Meetings of the City Council of Clearfield City may be conducted via electronic means pursuant to Utah Code Ann. § 52-4-207 as amended. In such circumstances, contact will be established and maintained via electronic means and the meetings will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.

Multi-purpose Room  
55 South State Street  
Second Floor  
Clearfield, Utah

6:00 P.M. WORK SESSION  
Discussion with the Youth Commission

- Discussion on Code Enforcement
- Discussion on Public Art

(Any items not fully addressed prior to the Policy Session will be addressed in a Work Session immediately following the Policy Session)

City Council Chambers  
55 South State Street  
Third Floor  
Clearfield, Utah

7:00 P.M. POLICY SESSION

CALL TO ORDER:  Mayor Shepherd
OPENING CEREMONY:  Councilmember Bush
APPROVAL OF MINUTES:  January 9, 2018 – Work Session  
February 13, 2018 – Policy Session

PUBLIC HEARINGS:


BACKGROUND: Reprograming unused CDBG (Community Development Block Grant) funds from program years 2014/2015, 2015/2016, 2016/2017, and 2017/2018 was discussed during work session on January 23, 2018. To utilize unspent funds from previous program years and to avoid the risk of accruing more than 1.5 times the current 2017/2018 program year grant funds, there was consensus that CDBG funds should be reprogrammed towards capital improvement projects. The first public hearing will be to receive public comment and begin a 30-day comment period. At the conclusion of the 30-day public comment period, a second public hearing will be held on April 10, 2018 at 7:00 p.m. to consider finalizing the amendments.
RECOMMENDATION: Receive public comment.

SCHEDULED ITEMS:
2. OPEN COMMENT PERIOD

The Open Comment Period provides an opportunity to address the Mayor and City Council regarding concerns or ideas on any topic. To be considerate of everyone at this meeting, public comment will be limited to three minutes per person. Participants are to state their names for the record. Comments, which cannot be made within these limits, should be submitted in writing to the City Recorder at nancy.dean@clearfieldcity.org.

The Mayor and City Council encourage civil discourse for everyone who participates in the meeting.

Comments pertaining to an agenda item that includes a public hearing or public input should be given as that item is being discussed during the meeting.

COMMUNICATION ITEMS:
- Mayor’s Report
- City Council Reports
- City Manager’s Report
- Staff Reports

**ADJOURN AS THE CITY COUNCIL**

Dated this 21st day of February, 2018.

/s/Nancy R. Dean, City Recorder

The City of Clearfield, in accordance with the ‘Americans with Disabilities Act’ provides accommodations and auxiliary communicative aids and services for all those citizens needing assistance. Persons requesting these accommodations for City sponsored public meetings, service programs or events should call Nancy Dean at 525-2714, giving her 48-hour notice.
TO: Mayor Shepherd and City Council Members

FROM: Stuart Williams, City Attorney
Spencer Brimley, Community Development Director
Greg Krusi, Police Chief

MEETING DATE: February 27, 2018

SUBJECTS: (A) Proposed adoption of Title 1, Chapter 16, Code Enforcement
(B) Proposed Amendment to the City’s Consolidated Fee Schedule

I. RECOMMENDED ACTION

A. Staff recommends the adoption of Title 1, Chapter 16, Code Enforcement, to allow for the ability to enforce selected ordinance violations through a civil administrative process.

B. Staff recommends amendments to the City’s Consolidated Fee Schedule necessary to carry out the civil administrative enforcement of ordinance violations.

II. DESCRIPTION / BACKGROUND

A. Ordinance/Code Enforcement

Ordinance/Code Enforcement is part of the general services expected to be provided by the City on behalf of residents, businesses, and those visiting the City. The primary purpose is the prevention, detection, investigation, and enforcement of violations, statutes or ordinances regulating public health, safety, welfare, public works, business activities and consumer protection, building standards, land-use, or municipal affairs.

B. Ordinance/Code Enforcement further explained:

"Code enforcement is a function local governments perform that citizens consider important for accomplishing community goals, such as protecting property values and the environment. Others view code enforcement as an annoying intrusion into the free use of private property. Traditionally, it has been a process whereby local governments use various techniques to gain compliance with duly-adopted regulations such as land use and zoning ordinances, health and housing codes, sign standards, and uniform building and fire codes. In recent years, federal and state regulations governing air and water quality and the transport and storage of hazardous wastes, and requirements for implementing the Americans with Disabilities Act have come into play. Local governments are now obliged to include enforcement of these rules and regulations in the array of responsibilities they assume for protecting the public health and welfare.

Contemporary code enforcement involves local enforcement officials in the job of ensuring compliance with policies, codes, rules, regulations, and permits in a
proper, timely fashion within the limits of the law. Consequently, enforcement officials must be fully acquainted with the adoption process and the thinking behind the regulations they enforce as well as the legal limits placed on them. Conversely, those who write the laws must understand the problems particular to enforcement and administration as the codes and regulations are implemented.

In this context the code enforcement official is a unique public servant whose responsibility lies squarely between policy making and the realms of law enforcement and litigation. The U. S, Congress, state legislatures, and city councils and county boards of supervisors adopt policies, codes, rules and regulations to solve problems or respond to federal, state, or community mandates. Enforcement applies these laws to specific properties, either by using warnings and notices to persuade voluntary compliance or by filing court actions, all under the rubric of ‘police powers’. Local enforcement officials and those who write the policies, codes, rules, and regulations are obligated to understand the management of the code enforcement function and the entire complex process."


C. General Enforcement Authority

The proposed ordinance specifically acknowledges that the City will maintain a “general enforcement authority,” which means that the City will have the power to commence administrative or criminal enforcement procedures, issue a notice of violation, inspect public and private property, abate violations upon private property, and use whatever judicial and administrative remedies are available under this code and applicable state law.

D. Administrative Code Enforcement

The proposed ordinance outlines the authority of the city manager to develop policies and procedures relating to the administrative hearing procedures, scope of hearings, subpoena powers, and other matters relating to the required due process for those accused to be in violation of an ordinance.

E. Consistent with the State’s Justice Reinvestment Initiative

The decriminalization of ordinance violations and the removal of said violations from the criminal justice system is consistent with the intent of the State’s Justice Reinvestment Initiative.
III. IMPACT

A. FISCAL:  *Minimal to no initial cost* increases to the City.

- The goal of code enforcement is compliance, not revenue. As such, the ordinance, as proposed, allows an individual accused of a violation of city code to cure said violation without incurring any fees, fines, or making a payment of any sort to the City.
  - However, those that fail to timely cure their violations will pay amounts intended to cover the costs of the City in having to provide the additional services necessary to address a violation that the subject failed to timely cure after notification of said violation.

- To further demonstrate that code enforcement is of importance to the City and that compliance is the goal, not revenue, the proposed ordinance provides that all money received as a result of code enforcement will be placed into a “Code Enforcement Superfund,” which is designated to be used to support future code enforcement needs within the code enforcement program (i.e., upfront abatement costs, equipment, trainings, etc.).
  - The amount of future fines or fees collected is dependent on numerous variables, such as the amount of cases processed, and the many ways in which a case may proceed.

- The budget currently designated for Code Enforcement under the Police Department will be transferred to the Community Development Department, and two new code enforcement officers will be hired to perform said duties under the direction of the Community Development Director.

- Any resulting or future budgetary changes are anticipated to take place through the normal budgeting processes.

B. OPERATIONS / SERVICE DELIVERY

Subject to alternative direction from Council, the City intends to provide for civil administrative enforcement as follows:

- The budget currently designated for Code Enforcement under the Police Department will be transferred to the Community Development Department, and two new code enforcement officers will be hired to perform said duties under the direction of the Community Development Director.

- Any resulting or future budgetary changes will take place through the normal budgeting processes.
IV. ALTERNATIVES

Subject to alternative direction from Council, staff believes the following to be viable alternatives at this time:

A. Proposed Adoption of Title 1, Chapter 16, Code Enforcement

1. Instruct staff to proceed with the preparation for future adoption of Title 1, chapter 16, as proposed. *(Staff Recommendation)*

2. Instruct staff to proceed with the preparation for future adoption of Title 1, chapter 16, with specific changes proposed by Council.

3. Instruct staff to continue to research alternative options regarding civil administrative code enforcement.

4. Instruct staff to maintain the current operation, make no changes.

B. Proposed Amendment to the City’s Consolidated Fee Schedule

1. Instruct staff to prepare the necessary paperwork to amend the City’s Consolidated Fee Scheduled, as proposed. *(Staff Recommendation)*

2. Instruct staff to prepare the necessary paperwork to amend the City’s Consolidated Fee Scheduled, with specific direction from Council, not as proposed.

