

ATTACHMENT 4 – Comparative Jurisdiction Analysis

Jurisdiction	Sample Language	Comparison to Chapter 1 & Notes
<u>Beaverton</u> Civil Infractions Process (BCC Chapter 2.10)	Purpose Establishes a civil (non-criminal) procedure for enforcing City ordinance violations through investigation, voluntary compliance, and municipal court hearings. Process Overview Administration The Code Enforcement Officer may issue enforcement rules, subject to City Manager approval. Investigation & Voluntary Compliance Code Enforcement Officers investigate reported violations. Officers may offer a Voluntary Compliance Agreement (VCA) allowing the responsible party to correct the issue without admitting fault. If the VCA is completed, the case is closed; if not, enforcement proceeds. Complaint & Service If a violation continues, the officer files a civil complaint with Municipal Court. The responsible party is served by mail or in person with a summons describing the infraction, fine amount, and court date. Response Options (within 10 days) - Admit and pay the forfeiture. - Request a trial by returning the summons and posting a security deposit. - Fail to respond → default judgment and forfeiture entered. Trial Procedures: Non-jury trial held in Municipal Court. Both sides may present evidence and witnesses; <u>the City must prove the infraction by a preponderance of evidence.</u> If proven, the judge issues a final order with forfeiture, costs, or fees. Decisions may be appealed to Circuit Court by writ of review. Penalties & Enforcement Forfeiture limits: Class 1: up to \$500	Beaverton creates a civil infraction procedure and it's enforcement chapter outlines a complete process. Currently, Wilsonville's Chapter 1 includes broad legal ability to enforce, including criminal misdemeanors and fines structure. However, there is no formal process for infractions detailed. Something that a Chapter 1 overhaul could use. Nature of Enforcement: <u>Beaverton</u> – administrative/quasi-judicial <u>Wilsonville</u> – general statutory authority referencing ORS provisions on violations and misdemeanors* *Problem since municipal court does not cover misdemeanors in Wilsonville. Penalty Structure: <u>Beaverton</u> -- Graduated forfeiture classes with fixed maximums <u>Wilsonville</u> – Maximum fine limits for misdemeanors (A-C) and violations (up to \$500) aligning with state law* *State law subject to change better to create a process administratively for consistency. Hearing/Adjudication: <u>Beaverton</u> – Details procedural steps—complaint filing, response deadlines, hearings, default judgments, appeals. <u>Wilsonville</u> – No detailed process, enforcement procedures adopted by reference to ORS 153 & 133* *State laws have been repealed and replaced with new organization, references to specific statutes aren't the most efficient way to detail code processes. Can create our own that mirrors State process?

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	Class 2: up to \$250 Class 3: up to \$100 Repeat violations (within 12 months): up to \$1,000. Each day a continuing violation exists counts as a new infraction. Unpaid forfeitures may be docketed as liens or collected per state law. Failure to comply with a VCA is a separate Class 1 infraction.	
