by City personnel.~~

~~(b) In the event that personal service cannot be made at the location of the chronic offense, service of the complaint upon the respondent shall be deemed sufficient if a copy of the same is posted in some prominent place on the real property and sent by first-class mail to the respondent at the last known address given by said person, at the address shown by public records or at the address listed upon any government issued identification document bearing the photograph of said person presented to or found by any law enforcement officer or code enforcement officer. Service shall be deemed sufficient whether or not the complaint is actually received. Service shall be deemed completed seven (7) calendar days after the letter is mailed.~~

~~(c) Service by publication. Respondents and unknown persons who may claim an interest in the property who cannot be served by mail as provided above and cannot be served after a good faith and diligent effort to do so may be served by publishing a copy of the notice of violation twice in a newspaper of general circulation within the City. The notice of violation shall describe the property at issue and the place where a copy of the notice of violation and attendant documents can be obtained. A party served by publication shall have thirty (30) calendar days from the date of the last publication to respond.~~

~~(d) Agents of the City are authorized to enter upon the parcel for the purpose of posting these notices and to affix the notice in any reasonable manner to buildings and structures~~

~~1.35.070 – Declaration of chronic offender/chronic offense property; remedies.~~

~~(a) Declaration of chronic offense property.~~

~~(1) Whenever a chronic offense property complaint is filed by the City, the Administrative Hearing Officer shall order a hearing which shall be held within sixty (60) days of the filing of the complaint. The respondent may file an answer, which answer must be filed not less than ten (10) days prior to the hearing. The respondent's answer must be filed with the Administrative Hearing Officer and a copy sent to the Community Development Department.~~

~~(2) The City shall have the burden of proof as to the record of nuisance convictions. Upon proof by a preponderance of the evidence that a chronic offense property exists, the Administrative Hearing Officer shall declare the property a chronic offense property, and the respondent shall be liable for fines resulting therefrom. The Administrative Hearing Officer may also order such other equitable relief as deemed just and proper, including but not limited to injunctions and/or abatement.~~



~~(3) Once a property has been declared a chronic offense property, the City shall require more frequent periodic inspections of the property to check for violations of this Code. The frequency of such inspections and the duration of the increased inspection period shall be determined solely by the City. In making such a determination, the City shall evaluate the nature of the prior offenses, the number of complaints about the property and other factors determined to be relevant by the City.~~

~~(4) Once a property has been declared a chronic offense property, the respondent shall not be eligible for courtesy warnings in regard to future alleged nuisance violations.~~

~~(5) Once a property has been declared a chronic offense property, the matter may be referred by the City to the District Attorney for consideration of charges pursuant to Section 16-13-301, et seq., C.R.S.~~

~~(b) Declaration of chronic offender.~~

~~(1) Whenever a chronic offender complaint is filed by the City, the Administrative Hearing Officer shall order a hearing which shall be held within sixty (60) days of the filing of the complaint. The respondent may file an answer, which answer must be filed not less than ten (10) days prior to the hearing. The respondent's answer must be filed with the Administrative Hearing Officer and a copy sent to the Community Development Department.~~

~~(2) The City shall have the burden of proof as to the record of nuisance convictions. Upon proof by a preponderance of the evidence that the individual is a chronic offender, the Administrative Hearing Officer shall declare the respondent a chronic offender and the respondent shall be liable for fines resulting therefrom. The Administrative Hearing Officer may also order such other equitable relief as deemed just and proper, including but not limited to injunctions, educational classes and/or abatement.~~

~~(3) Once an individual or business has been declared a chronic offender, that individual or business shall not be eligible for a deferred sentence or deferred prosecution in regard to future nuisance violations~~