3. No amendment is necessary based on Council’s instructions to paragraph IV.

V. SCHEDULE / TIME CONSTRAINTS

There is no legally required schedule or time constraint regarding the need to adopt this ordinance, or the associated need to amend the City’s Consolidated Fee Schedule.

However, if the direction from Council is to proceed with the ordinance and amendment to the consolidated fee schedule as proposed, the City will need to:

A. Adopt the newly created Title 1, Chapter 16 in a future policy session, and

B. Amend the City’s Consolidated Fee Schedule in a future policy session.

Once the above two steps are complete, the City will begin making the departmental staffing changes and structural changes necessary to implement the ability to enforce ordinance violations though a civil administrative process.
VI. LIST OF ATTACHMENTS

- Attachment 1 – PowerPoint
- Attachment 2 - Proposed Title 1, Chapter 16, Code Enforcement
- Attachment 3 - Staff’s Proposed Amendments to the City’s Consolidated Fee Schedule
Attachment 1

PowerPoint
Administrative Code Enforcement
Request Extension to Correct (14 days)

Correction / Payment of all costs, fees, etc
CODE ENFORCEMENT

Criminal

Administrative Process

NOV

Failure to Request Hearing (14 days)

Notice of Default Judgment

Hearing

Request to set aside (15 days)

Final Order/No Appeal

Correction /Payment of all costs, fees, etc
CODE ENFORCEMENT

Criminal

Administrative Process

NOV

Request for Hearing (14 days)

Failure to Appear

Notice of Default Judgment

Final Order/No Appeal

Request to set aside (15 days)

Correction / Payment of all costs, fees, etc
City Abatement

- Emergency
- Non-Emergency
CITY ABATEMENT

Non-Emergency

NOV (14 Days to Correct)
Default (15 Days to Correct)

Responsible Person Fails To Correct

Post for Abatement (10 Days)

Abatement

Invoice (10 Days)

Request for Hearing to Dispute Costs (10 Days)

Appeal District Court (30 days)
CITY ABATEMENT

- Emergency
- NOV/Abatement
- Post for Abatement (10 Days)
- Request for Hearing to Dispute Costs (10 Days)
- Hearing to Review Costs
## TABLE OF PENALTIES, COSTS AND FILING FEES

<table>
<thead>
<tr>
<th>Penalties, Costs, and Filing Fees</th>
<th>Fee:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Code Violation Penalty</td>
<td>Subject to reduction at the discretion of the city manager or his or her designee, the standard fine is $50.00 per day of continuing violation for the 10 days immediately following service of the notice of violation and $100 per day thereafter.</td>
</tr>
<tr>
<td>Code Enforcement Hearing Request Filing Fee</td>
<td>Subject to reduction at the discretion of the city manager or his or her designee, the hearing request fee is $150.00 per request.</td>
</tr>
<tr>
<td>First compliance inspection request</td>
<td>No Charge</td>
</tr>
<tr>
<td>Repeat Re-inspection Fee</td>
<td>Subject to reduction at the discretion of the city manager or his or her designee, the standard repeat re-inspection fee is $150.00 for the second inspection and $200.00 for any further inspections.</td>
</tr>
<tr>
<td>Administrative Code Enforcement Costs, including costs of hearing</td>
<td>Actual hourly rates for participating employees and actual costs expended, all established by affidavit filed with hearing officer</td>
</tr>
<tr>
<td>preparation, notice of violation investigation, and re-inspections</td>
<td></td>
</tr>
<tr>
<td>Interest Rate on Overdue Amounts</td>
<td>10% annum, compounded monthly</td>
</tr>
</tbody>
</table>
COURTESY NOTICE

Pursuant to Clearfield City Ordinance_________

**********CODE TITLE**********

This notice will serve to inform you of such violation and seek your voluntary compliance in correcting it. If compliance has not been attained, criminal and/or civil action may be taken. If the violation no longer exists please disregard.

Contact Clearfield City Code Enforcement at (801) 525-2783 if you have any questions concerning this notice.

Clearfield City
Code Enforcement
NOTICE OF VIOLATION

Name of Responsible Person(s):
Mailing Address:

Place of Violation Occurrence:
Inspection/Observation Date:

SUMMARY OF FINDINGS

Code Section(s) violated:

Required Remedy
YOU ARE REQUIRED TO CEASE AND DESIST FROM AND/OR ABATE THE CODE VIOLATIONS DESCRIBED ABOVE SPECIFICALLY:

Deadline for Compliance:

ADMINISTRATIVE PENALTY ASSESSED

A penalty of $50.00 per day will be assessed for the above described violation(s), and that penalty will accrue daily until the violation is corrected. If you correct the described violation(s) and seek a City compliance inspection by the DEADLINE, the City will suspend any and all penalties.

For example, if you fail to correct the violation by the 15th day following the date hereof, the accrued penalty will be $750.00. This penalty will accrue at the rate of $50.00 per day after the DEADLINE date.

Code Enforcement Officer 801-525-2783

Signature of Issuing Enforcement Official
NOTICE OF COMPLIANCE

Name of Responsible Person(s):
Mailing Address:

Place of Violation Occurrence:
Inspection/Observation Date:

Compliance Date: Date when all items have been completed

On the date entered above, a duly authorized and appointed hearing officer for Clearfield City entered a Code Enforcement Order enforcing this Notice of Violation, identified by date and case number entered above, and directing certain action by or against Responsible Person(s).

BE IT KNOWN TO ALL that the above-named Responsible Person(s) has/has fully complied with the Code Enforcement Order and that all code violation(s) set out in the Notice of Violation appear to have been corrected, and no further performance currently is expected or required of Responsible Person(s) with respect to said Code violation(s).

Nothing in this Notice of Compliance limits or otherwise restrains the City from ascertaining and prosecuting other Code violations by Responsible Person(s) that may exist now or in the future. A recurrence of substantially the same conduct or condition within 12-months from the date of the Notice of Violation entered above will result in a new Notice of Violation and a re-assessment of penalties and interest accruing from the date of the Notice of Violation shown above.

Enforcement Official
DEFAULT JUDGMENT

Administrative Code Enforcement Program
55 South State Street
Clearfield, Utah 84015
Code Enforcement Information (801) 252-2783

OFFICE USE ONLY

CASE Number: 

PARCEL: 

Name of Responsible Person(s):
Mailing Address:
Date of Notice of Violation:
Date of Review: 

Property Description:

Summary of Notice of Violation:


Affirmed Administrative Penalty and Costs:
The responsible person(s), having failed to timely request a hearing, following service of the notice at issue, or having failed to attend and participate in a requested hearing, is hereby found to be in Default in the amount of...

All fees shall be paid to the Clearfield City Customer Service Desk on the First Floor of the Clearfield City Hall, 55 South State Street, Clearfield, Utah 84015. A default judgment is final and non-appealable. All penalties may be filed with the County Recorder as a lien on the listed property, and the City may abate the violations at the owners expense.

Further Information regarding a default judgment and how to request to set aside a default judgment, as well as the entire Administrative Code Enforcement Procedures can be found online in the Clearfield Municipal Code at www.clearfieldcity.org
NOTICE TO ABATE

Date:

To:

Property Address:

Case Number:

Your property is currently in violation of Section ______ of the Clearfield City Code and your Notice of Violation has been affirmed in a Default Judgment. This notice is to inform you that Clearfield City Code Enforcement will be conducting an abatement of your property to forcibly bring it into compliance. You have 10 days from the above date to inform us of any action that you have voluntarily taken to end the violation of the forced abatement will proceed following the 10th day without further notice. You will be billed for all costs associated with the forced abatement and any personal property taken in the clean-up will be discarded.

Michael McDonald
Building/Enforcement Official
801-525-2783

☐ WEEDS/VISITATION CUT BELOW 12 IN.
☐ TRASH REMOVAL
☐ TRASH, FURNITURE, TRASH REMOVAL
☐ GARBAGE REMOVAL
☐ GARDEN GUTTING OUT TO REGULATION
☐ SWIMMING POOL REMOVAL
☐ TRASH DEPOT REMOVAL
☐ MISC. TRASH REMOVAL
☐ TRASH REMOVAL
NOTICE OF SATISFACTION
AND RELEASE OF JUDGMENT

Administrative Code Enforcement Program
55 South State Street Clearfield, Utah 84015
Code Enforcement Information (801) 825-2783

RECORDED

OFFICE USE ONLY

CASE Number:__________________________

PARCEL:______________________________

Name of Responsible Person(s):
Mailing Address: ____________________________
Date of Notice of Violation: __________
Date of Review: ____________________________

Property Description:

On the date entered above, a duly authorized and appointed hearing officer for Clearfield City issued a Code Enforcement Order affirming the Notice of Violation/Case Number entered above (in whole or in part) and assessing administrative penalties and costs against Respondent(s). A judgment was filed by the City against respondent(s)’ property to secure the payment of these assessed amounts.