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<u>McMinnville:</u> Code Compliance Process (MMC Chapter 2.50)	Purpose Establishes a civil, non-criminal process for enforcing City code violations through investigation, notice, voluntary compliance, and, if necessary, corrective action or penalties. Provides procedures for inspections, warrants, cost recovery, and appeals. Process Overview Investigation & Inspection • Compliance Officers investigate reported or observed violations. • Entry onto property requires: ◦ Consent, ◦ Administrative warrant, or ◦ Exigent circumstances (e.g., immediate danger). • Warrants are issued by Municipal Court upon affidavit showing probable cause. Notice of Violation & Voluntary Compliance • If a violation is confirmed, the officer issues a Notice of Code Violation, posted on-site and mailed to the owner and person in charge. • The notice includes the violation, corrective deadline (10 days), and protest rights. • The responsible person may submit a Voluntary Compliance Plan admitting responsibility and outlining correction steps. • The officer may approve, reject, or modify the plan; that decision is final. City-Initiated Corrective Action • If the violation isn't corrected or the plan is violated, the City may perform corrective action itself. • Entry requires a corrective action warrant, unless an emergency exists. • The City Manager decides whether to proceed with corrective work. Cost Recovery • All persons responsible are jointly and severally liable for corrective costs. • A Notice of Corrective Action Costs is posted and mailed; payment is due in 30 days. • Unpaid costs become a lien on the property, accruing 9% annual interest.	Nature of Enforcement: <u>McMinnville</u> – administrative/quasi-judicial <u>Wilsonville</u> – general statutory authority referencing ORS provisions on violations and misdemeanors* Penalty Structure: <u>McMinnville</u> -- Penalties are classified by City Council resolution (Classes 1–8, or Specific Fine). Unclassified violations default to Class 3 unless otherwise designated. <u>Wilsonville</u> – Maximum fine limits for misdemeanors (A-C) and violations (up to \$500) aligning with state law* *State law subject to change better to create a process administratively for consistency. Hearing/Adjudication: <u>McMinnville</u> – Details procedural steps—complaint filing, response deadlines, hearings, default judgments, appeals. Some statutory reference to ORS Chapter 34. Rather than municipal or Circuit Court redirection, Hearings Officer is given jurisdiction over all appeals and procedures. <u>Wilsonville</u> – No detailed process, enforcement procedures adopted by reference to ORS 153 & 133*
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	Civil Penalties • If the violation remains uncorrected, the officer issues a Notice of Civil Penalty, posted and mailed to the responsible person. • Each day the violation continues counts as a separate offense. • Penalties are classified by City Council resolution (Classes 1–8, or Specific Fine). • Unclassified violations default to Class 3 unless otherwise designated. Protests & Appeals • Protest to City Manager: Must be filed within 10 days of notice. • The City Manager may uphold, amend, or dismiss the notice and issue a Final Order. • Appeal to Hearings Officer: Must be filed within 10 days of the Final Order. • A hearing is held; both sides may present evidence and witnesses. • The Hearings Officer issues a written decision with correction or payment deadlines. • Judicial Review: Further review available by writ of review under ORS Chapter 34. Penalties & Enforcement • Failure to correct or pay may result in additional penalties or lien enforcement. • Each day a violation continues is a separate offense. • Correcting violations within 10 days may result in penalty waiver.	
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<u>Tigard:</u> Civil Infractions Ordinance (TMC Chapter 1.16)	Purpose: Establish civil procedures to enforce municipal code violations, decriminalize penalties, and provide a practical forum for hearings. Abatement procedures allow the city to act if violations pose immediate danger or if the responsible party fails or refuses to comply. Definitions • Civil infraction: Non-criminal violation of the code (excluding certain Title 7 and 10 violations). • Code enforcement officer: City personnel designated to enforce infractions. • Responsible party: Owners, agents, occupants, or persons causing/allowing violations. • Notice types: Letter of complaint, notice of violation, order to abate, notice of assessment. • Voluntary compliance agreement: Agreement to abate an infraction without admitting fault. General Provisions • Civil infractions do not require proof of intent. • Remedies in this chapter add to, not limit, other legal remedies. • The city is not liable for damages caused by violations or delayed enforcement. • Citations issued before the ordinance follow prior rules; severability ensures remaining provisions stay valid if parts are struck down. Reporting and Enforcement • Complaints or reports go to authorized code enforcement officers. • Officers assess whether to proceed based on evidence and city interest. • City manager can adopt administrative rules for uniform procedures (forms, timelines, fees, reporting standards). Right of Entry and Warrants • City may enter property for inspections or abatement with reasonable cause. • Entry into enclosed/private areas requires attempt to obtain consent; otherwise, a warrant may be issued. • Warrants: Must specify purpose, property, authorized persons, and comply with procedural safeguards.	