~~1.35.080 — Abatement orders.~~

~~(a) The issuance of emergency or permanent abatement orders under this Chapter shall be governed by the provisions of Rule 65 of the Colorado Rules of Civil Procedure, pertaining to emergency restraining orders, preliminary injunctions and permanent injunctions, except to the extent of any inconsistency with the provisions of this Chapter, in which event the provisions of this Chapter shall prevail. Emergency abatement orders provided for in this Chapter shall go into effect immediately when served upon the property or party against whom they are directed. Permanent abatement orders shall go into effect as determined by the Administrative Hearing Officer. No bond or other security shall be required of the City upon the issuance of any emergency abatement order.~~

~~(b) Every abatement order under this Chapter shall set forth the reasons for its issuance; shall be reasonably specific in its terms; shall describe in reasonable detail the acts and conditions authorized, required or prohibited; and shall be binding upon the parcel, the parties to the action, their attorneys, agents and employees and any other person named as a party respondent in the chronic offense action and served with a copy of the order.~~

~~(c) Emergency or permanent abatement orders entered under this Chapter shall be narrowly tailored so as to address the particular kinds of separate violations that form the basis of the alleged chronic offense. Such orders may include: (1) Orders requiring any party respondent to take steps to abate the chronic offense;~~  
~~(2) Orders authorizing the nuisance abatement officer or any other Code Enforcement Officer or police officer to take reasonable steps to abate the chronic offense activity and prevent it from recurring, considering the nature and extent of the separate violations;~~  
~~(3) Orders requiring certain named individuals to stay away from the parcel at all times;~~  
~~(4) Orders reasonably necessary to access, maintain or safeguard the parcel;~~  
~~(5) Orders reasonably necessary for the purposes of abating the chronic offense or preventing the chronic offense from occurring or recurring; provided, however, that no such order shall require the seizure of, the forfeiture of title to or the emergency or permanent closure of a parcel, or the appointment of a special receiver to protect, possess, maintain or operate a parcel; and/or~~  
~~(6) Orders authorizing access to a building, including the interior of the building if demonstrated to be necessary in order to finally abate the nuisance.~~  
~~(d) Emergency abatement orders.~~  
~~(1) The purpose of an emergency abatement order shall be to temporarily abate an alleged chronic offense pending the final determination of a chronic offender or chronic offense property. An emergency abatement order may be issued by the Administrative Hearing Officer pursuant to the provisions of this Section even if the effect of such order is to change, rather than preserve, the status quo.~~  
~~(2) At any hearing on a motion for an emergency abatement order, the City shall have the burden of proving that there are reasonable grounds to believe that a chronic offense occurred in or on the parcel and, in the case of an emergency order granted without notice to the party respondent, that such order is reasonably necessary to avoid some immediate, irreparable loss, damage or injury. In determining whether there are such reasonable grounds, the Administrative Hearing Officer may consider whether an affirmative defense may exist under Section 1.35.100 below.~~  
~~(3) At any hearing on a motion for an emergency abatement order or a motion to vacate or modify an emergency abatement order, the Administrative Hearing Officer shall temper the rules of evidence and admit hearsay evidence unless the Administrative Hearing Officer finds that such evidence is not reasonably reliable and trustworthy. The Administrative Hearing Officer may also consider the facts alleged in the verified complaint or in any affidavit submitted in support of the complaint or motion for an emergency abatement order.~~  
~~(e) Permanent abatement orders. Where the existence of a chronic offense is established in a civil action under this Chapter after a final hearing on the merits, the Administrative Hearing Officer shall enter a permanent abatement order requiring the party respondent to abate the chronic offense and take specific steps to prevent the same and other chronic offenses from occurring or recurring on the parcel or in using the parcel~~

#### ~~1.35.090 – Motion to vacate or modify emergency abatement orders.~~

~~(a) At any time an emergency abatement order is in effect, any party respondent or any person holding any legal or equitable interest in any parcel governed by such an order may file a motion to vacate or modify said order. Any motion filed under this~~

~~Subsection shall state specifically the factual and legal grounds upon which it is based, and only those grounds may be considered at the hearing. The Administrative Hearing Officer shall vacate the order if he or she finds by a preponderance of the evidence that there are no reasonable grounds to believe that a chronic offense was committed in or on the parcel or if the Administrative Hearing Officer believes that the conditions required by Paragraph 1.35.080(d)(2) no longer exist. The Administrative Hearing Officer may modify the order if he or she finds by a preponderance of the evidence that such modification will not be detrimental to the public interest and is appropriate, considering the nature and extent of the separate violations.~~