BE IT KNOWN TO ALL, that the above-named Respondent(s) has/have paid all outstanding civil penalties and costs assessed in the Code Enforcement Order, together with all applicable interest charges, or that the City has negotiated and received an agreed amount and accepted such amount in full satisfaction, or that a subsequent administrative or judicial decision has finally resolved the outstanding debt for which the lien was filed.

The City’s judgment is hereby released.

Nothing in this Notice of Satisfaction limits or otherwise restrains the City from ascertaining and prosecuting other Code violations by Respondent(s) that may exist now or in the future.

Michael McDonald
West Jordan City Building/Enforcement Official

Subscribed and sworn before me this ___ day of _______, 20__.

[Signature]

Notary public residing in Davis County. My commission expires on ___/___/____.
Attachment 2

Proposed Title 1, Chapter 16

Code Enforcement
CLEARFIELD CITY CODE
Title 1
Chapter 16
CODE ENFORCEMENT
ARTICLE A. GENERAL

1-16A-1: PURPOSE AND SCOPE:

1-16A-2: EXISTING LAW CONTINUED:

1-16A-3: REMEDIES NOT EXCLUSIVE:

1-16A-4: NO MANDATORY DUTY TO ENFORCE:

1-16A-5: GENERAL ENFORCEMENT AUTHORITY:

1-16A-6: AUTHORITY TO INSPECT:

1-16A-7: FALSE INFORMATION:

1-16A-8: FAILURE TO OBEY A SUBPOENA:

1-16A-9: ACTS INCLUDE CAUSING, AIDING, AND ABETTING:

1-16A-1: PURPOSE AND SCOPE:

A. Purpose: The purpose of this chapter is to provide for a comprehensive code enforcement system that uses a combination of judicial and administrative remedies to gain compliance with selected municipal ordinances.

B. Authority: The enactment of this chapter by the city is made, in part, pursuant to authorization found in Sections 10-8-84, 41-6a-207 and 41-6a-214, Utah Code, as amended, and in concert with the constitutional issues described in *Tate v. Short*, 401 U.S. 396 (1971), and subsequent U.S. Supreme Court decisions.

C. Scope: The provisions of this chapter may be applied to seek remedy for any and all violations of this code. It has been designed to provide optional remedies for the city to use in achieving compliance with this code. However, failure to comply with an action brought forth pursuant to this chapter of the code may require the city to file a judicial action to gain compliance.

1-16A-2: EXISTING LAW CONTINUED:

The provisions of this chapter do not invalidate any other title or ordinance, but shall be read in conjunction with the rest of this code as providing remedies for the enforcement of this code.

1-16A-3: REMEDIES NOT EXCLUSIVE:

The city has sole discretion in deciding whether to pursue administrative, civil or criminal remedies for the violation of the provisions of this code.

1-16A-4: NO MANDATORY DUTY TO ENFORCE:

A. Prosecutorial Discretion: In establishing the remedies and procedures provided in this chapter, the city recognizes the principles of prosecutorial discretion in the context of the code enforcement proceedings described in article B of this chapter.
B. No Civil Liability: It is the intent of the city that in establishing performance standards or establishing an obligation to act, that these standards shall not be construed as creating a mandatory duty for purposes of tort liability if the officer or employee fails to perform his or her directed duty or duties.

1-16A-5: GENERAL ENFORCEMENT AUTHORITY:

Whenever an enforcement official finds that a violation of this code has occurred or continues to exist, the enforcement official has the authority and power necessary to gain compliance with the provisions of this code through the administrative procedures of this code, or otherwise as permitted under state law. These powers include the power to commence administrative or criminal enforcement procedures, issue a notice of violation, inspect public and private property, abate violations upon private property, and use whatever judicial and administrative remedies are available under this code and applicable state law.

1-16A-6: AUTHORITY TO INSPECT:

A. Any city enforcement official is authorized to enter upon any property or premises to perform inspections, examinations and surveys as may be necessary in the performance of that enforcement official's duties. This may include, but not be limited to, the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner based upon probable cause.

B. The enforcement official may obtain a search warrant to allow the enforcement official to enter the property.

1-16A-7: FALSE INFORMATION:

Pursuant to authorization found in Section 76-8-506, Utah Code, as amended, it shall be unlawful for any person to willfully make a false statement or refuse to give his or her name or address with intent to deceive or interfere with a city employee when in the performance of his or her official duties.

1-16A-8: FAILURE TO OBEY A SUBPOENA:

Pursuant to authorization found in Section 54-7-23(2), Utah Code, as amended, it shall be unlawful for any person to refuse or fail to obey a subpoena issued for a code enforcement hearing.

1-16A-9: ACTS INCLUDE CAUSING, AIDING, AND ABETTING:

Whenever any act or omission is made unlawful in this title, it shall include causing, permitting, aiding, or abetting such act or omission.
ARTICLE B. ADMINISTRATIVE CODE ENFORCEMENT

1-16B-1: PROCEDURES:
1-16B-2: DEFINITIONS:
1-16B-3: SERVICE OF PROCESS:
1-16B-4: NOTICE OF VIOLATION:
1-16B-5: RESPONDING OR NOT RESPONDING TO A NOTICE OF VIOLATION:
1-16B-6: COMPLIANCE INSPECTIONS; NOTICE OF COMPLIANCE:
1-16B-7: CODE ENFORCEMENT HEARINGS:
1-16B-8: DEFAULT JUDGMENTS:
1-16B-9: ADMINISTRATIVE HEARING OFFICER:
1-16B-10: CODE ENFORCEMENT ORDERS:
1-16B-11: FAILURE TO COMPLY WITH CODE ENFORCEMENT ORDER:
1-16B-12: APPEAL OF CODE ENFORCEMENT ORDER:
1-16B-13: RECORDATION OF NOTICES AND ORDERS:
1-16B-14: PROHIBITION AGAINST ISSUANCE OF MUNICIPAL PERMITS:
1-16B-15: PERFORMANCE BONDS:
1-16B-16: ABATEMENT AND EMERGENCY PROCESSES:
1-16B-17: NONEMERGENCY ABATEMENT:
1-16B-18: DEMOLITIONS:
1-16B-19: NON-PROPERTY RELATED EMERGENCY LICENSE SUSPENSION OR REVOCATION, EMERGENCY CEASE AND DESIST ORDERS:
1-16B-20: CIVIL PENALTIES AND INJUNCTIONS:
1-16B-21: RECOVERY OF FEES AND COSTS:
1-16B-22: ABATEMENT SUPERFUND:

1-16B-1: PROCEDURES:

The city manager is authorized to develop policies and procedures relating to the administrative hearing procedures, scope of hearings, subpoena powers, and other matters relating to this article.

1-16B-2: DEFINITIONS:

The following words and phrases, whenever used in this chapter, shall be used and construed as defined in this section, unless a different meaning is specifically defined elsewhere in this chapter and specifically stated to apply:

ABATEMENT: Any action the city may take to remove or alleviate a violation, including, but not limited to, demolition, removal, repair, boarding up, securing or replacement of property.

CODE ENFORCEMENT ORDER: An order issued by a hearing officer under this article. Also “order.”

CODE ENFORCEMENT PERFORMANCE BOND: A bond required by a hearing officer under this chapter and posted by a responsible person to ensure compliance with this code.
CODE ENFORCEMENT TAX LIEN: A lien recorded with the county recorder and the county treasurer to facilitate collection of outstanding civil penalties, administrative fees, and costs.

DAY OR DAYS: Unless otherwise expressly provided, count every day, including intermediate Saturdays, Sundays, and legal holidays as defined by the Utah Rules of Civil Procedure, but if the last day is a Saturday, Sunday or legal holiday, the period will continue to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

EMERGENCY ORDER: A code enforcement order issued under sections 1-16B-16 and/or 1-16B-19 of this article calling for emergency action in advance of any due process hearing opportunity.

ENFORCEMENT OFFICIAL: A person authorized by the city manager to issue and pursue a notice of violation under this article.

FEE SCHEDULE: The most recently adopted Clearfield City Consolidated Fee Schedule.

GOOD CAUSE: Incapacitating illness or accident, death of a parent or sibling, lack of proper notice, or unavailability due to unavoidable and unpreventable emergency or circumstance.

HEARING OFFICER: The person appointed by the city manager to preside and conduct a code enforcement hearing under this article. The hearing officer may be a department head, other than the enforcement official, or a non-city employed person with requisite skill and experience.

IMMINENT HAZARD: Any condition that creates a present and immediate danger to the public health, safety, or welfare.

LEGAL INTEREST: Any interest that is represented by a valid document or instrument, such as a contract, deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien, or other similar instrument.

NOTICE OF COMPLIANCE: A document issued by the city, confirming that the responsible person has remedied the code violations set out in a notice of violation, paid all fees, penalties and costs assessed and otherwise fully complies with the requirements of a code enforcement order.