Nature of Enforcement: <u>Tigard</u> – administrative/quasi-judicial *A comment on form: Definitions section provides that the procedures cover civil infractions with named exceptions for Title 7 and Title 10 violations—presumably where there are specific enforcement processes. Wilsonville could utilize this to cover and update for specific processes in Chapters 6, 8, 9, 10. <u>Wilsonville</u> – general statutory authority referencing ORS provisions on violations and misdemeanors* Penalty Structure: <u>Tigard</u> – Voluntary Compliance Agreements programs and procedures if violation persist. <u>Wilsonville</u> – Maximum fine limits for misdemeanors (A-C) and violations (up to \$500) aligning with state law* *State law subject to change better to create a process administratively for consistency. Hearing/Adjudication: <u>Tigard</u> – Details procedural steps—complaint filing, response deadlines, hearings, default judgments, appeals. Tigard provides warrants process in the enforcement chapter, something to keep in mind when implementing administrative warrants process into code. <u>Wilsonville</u> – No detailed process, enforcement procedures adopted by reference to ORS 153 & 133*
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	• Execution: Must occur within 10 working days; seized property may be disposed of if resale value is less than cost of holding/sale. Compliance Procedures • Voluntary compliance agreements may suspend enforcement; failure is a separate infraction. • Notices: ○ Letter of complaint: First step in administrative enforcement. ○ Notice of violation: Optional step before judicial enforcement. • Abatement timelines: Minimum 24 hours (notice of violation) or 5 days (letter of complaint); typically ≤30 days. • Immediate action: If danger to public health, safety, or welfare exists, the city may require immediate abatement and recover costs, with or without a warrant in emergencies. Jurisdiction • Appeals to the Civil Infractions Hearings Officer are allowed only if explicitly provided by the Tigard Municipal Code. • The Hearings Officer has quasi-judicial authority over the matter. Initiation of Appeal • A written Notice of Appeal must generally be filed within 5 days (excluding weekends and holidays) of the decision. • The Notice of Appeal must include: 1. Copy or full description of the decision being appealed. 2. Grounds claiming the decision is invalid, unauthorized, or improper. 3. Appellant's name, address, and phone number. 4. Any other information required by the Hearings Officer. Hearing Procedures • The Hearings Officer must schedule the hearing within 30 days of receiving the Notice of Appeal. • Notification of the hearing's time, date, and place is sent by first-class mail. • Hearing time may be extended at the discretion of the Officer or by motion of either party.	
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	• Hearings follow procedures in Sections 1.16.250–1.16.300, 1.16.320, and 1.16.330. • With written consent from both parties, the Officer may decide the appeal without a hearing, based solely on the record. Decision • The Civil Infractions Hearings Officer may: ○ Sustain, modify, reverse, or annul the appealed decision. ○ Remand the matter to the City department for further action. • The Officer's decision is final within the City; appeals to the City Council are not allowed. • Any further appeal is by writ of review to the Washington County Circuit Court under ORS 34.010–34.100.	
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<u>Tualatin:</u> Uniform Civil Infraction Procedure (TMC 7.1.010)	Purpose & Establishment - Provides a civil, non-criminal procedure for ordinance violations. - Intended to decriminalize minor offenses, create a convenient forum for hearings, and encourage compliance rather than punishment. - Liability may be based on ownership, control, or responsibility for property/conditions even without intent. - Procedures supplement other enforcement measures; the goal is correction and compliance rather than just monetary penalties. Definitions - City Manager: May designate officers to act under this chapter. - Civil Infraction/Infraction: Violations of ordinances without criminal penalties; continuing violations may result in daily separate infractions. - Enforcement Officer: City Manager or designee responsible for investigating infractions. - Forfeiture: Monetary judgment for infractions; exclusive method under this chapter, but not limiting other remedies. - Responsible Party: Property owner, manager, occupant, or any person who caused or authorized the infraction. - Prior Contact: Previous communication or warnings regarding the infraction, including permits or regulatory activity. Enforcement & Administrative Remedies - City officials must ensure permits or approvals do not conflict with ordinance requirements. - Enforcement officers may inspect property, request warrants, or seek injunctive relief. - Evidence of violations is prima facie against the property owner. - Remedies and penalties are cumulative and may be combined with other enforcement methods. Infraction Procedure - Reporting & Review: Enforcement officer reviews alleged infraction; may proceed or decline based on evidence and appropriateness. - Prior Contact & Voluntary Compliance: Officers may issue warnings or enter a Voluntary	Nature of Enforcement: <u>Tualatin</u> – administrative/quasi-judicial, noted uniform civil