~~(b) The Administrative Hearing Officer shall not grant a continuance of any hearing set under this Section unless all the parties so stipulate.~~

~~(c) If all parties so stipulate, the Administrative Hearing Officer may order the trial on the merits to be advanced and tried with the hearing on these motions~~

#### ~~1.35.100—Affirmative defenses:~~

~~If a person named as a party respondent is the owner of a parcel of real property and is leasing the parcel to one (1) or more tenants, or the person named has been hired by the owner of the parcel to manage and lease the parcel, and the separate violations which constitute the alleged chronic offense were committed by one (1) or more of the tenants or occupants of the parcel, it shall be a defense to an action under this Article that said person has:~~

~~(1) Evicted, or attempted to evict by commencing and pursuing with due diligence appropriate court proceedings, all of the tenants and occupants of the parcel that committed each of the separate violations that constitute the alleged chronic offense;~~

~~(2) Considering the nature and extent of the separate violations, undertaken and pursued with due diligence reasonable means to avoid a recurrence of similar violations on the parcel by the present and future tenants or occupants of the parcel upon receiving written notice or otherwise becoming aware of the citations which led to convictions or liability concerning the tenant's behavior or condition of the property;~~

~~(3) Not received notice or otherwise become aware of one (1) of the chronic offense citations or convictions leading to the issuance of a chronic offense complaint under this Chapter (notice under this Paragraph shall mean written or verbal notice of any kind); or~~

~~(4) Self-reported a violation pursuant to Section 1.33.035 of this Title; however, such affirmative defense shall only be applicable to the particular violation that was self-reported~~

#### ~~1.35.110—Supplementary remedies for chronic offenses:~~

~~In any action filed under the provisions of this Chapter, in the event that any one (1) of the parties fails, neglects or refuses to comply with an order of the Administrative Hearing Officer, the Administrative Hearing Officer may, upon the motion of the City, in addition to or in the alternative to the remedy set forth in Section 1.35.170 of this Chapter and the possibility of criminal prosecution, permit the City to enter upon the parcel of real property and abate the nuisance, take steps to prevent chronic offenses from occurring or perform other acts required of the respondent in the Administrative Hearing Officer's orders~~

#### ~~1.35.120—Stipulated alternative remedies:~~

~~(a) The City and any party respondent to an action under this Chapter may voluntarily stipulate to orders and remedies, emergency or permanent, that are different from those provided in this Chapter. (b) The Administrative Hearing Officer may accept such stipulations for alternative remedies and may order compliance therewith only when the responding parties admit some or all of the allegations set forth in the chronic offense property/chronic offender complaint~~

~~1.35.130— Remedies under other laws unaffected.~~

~~Nothing in this Chapter shall be construed as:~~

~~(1) Limiting or forbidding the City or any other person from pursuing any other remedies available at law or in equity; or~~

~~(2) Requiring that evidence or property seized, confiscated, closed, forfeited or destroyed under other provisions of law be subjected to the special remedies and procedures provided in this Chapter.~~

~~1.35.140— Limitation of actions.~~

~~Actions under this Chapter shall be filed no later than three hundred sixty-five (365) days after the last in the series of acts constituting the chronic offense occurs. This limitation shall not be construed to limit the introduction of evidence of separate violations that occurred more than three hundred sixty-five (365) days before the filing of the complaint for the purpose of establishing the existence of a chronic offense or when relevant to show a pattern of conduct or for any other purpose~~

~~1.35.150— Effect of property conveyance.~~

~~When title to a parcel is conveyed from one (1) person to another, any separate violation existing at the time of the conveyance which could be used under this Chapter to prove that a chronic offense exists with respect to such parcel, shall not be so used unless a reason for the conveyance was to avoid the parcel being declared a chronic offense under this Chapter. It shall be a rebuttable presumption that a reason for the conveyance of the parcel was to avoid the parcel from being declared a chronic offense under this Chapter if:~~