NOTICE OF VIOLATION: A written notice prepared and issued by an enforcement official that informs a responsible person of code violations and orders them to take certain steps to correct the violations.

PERSON: A human being and a corporate entity. For this purpose partnerships, limited liability companies and business trusts, in addition to corporations, are deemed to be persons.

PROPERTY OWNER: The record owner of real property based on the records of the Davis County Recorder.
PUBLIC NUISANCE: The same meaning as set forth in title 5 of this code and in the Utah Code.

RESPONSIBLE PERSON: Any person(s) responsible for allowing, permitting, causing or maintaining a violation of this code. Such responsible person may include, but not be limited to, the property owner and/or the person in possession of real property; and the person committing the conduct violating this code.

TORT LIABILITY: An act or omission that gives rise to injury or harm to another and amounts to a civil wrong for which courts impose liability.

TREBLE COSTS: A term that indicates triple the amount of the actual/compensatory costs to be awarded to the city.

1-16B-3: PROCEDURE FOR SERVING A NOTICE OF VIOLATION:

A. Method: Whenever service of a notice of violation, responsive pleading, order or other document is required to be given under this article, the document shall be served by any of the following methods:

1. Regular mail, first class postage prepaid, to the last known address of the responsible person(s);

2. Posting the notice conspicuously on or in front of the property. If not inhabited, the notice must also be mailed as in subsection (A)(1) of this section. The form of the posted notice shall be approved by the enforcement official or his or her designee; or

3. Personal service pursuant to Utah rules of civil procedure.

B. Date Of Service: Service by regular mail in the manner described above shall be deemed served on the third day after the date of mailing. Date of service by publication will be twenty four (24) hours following the last publication.

C. Serving Some, But Not All, Responsible Persons: The failure to serve some but not all responsible person(s) shall not affect the validity of any proceedings as against those persons properly served.

D. If service complies with the requirements of this section, it shall be deemed a valid service even if a party claims not to have received the service and it shall not affect the validity of any proceedings taken under this title.

E. Constructive notice of recorded documents: Whenever a document is recorded with the county recorder as authorized or required by this title or applicable state codes, recordation shall provide constructive notice of the information contained in the recorded documents.
A. General: An enforcement official has the authority to commence an administrative code enforcement process through the issuance and service of a notice of violation. Whenever an enforcement official determines that a violation of this code has occurred and/or continues to exist, the enforcement official may issue a notice of violation. The notice of violation shall include the following information:

1. Name of property owner;

2. Street address of violation;

3. Date violation observed;

4. All code sections violated and description of condition of the property that violates the applicable codes;

5. A statement explaining the type of remedial action required to permanently correct outstanding violations, which may include corrections, repairs, demolition, removal, or other appropriate action;

6. Specific date to correct the violations listed in the notice of violation, which date shall be at least fourteen (14) days from the date of service;

7. Explanation of the consequences should the responsible person fail to comply with the terms and deadlines as prescribed in the notice of violation, which may include, but are not limited to, criminal prosecution, civil penalties, revocation of permits or licenses, recordation of the notice of violation, withholding of future municipal permits, abatement of the violation, costs, administrative fees, and any other legal remedies;

8. The amount of the civil penalty on each violation and that the penalty will accrue daily until the property is brought into compliance;

9. That only one notice of violation is required for any 12-month period, and that civil penalties begin immediately upon any subsequent violations of the notice. The responsible person may request a hearing on the renewed violations by following the same procedure as provided for in the original notice;

10. The following procedure to request a hearing: The request for hearing shall be made in writing and filed with the city recorder within 10 calendar days from the date of service. The request shall contain the case number, the address of the violation, and the signature of the responsible party;

11. The consequences for failure to request a hearing, including that failure to request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the action.
B. The notice of violation shall be served by one of the methods of service listed in 1-16B-3.

C. More than one notice of violation may be issued against the same responsible person, if it encompasses different dates, or different violations. For a notice of violation related to weeds, the enforcement official is not required to make more than one notice for each annual season of weed growth for weeds growing on a property.

D. No Criminal Authority: An enforcement official has no authority to issue a criminal citation or information, but may refer a violation of this code through the police department to the city attorney’s office for the screening of criminal charges.

1-16B-5: RESPONDING OR NOT RESPONDING TO A NOTICE OF VIOLATION:

A. Suspension And Possible Dismissal Of Penalties For Prompt And Continuing Remediation Of Violations: Any and all accrued penalties associated with the violations described in the notice of violation shall be suspended if:

1. The responsible person causes violations described in a notice of violation to be corrected;

2. The responsible person requests an inspection from the city within the time specified in the notice following service of the notice of violation; and

3. A notice of compliance is issued in response to that request for an inspection.

This suspension of penalties will continue and will be dismissed if during the twelve (12) months immediately following the date of the notice of compliance there is no recurrence of substantially the same violation.

B. Penalties Continue To Accrue: If a responsible person fails to correct the violations described in a notice of violation within the time specified in the notice of violation, or the responsible person commits or allows substantially the same violation within the succeeding twelve (12) months following issuance of a notice of compliance, all penalties that began to accrue daily on the date of the first notice of violation shall be owed in full to the city and shall continue to accrue for each and every subsequent day of continuing violation.

C. Criminal Prosecution Possible: Failure to remedy the violations described in a notice of violation is a class B misdemeanor and may be prosecuted as such.

D. Penalty Suspension After Hearing: Notwithstanding subsection B of this section, the hearing officer may order accrued penalties and costs to be dismissed, in whole or in part, or suspended.
E. Request A Hearing: If the responsible person(s) served with a notice of violation disputes the legal or factual bases of the violations described in the notice of violation, the responsible person(s) may request a code enforcement hearing before a hearing officer.

F. Failure To Respond To The Notice Of Violation; Default Judgment: A responsible person who fails to request a hearing or remediate the violation and request an inspection by the city within the time specified in the notice of violation will be subject to the entry of default judgment upholding the notice of violation and directing and imposing the actions, penalties, fees and costs associated therewith. This default judgment will be final and non-appealable.

G. Civil Penalties Accrue Daily: Unless suspended or reduced as otherwise provided in this article or in a code enforcement order, civil penalties accrue daily and as authorized pursuant to Section 10-3-703, Utah Code, as amended.

H. Extension Of Time: The recipient of a notice of violation may request an extension of the time specified for remediating code violations set out in the notice of violation by submitting a request in writing to the code enforcement division at the address and telephone number shown on the notice of violation at any time within the specified time after service of the notice of violation stating and affirming as follows:

1. The responsible person waives any right to request a hearing to dispute the notice of violation;

2. The responsible person is actively engaged in remediation activities; and

3. The claimed inability to complete remediation activities in time to request an inspection within the time specified is the result of specified and adequately described factors and forces outside of the control of the responsible person.

I. Shortening Of Time: The normal time to respond to a notice of violation may be shortened by administrative directive of the city manager in response to the need for more rapid response and abatement.

1-16B-6: COMPLIANCE INSPECTIONS; NOTICE OF COMPLIANCE:

A. Duty To Request Inspection: It shall be the duty of the responsible person(s) served with a notice of violation to request an inspection by the city when the described violation has been corrected. Upon request of a responsible party, the city shall perform an inspection as soon as practicable to determine whether the violations described in the notice of violation have been corrected. If following a requested inspection the city declines to issue a notice of compliance, the responsible person(s) have a duty to request a re-inspection once further remediation work is completed. A re-inspection fee will be due and payable.

B. Enforcement Official To Direct Inspections: It is the duty of the enforcement official who issued the notice of violation or an authorized designee to perform or cause to be performed any and all compliance inspections.
C. Notice Of Compliance: If the city determines that the violation(s) described in a notice of violation is fully remediated, a notice of compliance shall be issued.

D. Effect Of Notice Of Compliance: The notice of compliance shall be deemed effective upon the date the inspection resulting in the notice of compliance was requested, and, except as provided in subsection 1-16B-5B of this article, no further penalties shall accrue for any fully remediated violation.

E. Denial Of Notice Of Compliance: After an inspection, if the city denies a request for a notice of compliance, the city shall serve the responsible person with a written explanation setting forth the reasons for the denial.

F. Challenge To Noncompliance Determination: If a responsible person believes that a city decision not to issue a notice of compliance resulting from a requested inspection is in error and that the inspection should have resulted in a notice of compliance, that person may request a code enforcement hearing to challenge the inspection result.

G. Effect Of Code Enforcement Order: If a code enforcement order upholds some but not all violations described in a notice of violation, such an order has the effect of amending the notice of violation as to any further inspections or reviews, and any future requests for a notice of compliance.

H. Prima Facie Evidence: It is prima facie evidence that the violation is continuing if no inspection or review is requested.