infraction procedure, rather than self-made administrative enforcement provisions, another option to pursue if a purely administrative doesn't fit with goals. <u>Wilsonville</u> – general statutory authority referencing ORS provisions on violations and misdemeanors* Penalty Structure: <u>Tualatin</u> – Maximum forfeiture for unspecified ordinance violations: \$500. Continuing violations are treated as separate infractions for each day. Court may reduce forfeiture or require community service <u>Wilsonville</u> – Maximum fine limits for misdemeanors (A-C) and violations (up to \$500) aligning with state law* Hearing/Adjudication: <u>Tualatin</u> – Not purely administrative as other cities have been—relies more on state statute processes. Particularly when it applies to rights to jury trials for defendants who receive citations in lieu of arrest. Hearings procedure for municipal infractions without a jury, but in front of the municipal court judge. <u>Wilsonville</u> – No detailed process, enforcement procedures adopted by reference to ORS 153 & 133*
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	Compliance Agreement; failure to comply constitutes a new infraction. • Uniform Infraction Citation and Complaint: Must include details of the violation, date/time, ordinance, court appearance instructions, and options for admission, no contest, or requesting a hearing. • Service & Court Appearance: Citation served per civil procedure rules; respondent must appear or submit payment/explanation. Bail and hearings may be adjusted by the court. • Hearing Procedures: Conducted before the Municipal Court without a jury; includes evidence presentation, cross-examination, subpoenas, and admissibility rules. Court determines only whether the act or condition occurred. • Judgment & Penalties: Court may impose forfeiture, court costs, witness fees, or conditional compliance orders. Record maintained for at least 180 days; review available via writ of review to Circuit Court. • Factors in Penalty Assessment: History of compliance, severity, economic impact, repeat violations, city costs, warnings, intent, and cooperation. • Enforcement of Judgments: Default judgments for failure to respond, possible liens on real property, withholding of city permits, and collection under state law; maximum forfeiture \$500 unless otherwise specified. General Penalty & Continuing Violations • Maximum forfeiture for unspecified ordinance violations: \$500. • Continuing violations are treated as separate infractions for each day. • Court may reduce forfeiture or require community service. Application of Citation in Lieu of Arrest • Applies when a person could be arrested for a City ordinance violation. Citation Procedure • Police officers may issue citations instead of taking a person into custody.	
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	• Citation includes court appearance info, offense description, and notice of consequences for failure to appear. • Officer files a duplicate copy with the Municipal Court along with proof of service. Failure to Appear • Willful failure to appear may result in a fine up to \$500 and potential issuance of a warrant for arrest. State Jury Law Adopted • ORS 54.010–54.160 provisions incorporated by reference. Right to Jury Trial • In offenses with possible jail sentences, defendants may request a jury trial. Number of Jurors • Jury consists of six persons, all must concur for a verdict. Requesting a Jury Trial • Defendant must request jury trial at arraignment or entry of plea, before trial begins.	
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<u>West Linn:</u>	Adoption of State Criminal Laws and Procedures • All criminal procedures, principles, and statutes in Oregon Revised Statutes (ORS), including evidence, criminal liability, defenses, burdens of proof, parties, and justification (ORS Chapters 40–41, 131–167, 471–480, etc.) are adopted and applicable to the West Linn Municipal Court. • All misdemeanor and violation offenses and penalties under ORS Chapters 161–167, the Oregon Vehicle Code, and related statutes are adopted by reference. Violations are treated as City offenses with equivalent penalties. • City officials may elect to pursue charges under state law in the State of Oregon’s name. • Definitions in the adopted statutes apply throughout the municipal code; “State” references are also applicable to the “City.” • City officials, including police, City Attorney, court staff, and Municipal Court judges, have the powers and duties under ORS for investigation, prosecution, and adjudication of criminal and violation offenses. • These statutes apply both within City limits and on City-owned property outside City limits. Penalties and Violations • Unclassified Violations: Any violation without a specified penalty is a Class B violation. • Unclassified Misdemeanors: Offenses labeled as misdemeanors without a classification may be fined up to \$500, imprisoned up to 30 days, or both. • Separate Offenses: Each day a violation continues is treated as a separate offense. • Cumulative Remedies: Penalties under the code are cumulative and do not preclude other legal remedies. Enforcement Authority • Authorized Officials: Police officers, community service officers, department directors, building officials, and employees with enforcement duties may enforce codes and permits. • Right of Entry/Warrants: Officials may inspect properties when necessary; entry requires consent if occupied, or legal remedies such as administrative warrants if refused.	