~~(1) The parcel was conveyed for less than fair market value;~~

~~(2) The parcel was conveyed to an entity controlled directly or indirectly by the person conveying the parcel; or~~

~~(3) The parcel was conveyed to a relative of the person conveying the parcel~~

~~1.35.160— Severability.~~

~~In the event that any provision of this Chapter is declared to be unconstitutional or invalid for any reason, the remaining provisions of this Chapter shall be upheld and enforced unless the remaining provisions would create an unreasonable or unjust result~~

~~1.35.170— Failure to comply with orders of Administrative Hearing Officer.~~

~~Failure to comply with any order issued by the Administrative Hearing Officer shall constitute a criminal violation of this Code, and violators may be subject to prosecution in front of the Municipal Judge and be penalized pursuant to Chapter 1.32 of this Title~~

Section 4. Chapter 12, Administrative Hearing Officers, of Title 2, Administrative and General Government, is repealed.

## CHAPTER 12. ADMINISTRATIVE HEARING OFFICERS

### ~~Sec. 2-1026. Administrative hearing officers.~~

~~(a) The city manager is authorized and empowered to appoint one or more administrative hearing officers to hear certain noncriminal, administrative Code violations and to act as an administrative hearing officer in any other situation as provided for in this Code and as directed by the city manager. The administrative hearing officer shall be an attorney licensed to practice in the state.~~

~~(b) Administrative support shall be provided to the administrative hearing officer by the appropriate city personnel as determined by the city manager.~~

~~(Code 1994, § 2-09.010; Ord. No. 47, 2006, § 1, 10-17-2006)~~

### ~~Sec. 2-1027. Definitions.~~

~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~Default judgment means an order made by the administrative hearing officer finding liability for a Code violation because respondent failed to appear at a hearing, stipulate to a finding of liability, or otherwise defend against a notice of violation.~~

~~Indigent means one of the following, either of which must be proven by credible written evidence, including tax returns, W-2 statements, or eligibility statements from a social service agency:~~

~~(1) Total household income is at or below 135 percent of the poverty level as determined by the U.S. Department of Health and Human Services; and liquid assets are equal to or less than \$1,500.00; or~~

~~(2) Total household income is up to 25 percent above the current federal poverty guidelines as published in the Federal Register; liquid assets are equal to or less than \$1,500.00; and reasonable monthly expenses equal or exceed monthly income.~~

~~Respondent means a person or entity receiving a notice of Code violation.~~

### ~~Sec. 2-1028. Filing of action or notice of violation.~~

~~Any action before the administrative hearing officer shall run in the name of the city against a respondent.~~

### ~~Sec. 2-1029. Execution of process.~~

~~Service of any paper, including a notice of violation or subpoena, may be executed as provided in this chapter or, if no provision is made, as provided in the Colorado Rules of Civil Procedure.~~

### ~~Sec. 2-1030. Fees and costs designated.~~

~~(a) In the administrative hearing officer's discretion, a docket fee may be assessed against any respondent who pleads liable, who enters into a stipulation or settlement agreement or who, after a hearing, is found liable of a code violation. Docket fees shall be set in accordance with section chapter 2 of title 1 of this Code.~~

~~(b) Docket fees shall be in addition to any other reasonable hearing costs or other fees designated by the administrative hearing officer, this Code, or other applicable law.~~

~~(c) The costs assessed pursuant to this section may include:~~

- ~~(1) Costs for copies of papers, photos, videos, or other evidence reasonably obtained for use in the case.~~
- ~~(2) Witness fees, mileage for witnesses, and fees for the service of process.~~
- ~~(3) Any item specifically authorized by this Code to be included as part of the costs.~~
- ~~(4) On proper motion of the city and at the discretion of the administrative hearing officer, any other reasonable and necessary costs incurred by the city which are directly the result of the prosecution of the action.~~