I. Re-inspection Fees: Re-inspection fees shall be assessed to the responsible person named in a notice of violation if more than one inspection or review is necessary to confirm full remediation of the violations described in the notice of violation.

1-16C-7: CODE ENFORCEMENT HEARINGS:

A. Purpose: The city finds that there is a need to establish uniform procedures for code enforcement hearings conducted pursuant to this article. It is the purpose and intent of the city to afford due process of law to any person who is directly affected by a code enforcement action. Due process of law includes notice, an explanation of the accusations, and an opportunity to be heard prior to imposition of a penalty. These procedures are also intended to establish a forum to efficiently, expeditiously, and fairly review and resolve issues raised in any notice of violation.

B. Request For Code Enforcement Hearing:

1. A responsible person has the right to request a code enforcement hearing by filing a written request and paying the required filing fee, if the request is filed within the time specified in the notice of violation for compliance and follows one of the following:
a. Service of a notice of violation;

b. Service of a notice of abatement;

c. Notice of itemized bill for costs as outlined in 1-16B-17(E); or

d. A refusal by the city to issue a notice of compliance following an inspection.

2. As soon as practicable after receiving a request for hearing, the city manager or his or her designee shall arrange for and appoint a hearing officer, and the hearing officer will schedule a date, time, and place for the hearing, and will serve written notice of the same to all responsible persons.

3. Failure to timely request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the city's action set out in the notice of violation. Such a failure to request a hearing will result in a default judgment being entered upholding the notice of violation and assessing accrued fees, penalties and costs.

C. Procedures At Code Enforcement Hearings:

1. Informal In Nature: Code enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply; however, an informal exchange of relevant documents and other evidence may be required at the discretion of the hearing officer.

2. Discovery Requests: Discovery requests must be in writing directed to the opposing party. Failure to timely request discovery shall preclude a continuance to enable additional discovery or investigation.

3. Personal Information Protected: A complainant's personal identifying information is protected and shall not be released unless the complainant is a witness at the hearing.

4. Burden Of Proof:

a. The city bears the burden of proof at a code enforcement hearing requested to substantively challenge a notice of violation.

b. At a hearing challenging the denial of a notice of compliance the responsible person(s) will bear the burden of proof and persuasion with respect to the claim that a notice of compliance should be issued.

c. In a code enforcement hearing requested to review the costs associated with an involuntary abatement, the responsible person has the burden of proof that one or more costs were improper or excessive.
d. In any hearing on a motion to set aside a default judgment, the responsible person has the burden of proof to show good cause.

5. Standard Of Proof: The standard of proof to be used by the hearing officer in deciding any issue at a code enforcement hearing is the preponderance of the evidence. A preponderance of the evidence shows what is more likely than not.

6. Activities Allowed To Support Case: Each party shall have the opportunity to cross examine witnesses and present evidence in support of his or her case. If approved in advance by the hearing officer, testimony may be given by telephone or other electronic means.

7. Hearings Open To Public: All hearings are open to the public. Hearings shall be recorded to enable verbatim transcripts to be prepared as needed.

8. Representation By Attorney: The responsible person may be represented by an attorney. If an attorney will be representing the responsible person at the hearing, notice of the attorney's name, address, and telephone number must be given to the city's code enforcement program office at least seventy two (72) hours prior to the hearing. If timely notice is not given, and an attorney appears for a responsible person, the hearing will be continued at the city's request, and any costs of the continuance will be assessed to the responsible person.

9. Fee Refund If Violation Dismissed: If the hearing officer dismisses the notice of violation entirely, the hearing fee shall be refunded to the responsible person who paid it.

D. Failure To Attend Code Enforcement Hearing: Any responsible person named in a notice of violation who fails to appear at a duly noticed hearing is deemed to waive the right to a hearing, which will result in a default judgment entered for the city as to that responsible person.

1-16C-8: DEFAULT JUDGMENTS:

A. Entry Of Default Judgment; Hearing Officer To Issue: If a responsible person fails to timely request a code enforcement hearing or, once requested the responsible person fails to attend the hearing, default judgment will be entered by the hearing officer imposing the relief requested in the notice of violation and assessing fees, costs and penalties as appropriate. The enforcement official shall seek the appointment of a hearing officer to review and enter the default judgment.

B. Effect Of Default Judgment: Except as provided for in 1-16B-8(D), A default judgment is a final order and may not be appealed through the city or through the courts. Following the issuance of a default judgment, the city may forthwith proceed to involuntarily abate a real property violation and may commence a collection action in district court to recover accrued and unpaid fees, penalties and costs approved in the default judgment.
C. Service Of Default Judgment: A copy of a signed default judgment shall be served on all applicable responsible persons promptly following signing by the hearing officer.

D. Motion To Set Aside Default Judgment: Within fifteen (15) days following service of a default judgment in favor of the city, a responsible party may prepare and submit a written request that the default judgment be set aside. The moving party will have the burden of proof and persuasion. The hearing officer may set aside the default judgment if good cause is shown. If the hearing officer decides to set aside a default judgment, the hearing officer shall cause a code enforcement hearing to be scheduled and noticed according to the requirements of this article.

E. Decision Of Hearing Officer Final: The decision of a hearing officer to decline or set aside a default judgment is final and non-appealable.

I-16B-9: ADMINISTRATIVE HEARING OFFICER:

A. Authority To Hold Hearings: The hearing officer has the authority to hold hearings, determine if violations of this code exist, order compliance with this code, and enforce compliance with this code as provided in this article.

B. Authority To Continue Hearings: The hearing officer may continue a hearing to a later time or date.

C. Subpoenas: The hearing officer, at the request of any party to the hearing, may sign subpoenas for witnesses, documents, and other evidence where the attendance of the witness for the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees, as provided in Utah Code, shall be borne by the party requesting the subpoena.

D. Continuing Jurisdiction: The hearing officer has continuing jurisdiction over the subject matter of a code enforcement hearing for the purposes of granting a continuance; ordering compliance by issuing a code enforcement order, by using any remedies available under the law; all to aid in obtaining compliance with that order, which includes the right to authorize the city to enter and abate a property violation; modifying a code enforcement order; or, where extraordinary circumstances exist, granting a new hearing. The hearing officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to effect compliance with the code enforcement order.

E. Involuntary Abatement: The hearing officer may order the city to enter the property and abate all violations, which may include, but is not limited to removing animals or other property in violation of this code.

F. License/Permit Revocation: The hearing officer may revoke a permit or license.
G. Conditional Penalty Abatement: The hearing officer may condition the total or partial assessment of civil penalties on the responsible person’s ability to complete compliance by specified deadlines.

H. Performance Bond: The hearing officer may order the responsible person to post a performance bond to ensure compliance with the order.

1-16C-10: CODE ENFORCEMENT ORDERS:

A. Stipulated Agreement: The city may enter into a stipulated agreement with the responsible person(s) to resolve the issues of a notice of violation without a hearing. This agreement shall be accepted by the hearing officer and entered as the code enforcement order resolving the notice of violation. Entry of this agreement as a code enforcement order shall constitute a waiver of the right to a hearing and waiver of the right to appeal to district court.

B. Issuance Of Order: Within thirty (30) business days after completion of the code enforcement hearing, the hearing officer shall issue a code enforcement order that affirms, modifies or rejects the notice of violation, in whole or in part. The hearing officer may increase or decrease the total amount of fees, penalties and costs that are due pursuant to this article and on the city's fee schedule.

C. The hearing officer may order the city to enter the property and abate all violations, which may include removing animals kept in violation of the city code.

D. The hearing officer may revoke a kennel permit, an animal license, or the right to possess animals as provided in the city code.

E. As part of the code enforcement order, the hearing officer may condition the total or partial assessment of civil penalties on the responsible person’s ability to complete compliance by specified deadlines.

F. The hearing officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the code enforcement order.

G. The hearing officer may order the responsible person to post a performance bond to ensure compliance with the order.

H. The code enforcement order shall become final on the date the hearing officer signs the order.

I. The code enforcement order shall be served on all parties pursuant to 1-16B-3.

1-16B-11: FAILURE TO COMPLY WITH CODE ENFORCEMENT ORDER:

If the responsible person fails to comply with the terms and deadlines set forth in the code
enforcement order, the city may use all appropriate legal means to enforce the code enforcement order and to recover the fees, penalties and costs associated therewith.

1-16B-12: APPEAL OF CODE ENFORCEMENT ORDER:

A. Judicial Review: Any person adversely affected by any final code enforcement order issued following a code enforcement hearing, except an enforcement order upholding the denial of a notice of compliance, may file a petition for review of the code enforcement order in the district court within thirty (30) days after the date of the code enforcement order.

B. No Judicial Review:

1. The decision of a hearing officer upholding a denial of a notice of compliance is final and non-appealable.

2. A default judgment and a decision by a hearing officer to deny a motion to set aside a default judgment are final and non-appealable.