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	• Warnings: Officials may issue warnings for non-criminal violations; warnings are not required before issuing citations. • Citations: Officials may issue citations for violations; police officers may arrest for criminal offenses. Citations require probable cause or direct observation. Service and Appearance • Service of Summons/Complaint: May be via mail, personal delivery, substituted service, or office delivery. Substituted service is complete upon mailing. Service follows Oregon Rules of Civil Procedure for entities and minors. • Personal Appearance: Required for continuing violations; citations may specify this requirement. • Failure to Appear: May result in default judgment, prosecution, contempt, or arrest warrant. Violation Procedures and Trials • Penalties: Violations are classified as Class A, B, C, or D; fines and additional remedial measures (e.g., restitution) may apply. • Trials: Conducted by the court without a jury. The City bears the burden of proof by preponderance. Defendants need not testify. City Attorney may only appear under specific conditions; issuing official may present evidence and arguments. Representation requires an Oregon-licensed attorney. Conviction does not impose additional legal disabilities. Misdemeanor Procedures • Classification and Penalties: Misdemeanors follow State classifications (Class A, B, C); unclassified misdemeanors follow Section 1.205(2). • Additional Punishments: Municipal Court may impose fines, imprisonment, probation, restitution, or other remedial measures. Administrative Appeals Process (Sections 1.400–1.430) • Applies to individuals aggrieved by City official decisions only when the West Linn Municipal Code expressly authorizes this process. • Limited to administrative decisions made without a hearing; land use decisions under the Community Development Code are excluded.	
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	Initiation of Appeals • Filing Deadline: Written notice of appeal must be filed with the City Recorder within 10 days of mailing or service of the decision. • Notice Contents: Must include: • Appellant's name and address • Authority/jurisdiction for appeal (specific code sections) • Appellant's standing • Decision being appealed • Copy of the decision • Plain narrative stating why the decision is incorrect with references to code • Desired outcome • Appeal Fee: Nonrefundable fee set by Council resolution. • Jurisdictional Defects: Failure to meet filing requirements, notice contents, or fee constitutes summary dismissal. • Stay of Action: Appeal generally stays the official's action, typically for up to 30 days, unless extended by City Manager Scheduling of Hearing City Recorder forwards appeal materials to the Hearings Officer within 5 business days. Jurisdiction Review: If requirements not met, or Hearings Officer fails to respond in 10 days, a hearing is scheduled within 30 days. • Hearings Officer may later determine lack of jurisdiction. • Parties are notified in writing of the hearing at least 10 days prior, unless agreed otherwise. Hearing Procedures • Hearings Officer must provide notice and meaningful opportunity to be heard, ensuring procedural due process. • Minimum procedures include: • Review of written testimony submitted ≥ 5 business days before hearing	
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	• Review and rule on bias challenges submitted with evidence • Explain issues, procedures, and burden of proof • Record and disclose any ex parte communications • Take witness testimony (under oath or affirmation; sworn evidence given more weight) • Admit relevant evidence reasonably relied upon in serious affairs; exclude irrelevant/repetitive evidence • Ensure record reflects full and fair inquiry into material facts • Maintain written/electronic record of motions, rulings, and testimony • Issue final written decision, unless resolved by stipulation, settlement, consent order, or default Appearance of Parties • Parties may appear personally or via legal counsel. • Notice must be given to City Recorder and copy to City Attorney when appearing by counsel. Frivolous Appeals • If appeal is entirely without merit, the appellant is financially responsible for the full cost of the appeal, including Hearings Officer fees if incurred.	