~~Sec. 2-1031. Payment of fees and costs.~~

~~In any case where a respondent is found liable of a code violation, the administrative hearing officer shall that respondent pay costs within the limits declared by this chapter, and:~~

- ~~(1) If any amount ordered paid by the administrative hearing officer is not paid on or before the due date for payment, a late payment fee shall be added to the amount owed. A late payment fee may only be assessed once per case.~~
- ~~(2) If any amount ordered paid by the administrative hearing officer, including a late payment fee, is not paid on or before the due date for payment, interest on such amount, excluding the late payment fee, shall accrue at the rate established by C.R.S. § 39-21-110.5.~~
- ~~(3) All amounts due and unpaid, including accrued interest and any late payment fee, shall be paid upon notice and demand and may be collected by the city by any legal means. Where the Code violation involves property and the owner of the property is the respondent, the city may obtain a lien against the property. The lien shall have priority over all liens, except general taxes and prior special assessments. If respondent fails to pay the lien for 30 calendar days, the lien may be certified by the director of finance to the county treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten percent penalty to defray the cost of collection, as provided by state law.~~
- ~~(4) The administrative hearing officer may waive all or a portion of the fines, fees, or costs if the administrative hearing officer determines respondent to be indigent.~~
- ~~(5) All fines, fees, and costs ordered paid by the administrative hearing officer shall be collected by the director of finance and deposited in the general fund of the city.~~

~~Sec. 2-1032. General procedures for hearings before administrative hearing officer.~~

- ~~(a) The administrative hearing officer is authorized to adopt rules and procedures governing conduct of hearings in accordance with the provisions of this chapter. The city council manager shall approve all such rules and procedures prior to their adoption by the administrative hearing officer. A copy of the rules and procedures shall be maintained by the city clerk.~~
- ~~(b) Hearings held before the administrative hearing officer shall be informal, but in the administrative hearing officer's discretion may be conducted in the manner provided for the hearing of cases by the municipal court. There shall be no right to a trial by jury. The burden of proof in hearings shall be on the city, by a preponderance of the evidence.~~
- ~~(c) There shall be no discovery in Code violation cases and other administrative matters, except that, upon request, prior to the hearing, each party will be allowed to examine any documents, photos, videos and other evidence the other party intends to~~

present at the hearing. Each party will be entitled to receive a list of witnesses the other party intends to present at the hearing.

(d) All proceedings under this section shall be governed by the Colorado Rules of Civil Procedure and the State Administrative Procedure Act, except that where the Rules or the Act conflicts with the provisions of this Code, the Code shall control.

(e) Code violations may include actions affecting the use, possession, and enjoyment of real property. Accordingly, the city may file and record with the county clerk and recorder a notice of lis pendens against the real property involved to fully inform and protect the interests of any bona fide innocent third-party purchaser.

(f) Respondents in a Code violation case may include the property itself, any person owning or claiming any legal or equitable interest or right of possession in the property, tenants and occupants at the property, and managers and agents for any person claiming a legal or equitable interest in the property. Any person holding any legal or equitable interest or right of possession in the property who has not been named as a party respondent may intervene. No other parties may intervene. None of these parties shall be deemed necessary or indispensable parties under the Colorado Rules of Civil Procedure.

(g) Code violation cases shall be commenced by providing respondent with a notice of violation.

(h) In all Code violation cases, personal service upon respondent is preferred. Personal service may be made by city personnel. In the event that personal service cannot be made at the location of the violation, the notice of violation may be served upon a respondent by posting a copy of the same in some prominent place on the real property location of the violation, and sending a copy to the owner, tenant, agent, and/or all other persons known to have an interest in the real property by first class mail, at the address shown on the county property portal, at the last known address given by said person, or at the address listed upon any government issued identification document bearing the photograph of said person presented to any law enforcement officer or code compliance inspector. Service shall be deemed completed seven calendar days after the copy of the notice of violation is mailed, whether or not the notice is actually received.