C. Exhaustion Of Administrative Remedies: No person may challenge in district court a code enforcement order until that person has exhausted his or her administrative remedies.

D. Obtaining The Administrative Record For Judicial Review: Within thirty (30) days after submitting a petition for review in the district court, the party petitioning for judicial review shall request a copy of the record of the code enforcement hearing, including transcripts if required by the district court. The city shall not submit copies of files or transcripts to the reviewing court until the party petitioning for judicial review has paid all required copying and transcription costs. The petitioning party's failure to properly arrange for copies of the record, or to pay the full costs for the record, within sixty (60) days after the petition for review was filed shall be grounds for dismissal of the petition. The city shall have an additional sixty (60) business days from the date of request to prepare and submit the requested file and/or transcript.

E. Possible Remand Back To City: If a transcript of a hearing cannot be prepared because the tape recording is incomplete or unintelligible, and there is no other reliable record of the code enforcement hearing otherwise available, the district court may, in its discretion, remand the matter back to the city for a supplemental proceeding to create a usable record.

F. District Court Review On The Record: The district court's review is not de novo, and is limited to the evidence in the record of the code enforcement order that is being reviewed. The court shall not accept nor consider any evidence that is not part of the city's record.

G. Scope Of District Court Review; Burden Of Proof: The district court shall:

1. Presume that the code enforcement order(s) on review is valid; and
2. Review the record to determine whether or not the evidence available to the hearing officer shows that the order was arbitrary, capricious, or illegal.

3. The petitioner for review has the burden of proof before the district court.

1-16B-13: RECORDATION OF NOTICES AND ORDERS:

A. Purpose: The city finds that there is a need for alternative methods of enforcement for violations of this code that are found to exist on real property. The city further finds that an appropriate method of enforcement for these types of violations is the issuance and recordation of notices of violation and code enforcement orders. The recordation against the subject property shall be in addition to criminal, civil, or any other remedies established by law that may be pursued to address the violation.

B. Authority: The enforcement official is authorized to record the notice of violation, default judgment, and/or the code enforcement order against the subject property in the Davis County recorder's office.

C. Procedures For Recordation:

1. If a violation continues to exist on real property after the deadline established in the notice of violation, and no request for a code enforcement hearing has been filed, the enforcement official may record the notice of violation and/or default judgment order.

2. The recordation shall include the name of the property owner, the parcel number, the legal description of the parcel, a copy of the notice of violation, and a copy of the code enforcement order.

3. The recordation is not a lien against the property, but acts as a notice to future interested parties concerning any continuing violation found upon the property.

D. Notice Of Recordation: A notice of the recordation shall be served on the responsible person(s).

E. Cancellation Of Recorded Notice Or Order: If a notice of compliance is issued, the enforcement official may record the notice with the county recorder's office. Recordation of the notice of compliance shall have the effect of updating and nullifying the previously recorded notice of violation or code enforcement order to which it applies.

1-16B-14: PROHIBITION AGAINST ISSUANCE OF MUNICIPAL PERMITS:

During the pendency of any unresolved notice of violation, the city may withhold from the responsible person(s): a) business licenses; b) permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, and permits pertaining to the use and development of the real property or the structure; and c) other permits or licenses that
may otherwise be sought from the city. The city may withhold requested permits until a notice of compliance is issued.

1-16B-15: PERFORMANCE BONDS:

A. As part of any notice, order, or action, the hearing officer has the authority to require responsible persons to post a performance bond to ensure compliance with the city code, applicable state codes, or any judicial action.

B. If the responsible person fails to comply with the notice, order, or action, the bond will be forfeited to the city. The bond will not be used to offset the other outstanding costs and fees associated with the case.

1-16B-16: ABATEMENT AND EMERGENCY PROCESSES:

A. Abatement Of Violation: Any condition caused, maintained, or permitted to exist in violation of any provisions of this code may be involuntarily abated by the city pursuant to the procedures set forth in this article.

B. Enforcement Official Authority: The enforcement official is authorized to enter upon any property or premises to involuntarily abate any violation of this code consistent with the provisions of this article. The enforcement official may assess all costs incurred by the city for the abatement to the responsible person(s) and use any remedy available under the law to collect such costs. If additional abatements for the same or substantially similar code violations are necessary within one year of the date of any default judgment or code enforcement order, the enforcement official may assess treble costs against the responsible person(s) for the subsequent abatement(s).

C. Requirements For Involuntary Abatement:

1. Whenever the enforcement official determines that an imminent hazard exists, with approval from the city manager or his or her designee, the enforcement official may issue an emergency order directing one or more of the following actions be taken:

   a. Order the immediate vacation of any owners, tenants and occupants, and prohibit occupancy until all imminent hazards have been corrected;

   b. Post the premises as unsafe, substandard, or dangerous;

   c. Board, fence, or secure any building or site;

   d. Raze and grade the premises to the extent necessary to remove any imminent hazard to the general public;

   e. Make emergency repairs; or
f. Take any other action appropriate to eliminate or protect the public against an imminent hazard.

This emergency order shall be served on the responsible person(s) in accordance with 1-16B-3, together with a notice of violation, at or before the time the ordered actions are to take place.

2. The enforcement official has the authority, based on probable cause, to direct city personnel to enter the property without a search warrant or court order to accomplish the above listed acts to abate the imminent hazard.

3. The responsible person shall be liable for all costs associated with the abatement of the imminent hazard. Costs may be recovered pursuant to this article through procedures set forth herein or through a court of competent jurisdiction.

4. The enforcement official shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard.

5. The enforcement official may also pursue any other administrative or judicial remedy to abate any remaining violations.

D. Notice: After an emergency abatement, the city shall notify the responsible person of the abatement action taken, the itemized costs, and the location of any seized and removed personal property. This notice shall be served within ten (10) business days of completion of the involuntary abatement.

E. Request For Hearing: The responsible person(s) may request a code enforcement hearing pursuant to and in accordance with section 1-16B-7 of this article to challenge the costs of an involuntary abatement. If timing of the emergency actions results in the notice of abatement being issued and served prior to a requested code enforcement hearing under the notice of violation, the hearing on the merits of the notice of violation can be consolidated with any requested hearing under this subsection to challenge a cost or abatement action.

1-16B-17: NONEMERGENCY ABATEMENT:

If the responsible person fails, within the time provided in the code enforcement order, to abate a property related violation after a code enforcement order or default judgment is issued directing that such abatement take place, the city may abate the violation.

A. Right Of Entry; Performance By Contractor: City personnel, or a private contractor acting under the direction of the city, may enter upon private property in a reasonable manner to abate any code violation as specified in a code enforcement order.

B. Abatement By Responsible Person: If the city undertakes preparatory or other steps to perform an involuntary abatement pursuant to a code enforcement order or on an emergency basis, but the responsible person proceeds on his own to abate the violation before the city
completes the actual abatement, the city may still assess all costs incurred by the city in undertaking preparatory or other steps to abate the violation to the responsible person(s).

C. Itemized Account: When the abatement is completed, a report describing the work performed and an itemized account of the total abatement costs shall be prepared by the city. The report shall contain the names and addresses of the responsible person, the owner of each parcel, and the tax parcel numbers.

D. Notice: The enforcement official shall notify the responsible person(s) of the abatement action taken by the city. The notice shall be served within ten (10) business days of completion of the abatement and shall include a description of the work performed and an itemized accounting of costs, and shall demand full payment of all abatement costs, within twenty (20) days of the date of the notice, to the city treasurer.

E. Abatement Cost Hearing: Within ten (10) days of the notice provided for in subsection D of this section, the responsible person(s) may request a code enforcement hearing pursuant to and in accordance with section 1-16B-7 of this article, to contest the costs of the abatement, and the hearing officer shall schedule and hold such a hearing according to the requirements of this article.

1-16B-18: DEMOLITIONS:

A. Authority: Whenever the enforcement official, building official, or fire marshal determines that a property or building requires demolition, any one of them may demolish or remove the offending structure, exercise any and all powers listed in 1-16B-16 once appropriate notice has been given to a responsible person pursuant to the Uniform Abatement of Dangerous Buildings Code or Uniform Fire Codes as required in the Utah Code. The responsible person shall be liable for all costs associated with the demolition. Costs may be recovered pursuant to this title.

B. Procedures: Once the enforcement official has determined that the building official or the fire marshal has complied with all of the notice requirements of the applicable law, the property will be abated pursuant to the abatement remedy. Other applicable remedies may also be pursued.