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<u>Woodburn:</u> Ordinance No. 1998	Purpose - Establishes a streamlined civil infraction process for enforcing city ordinance violations. - Provides a schedule of forfeitures for infractions. - Repeals Ordinance 1610 and includes an emergency clause. Definitions - Civil Infraction: Violation of a city ordinance punishable only by monetary forfeiture, not criminal penalty. - Continuous infractions may generate a separate citation for each day. - Enforcement Officer: City Administrator or designee responsible for enforcing the ordinance. - Forfeiture: Monetary penalty assessed for a civil infraction according to the forfeiture schedule. - Responsible Party: Any person, entity, property owner, occupant, or individual alleged to have committed or authorized the infraction. Infraction Procedure: - Issuance of Citation and Complaint: - Enforcement officer files a uniform infraction citation with the municipal court. - Citation includes complaint, city department record, and summons; identifies court, party, infraction, date/time/location, forfeiture, and court appearance. - Certification required that the officer reasonably believes the infraction occurred. - Service of Summons: Personal service or methods allowed under Oregon Rules of Civil Procedure, including mail; service may occur outside the city or state. - Answering the Complaint: - Must respond in person, by mail, or delivery within 10 days. - Admission: Submit payment with the answer; court enters order. - Denial: Request hearing, provide security for court fees (may be waived for good cause).	Establishes a civil (non-criminal) process for ordinance violations with monetary penalties. Provides clear roles for enforcement officers and a standardized citation system. Allows for defense, hearings, and due process before municipal court. Continuous infractions generate daily citations; default and delinquency provisions included. Forfeitures categorized by severity with lien rights on property for unpaid amounts. Integrates with other remedies and ensures legal continuity post-Ordinance 1610 repeal. Nature of Enforcement: <u>Woodburn</u> – administrative/quasi-judicial, noted uniform civil infraction procedure, rather than self-made administrative enforcement provisions, another option to pursue if a purely administrative doesn't fit with goals. <u>Wilsonville</u> – general statutory authority referencing ORS provisions on violations and misdemeanors* Penalty Structure: <u>Woodburn</u> – Graduated forfeiture classes with fixed maximums. Some statutory liens and forfeitures collected via statutory authority per ORS. <u>Wilsonville</u> – Maximum fine limits for misdemeanors (A-C) and violations (up to \$500) aligning with state law* Hearing/Adjudication: <u>Woodburn</u> – held before Municipal Court. Hearings procedure for municipal infractions without a jury, but in front of the municipal court judge. <u>Wilsonville</u> – No detailed process, enforcement procedures adopted by reference to ORS 153 & 133*
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	Hearings • Held before municipal court, without a jury. • Defendant may have counsel (not at public expense). • Defendant rights: present evidence/witnesses, cross-examine, submit rebuttal. • Court procedure: ◦ Burden of proof on complainant (preponderance of evidence). ◦ Court may issue findings of fact if requested. ◦ If proven, court imposes forfeiture, court costs, witness fees. • Court determinations are final; reviewable by circuit court via writ of review (ORS Ch. 34). Enforcement • Default Judgment: Entered if responsible party fails to answer or appear; forfeiture assessed. • Forfeitures must be paid within 10 days unless extended by court. • Delinquent or defaulted forfeitures may be collected under ORS 30.310 or 30.315. Lien Filing and Docketing: • Municipal court judgments ≥\$10 may be entered in the city lien docket, becoming a lien on real property. • Lien valid for 10 years, automatically extended upon judgment renewal. • Transcripts may also be filed with county clerk. Schedule of Forfeitures: • Infractions classified Class 1–5 with maximum forfeitures: ◦ Class 1: \$750 Class 2: \$500 Class 3: \$250 Class 4: \$125 Class 5: \$100 • Specific Woodburn ordinance infractions are classified accordingly. • Unclassified infractions default to Class 1. Additional Provisions • Severability: Invalidity of any part does not affect remainder. • Non-exclusive remedy: Does not prohibit other remedies in ordinances or state law.	
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	• Repeal and Saving Clause: Ordinance 1610 repealed but still applies to prior violations.	
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