(i) No party must, but any party may be represented by an attorney. The city may be represented by the city attorney's office or by those other city personnel authorized to do so by the director of community development. The director of community development shall ensure that any such other personnel authorized to represent the city have received appropriate training.

(j) If respondent appears at the hearing and all elements of an alleged Code violation are proven by a preponderance of the evidence, the administrative hearing officer shall find respondent liable, and enter an appropriate order. If the respondent is found liable, the administrative hearing officer shall assess the appropriate fines, fees, or costs.

(k) If respondent appears at the hearing and any element of an alleged Code violation is not proven by a preponderance of the evidence, the administrative hearing officer shall dismiss the case.

(l) The city may voluntarily stipulate to any remedy deemed appropriate by the parties. Approval of the administrative hearing officer to all stipulations is required.

(m) If respondent fails to appear at the hearing, all elements of a Code violation are deemed proven, the administrative hearing officer shall find respondent liable, and enter a default judgment, including the assessment of appropriate fines, fees, or costs.

~~Sec. 2-1033. Motions.~~

- ~~(a) The administrative hearing officer may accept motions in his discretion.~~
- ~~(b) Motions must generally comply with the Colorado Rules of Civil Procedure.~~
- ~~(c) Motions for post-hearing relief or relief from an order of the administrative hearing officer must generally comply with the Colorado Rules of Civil Procedure.~~
- ~~(d) All motions for post-hearing relief or relief from an order must be filed with the administrative hearing officer no later than 15 calendar days following the entry date of the order.~~

~~Sec. 2-1034. Order of administrative hearing officer.~~

- ~~(a) At the completion of any hearing held under the provisions of this chapter, or upon presentation of a stipulation, the administrative hearing officer shall enter an order either:
  - ~~(1) Dismissing the case; or~~
  - ~~(2) Making a finding of liability, based upon:
    - ~~a. A stipulation entered into by the parties;~~
    - ~~b. A default judgment; or~~
    - ~~c. The evidence presented at the hearing.~~~~~~
- ~~(b) The order shall also assess:
  - ~~(1) Fines as established in chapter 10 of title 1 of this Code; and/or~~
  - ~~(2) Other legal and equitable relief deemed just and proper by the administrative hearing officer, including abatement pursuant to chapter 10 of title 1 of this Code and/or injunction.~~~~
- ~~(c) A finding of liability entered by the administrative hearing officer shall constitute a final action that will only be stayed pending a motion for reconsideration.~~

~~Sec. 2-1035. Failure to comply with orders of administrative hearing officer.~~

~~Failure to comply with any order issued by the administrative hearing officer shall constitute a criminal violation of this Code and a respondent who fails to comply may be subject to prosecution before the municipal court and be penalized pursuant to chapter 9 of title 1 of this Code.~~

~~Sec. 2-1036. Record of administrative proceedings.~~

~~A record of hearing or other administrative proceedings shall be made by recording and shall be maintained by the administrative hearing officer. The record shall contain the name of the respondent, the date of the appearance before the administrative hearing officer, the case number, the date, place and type of alleged Code violation and the findings, rulings and orders of the administrative hearing officer. The records and recordings regarding proceedings before the administrative hearing officer shall be maintained by the city clerk's office and shall be retained for 35 calendar days following the final order of the administrative hearing officer if no appeal is filed. In the event an appeal is filed, the records and recordings shall be maintained until final resolution of the matter.~~

~~Sec. 2-1037. Judicial review of administrative hearing officer's decisions.~~



~~(a) The order or action of the administrative hearing officer shall be considered the city's final action and may only be judicially reviewed pursuant to Rule 106 of the Colorado Rules of Civil Procedure.~~

~~(b) When an appellant desires to stay an order or judgment of the administrative hearing officer, a bond to the city must be executed in the amount of the fine, fee, and/or costs ordered by the administrative hearing officer in such form and with sureties qualified as may be designated by the administrative hearing officer.~~

~~Secs. 2-1038—2-1057. Reserved.~~