1-16B-19: NON-PROPERTY RELATED EMERGENCY LICENSE SUSPENSION OR REVOCATION, EMERGENCY CEASE AND DESIST ORDERS:

A. Authority: With approval from the city manager or his or her designee, an enforcement official may issue an order suspending or revoking a license or permit and/or an emergency cease and desist order on an emergency basis if:

1. Credible facts known by, or presented to, the enforcement official show an imminent hazard; and

2. The imminent hazard requires immediate action by the city.
B. Requirements: In issuing an emergency order, the enforcement official shall:

1. Limit the emergency order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare;

2. Issue a written order, effective immediately, that includes a brief statement of findings of fact, conclusions of law, and reasons for the enforcement official's utilization of emergency proceedings; and

3. Serve the emergency order together with a notice of violation on the persons who are required to comply with the order.

1-16B-20: CIVIL PENALTIES AND INJUNCTIONS:

A. Assessment:

1. Any person violating any provision of this code may be subject to the assessment of civil penalties for each violation, except civil penalties shall not be assessed when a criminal case has been filed for the same violation.

2. Interest at the default rate provided in the Utah Code shall be assessed on all outstanding civil penalties, costs and/or unpaid fee balances, compounded monthly, until the penalties have been paid in full.

3. Civil penalties for violations of any provision of this code or Utah Code shall be assessed pursuant to the city's consolidated fee schedule or as otherwise expressly provided in this code.

4. If a responsible person fails to comply with a notice of violation within the time stated, civil penalties shall accrue as of the date of the notice of violation and shall continue to accrue and be owed to the city for each and every subsequent day of violation.

B. Failure To Pay Penalties: The failure of any person to pay civil penalties assessed within the specified time may result in the city pursuing any legal remedy to collect the civil penalties as provided in the law.

C. Civil Injunctions: In addition to any other remedy provided under the city code or state codes, including criminal prosecution or administrative remedies, any provision of the city code may be enforced by injunction issued in the district court upon suit brought by the city.

1-16B-21: RECOVERY OF FEES AND COSTS:

A. Purpose:
1. The city finds that there is a need to recover costs incurred by enforcement officials and other city personnel who spend considerable time inspecting and re-inspecting properties throughout the city in an effort to ensure compliance with this code.

2. The city further finds that the assessment of costs in addition to penalty assessments is an appropriate method to recover expenses incurred for actual costs of abating violations, performing re-inspections, retaining attorneys, preparing for and conducting hearings, title searches, and any additional costs incurred by the city for each individual case. The assessment and collection of costs shall not preclude the imposition of any administrative or judicial civil penalties.

B. Assessment Of Re-inspection Fees: Notification of re-inspection fees and costs shall be described on the notice of violation.

C. Filing Fees: A request for hearing for any of the permitted purposes under this article shall be accompanied by a filing fee as prescribed in the city's consolidated fee schedule.

D. Failure To Timely Pay Filing Fees And Costs: The failure of any person to pay assessed costs or filing fees by the deadline specified in this code or in a city invoice will result in interest at the default rate provided in the Utah Code being added and compounded monthly. Failure to pay a filing fee when due will result in no hearing being scheduled.

E. Statement Of Intent Regarding Recovery Of Code Enforcement Penalties And Costs Through Liens And Collection Actions: The city finds that recordation of code enforcement tax liens will assist in the collection of penalties, fees and costs and otherwise achieve compliance with this code. The city further finds that collection of civil penalties and assessed costs is important in deterring future violations and maintaining the integrity of this code. The procedures established in this article shall be used to complement existing administrative or judicial remedies that may be pursued to address violations of this code.

F. Procedures For Tax Liens Without A Judgment:

1. The city manager or his or her designee is authorized to record with the county treasurer a code enforcement tax lien against real property for the accrued fees, penalties and costs incurred during a city performed abatement.

2. The failure of any person with a legal or financial interest in the property to actually receive the notice of code enforcement tax lien shall not affect the validity of the lien or any proceedings taken to collect the outstanding penalties, costs and fees associated with an abatement.

G. Cancellation Of Code Enforcement Tax Lien: Once payment in full is received for the outstanding penalties and assessed costs, or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the city treasurer shall either record a notice of satisfaction against the same property, or provide the property owner with the notice of satisfaction to be recorded. The notice of satisfaction shall include the same information as
provided for in the original code enforcement tax lien. Such notice of satisfaction shall cancel the code enforcement tax lien.

H. Procedures For Tax Liens With A Judgment: Once a civil judgment has been obtained from the appropriate court approving fees, penalties and costs against the responsible person(s), the city treasurer may record that judgment as a code enforcement tax lien against any real property owned by the responsible person(s).

I. Recovery Of Costs Through Judicial Writs: After obtaining a civil judgment awarding fees, penalties and/or costs, the city treasurer may enforce the judgment by use of all appropriate legal means, including, but not limited to, garnishment of wages and accounts and foreclosure on real and personal property.

1-16B-22: ABATEMENT SUPERFUND:

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

B. Repayment to Abatement Superfund: All monies recovered from the sale or transfer of property or by payment for the actual abatement costs shall be paid to the City Finance Department, who shall credit the appropriate amount to the abatement superfund.

C. Code Enforcement Administrative Fees and Costs Fund: Administrative fees and administrative costs, except for actual abatement costs collected pursuant to this chapter, shall be deposited in the “abatement fund,” as established by the enforcement official for the enhancement of the city’s code enforcement efforts and to reimburse city departments for investigative costs and costs associated with the hearing process. Fees and costs deposited in this fund shall be appropriated and allocated in a manner determined by the enforcement official. The city shall establish accounting procedures to ensure proper account identification, credit, and collection.

D. Allocation of Civil Penalties: Civil penalties collected pursuant to this chapter shall be deposited in the general fund of the city. Civil penalties deposited in this fund shall be appropriated and allocated in a manner determined by the city manager and the city council. The city shall establish accounting procedures to ensure proper account identification, credit, and collection.
Attachment 3

Proposed Amendment to the City’s Consolidated Fee Schedule
# Proposed Fee Schedule

**Title 1, Chapter 16:**

**Code Enforcement**

<table>
<thead>
<tr>
<th>Penalties, Costs, and Filing Fees</th>
<th>Fee:</th>
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<tr>
<td>Violation Penalty</td>
<td>Subject to reduction at the discretion of the city manager or his or her designee, the standard fine is $50.00 per day of continuing violation for the 10 days immediately following service of the notice of violation and $100 per day thereafter.</td>
</tr>
<tr>
<td>Hearing Request Filing Fee</td>
<td>Subject to reduction at the discretion of the city manager or his or her designee, the hearing request fee is $150.00 per request.</td>
</tr>
<tr>
<td>First Compliance Inspection</td>
<td>No Charge</td>
</tr>
<tr>
<td>Repeat Re-Inspection Fee</td>
<td>Subject to reduction at the discretion of the city manager or his or her designee, the standard repeat re-inspection fee is $150.00 for the second inspection and $200.00 for any further inspections.</td>
</tr>
<tr>
<td>Administrative Code Enforcement Costs, including costs of hearing preparation, notice of violation investigation, and re-inspections</td>
<td>Actual hourly rates for participating employees and actual costs expended, all established by affidavit with the Hearing Officer.</td>
</tr>
<tr>
<td>Interest Rate on Overdue Amounts</td>
<td>10% per annum, compounded monthly</td>
</tr>
</tbody>
</table>
To: Mayor Shepherd and City Council Members
From: Trevor Cahoon
Meeting Date: February 27, 2018
Subject: Public Art Discussion

I. RECOMMENDED ACTION
Staff recommends the creation of an Arts Commission to standardize an application process for public art and the creation of a separate Public Art Code to help govern public art as a whole.

II. DESCRIPTION / BACKGROUND
As part of the November 21, 2017 work session, staff addressed council regarding the opportunity to utilize the eastern façade of the Americold Building 2, located at approximately 755 E 1700 S. As part of this discussion, staff received direction from council to explore the possibility of placing a mural on the façade and to attempt to solicit artists through a process that requested submissions for a judged contest to win a cash prize. During this same discussion, the idea that we may need to address our City Code was briefly mentioned because the City Code does not currently address murals and public art.

As staff began preparing the “Call for Artists,” it became clear that further direction from Council is necessary to ensure that staff is following the intent of Council’s direction, and that Council is clear as to the options and the ancillary issues that accompany each option. Staff has briefly discussed some of the perceived issues on an individual basis with a couple of council members, as well as the mayor, and have confirmed that further discussion would be of benefit.

The items that staff seeks further clarification on are:
- Whether Council would like murals and public art permitted throughout the City.
- If murals and public art are permitted, whether Council would like to limit the allowance of murals and public art to specific areas or zones.
- If murals and public art are permitted, whether Council would like to change the City Code to reflect the allowance and time place and manner specifications for murals and public art.
- If murals and public art are permitted, whether Council would like to create a review and application process.
- If murals and public art are permitted, whether Council would like to create an Arts Commission to oversee the review and application process.
- If murals and public art are permitted, whether Council would like the City to utilize the allowance of murals and public art and to what extent.
III. IMPACT
   a. FISCAL

   Depending on Council’s direction on whether murals and public arts are going to be permitted, there would be varying degrees of impact. Some impact would be:
   - Staff time

   b. OPERATIONS / SERVICE DELIVERY

   Depending on Council’s direction on whether murals and public art are going to be permitted, there would be varying degrees of impact. Some impact would be:
   - Changes to the City Code
     - Creation of a new Public Arts Ordinance verses addressing the allowance in an existing ordinance.
     - Creation of a Public Arts Commission to oversee review and application process.
     - Creation of a review and application process
   - Changes throughout the City
     - Creation of expansion on business advertising.
     - Creation of new avenues for free speech.
       - Due to constitutional free speech rights the City would be very limited in the ability to restrict or regulate the content of the murals and public art.

IV. ALTERNATIVES

1. Council determines to utilize the opportunity to place a mural on the Americold Building 2 facade and forego any changes to the City Code. The City would not be in violation of the City Code, however, this would open up the opportunity for other murals and public art to be placed throughout the City without restriction or a review and application process.
2. Council determines murals and public art will not be permitted and directs staff to make changes to the City Code to reflect the prohibition.
3. Other alternatives not mentioned.

V. LIST OF ATTACHMENTS

- Power Point
Overview

Background

Desire for public art?

Is a review and application process needed?

What changes to the City Code would need to be made?
Desire for public art?

- What is the desire for public art within Clearfield?

- Are there any limitations that are wanted?
Summary of Discussion
Review and Application Process

**Options**
- Create application criteria
  - Cannot make content based review
- Create review body
  - Arts Commission (Recommend)
    - Update Title 3
  - Parks Commission (Limited Art Knowledge)
  - Planning Commission (Not Recommended)
  - City Council (Outside Purview?)
Summary of Discussion
**Ordinance Changes**

**Do not want public art?**
- Code currently does not exclude murals so will need to update to prohibit all wall art

**Do want public art?**
- Staff suggests creating separate code away from Title 11
  - House Murals (Wall Art)
  - Sculptures
  - Memorials
  - Façade Decoration
  - Approval Process

**Do not make changes?**
- Do not change code but murals remain unregulated
Summary of Discussion
Mayor Shepherd called the meeting to order at 6:21 p.m.

DISCUSSION WITH STATE LEGISLATORS ABOUT LEGISLATIVE PRIORITIES

Adam Lenhard, City Manager, welcomed the State Legislators and expressed appreciation for their attendance. He requested the Legislators, Mayor, and members of the Council discuss any legislative priorities and items important to the City of Clearfield. A discussion ensued about the concerns relative to the needs of the City. The following topics were reviewed: transportation, sales taxes on manufacturing, local control, homeless issues, Utah Transit Authority (UTA), economic development, tax reform, and funding sources.

Mayor Shepherd addressed transportation concerns at the 650 North and Interstate 15 (I-15). He mentioned the recent updates to the interchange did not help route the Hill Air Force Base traffic and something needed to be done to accommodate the freeway traffic which was backing up from the off-ramp to the freeway. There was a discussion about traffic flow which included the planned interchange at the 1800 North area, potential relief once the West Davis Corridor project
had interchange and connective movement, and adding additional lanes to the base, which HAFB didn’t have budget to complete. Mayor Shepherd emphasized the only solution that would fix the traffic problem getting on to the HAFB would be to rebuild the 650 North interchange. Senator Stevenson mentioned the Utah Department of Transportation (UDOT) had some money savings from a project near the point of the mountain and perhaps some of the funds could be used to help push efforts forward for all the interchanges in the area.

Mayor Shepherd indicated other issues most concerning to Clearfield were sales tax on manufacturing and local control. He noted many of the pending bills seemed to move power from local government to higher government control. Mr. Lenhard shared an example of a bill that called for the revocation of inspector licenses and possible criminal sanctions against building officials that didn’t appear to be working fast enough. He acknowledged Clearfield didn’t have a backlog but cautioned those types of bills were not solving the issue.

JJ Allen, Assistant City Manager, mentioned aspects of transportation needs and issues that attempted to compel corridor area planning with neighboring communities as another concern. He acknowledged it was important, but to be forced to work with neighboring cities seemed heavy-handed. He indicated the City worked well with its neighbors; however, the State forcing it on cities whose city councils may or may not be able to do it could be difficult.

Mr. Allen stated the homeless or affordable housing issue that would require local government to provide shelters based on a formula that looked at whether a community provided a sufficient level of affordable housing was also concerning. He commented that even though Clearfield City would find itself in a favorable position given the formula identified, the notion of compelling local government was unsettling. There was a discussion about the homelessness problem.

Mayor Shepherd requested the State be less heavy-handed on cities. Representative Handy recognized the Utah League of Cities and Towns (ULCT) was a great lobbying resource for cities.

Mr. Lenhard explained bills addressing land use regulations were also a concern to the cities as well as the sales tax manufacturing exemption which was proposed legislation for the upcoming legislative session. He identified Clearfield as a manufacturing city which provided both products and jobs. He requested the Legislators be mindful of the local portion of the sales tax because the removal of it would be detrimental to cities which were primarily manufacturing. Mr. Lenhard realized that although it would be beneficial for manufacturers to receive the tax break, the City would have a disproportional impact to its General Fund. Mayor Shepherd emphasized the manufacturing sales tax exemption was a critical issue for the City. Representative Lisonbee was pleased to announce the House bill proposing the manufacturing sales tax exemption died; however, would likely be addressed in proposed legislation through the Senate.

There was a discussion about the importance for Legislators to understand and listen to local government. Senator Millner suggested a way to communicate with Legislators during the legislative session was to attend Friday meetings because it was a great place to hear the collective voice of the City.
Mr. Allen addressed the Utah Transit Authority (UTA) governance legislation. He updated the Legislators on the plans to create a Clearfield Station Area Plan by Summer 2018 that would then be used to attract a developer so the development could move forward. There was a discussion about working with UTA, its governance issues, and TOD guidelines. Mr. Allen mentioned City staff worked well with UTA staff but the Board of Directors was large and complicated making it difficult to get projects approved.

Mayor Shepherd asked what the biggest concerns were for the Legislators. Senator Millner responded tax issues were the most complex concerns. Representative Lisonbee answered tax reform and the impacts on the middle class were concerning. Representative Handy expressed worry about some of the citizen initiatives regarding redistricting, Medicare expansion, and medical marijuana which were very broadly written.

Senator Stevenson shared insight into the budgeting percentages, flexible spending money, new money and the many needs for funding. He explained at the end of the legislative session the budget would be balanced and there would be winners and losers. He recognized the need to make sure the cities were not losers and didn’t fall short on funding.

Mr. Lenhard wondered if there was any advice the Legislators had for the Council which could provide better support and representation for the City’s constituents. There was a discussion encouraging legislative preview meetings and the sharing of internal contact information as ways to better communicate during the legislative session and interim periods, as well as spur dialogue on important issues.

Mayor Shepherd thanked the Legislators for taking time to come and meet. The Legislators expressed gratitude for the invitation.

Councilmember Bush moved to adjourn the work session and reconvene in policy session at 7:22 p.m., seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmember Bush, Peterson, Phipps, Roper and Thompson. Voting NO – None.
CLEARFIELD CITY COUNCIL MEETING MINUTES
7:00 P.M. POLICY SESSION
February 13, 2018

PRESIDING: Mark Shepherd Mayor

PRESENT: Kent Bush Councilmember
Nike Peterson Councilmember
Vern Phipps Councilmember
Tim Roper Councilmember
Karece Thompson Councilmember

STAFF PRESENT: JJ Allen City Manager
Summer Palmer Assistant City Manager
Stuart Williams City Attorney
Scott Hodge Public Works Director
Greg Krusi Police Chief
Eric Howes Community Services Director
Spencer Brimley Community Development Director
Rich Knapp Finance Manager
Trevor Cahoon Communications Coordinator
Nancy Dean City Recorder
Wendy Page Deputy Recorder

VISITORS: Clinton Andreason – Troop 486, Doug Jacobson – Troop 486, Bob Beercher,
Kathryn Murray, Jacob Martin, Keeley Wilson, Mariah Wilson, Mallory Call, Ruth Jones, Nicole
Bigelow, Levi Lloyd

Mayor Shepherd called the meeting to order at 7:00 p.m.

Mayor Shepherd informed the audience that if they would like to comment during the Open
Comment Period there were forms to fill out by the door.

Councilmember Thompson led the opening ceremonies.

DECEMBER 5, 2017 WORK SESSION, THE JANUARY 9, 2018 POLICY SESSION AND
THE JANUARY 23, 2018 POLICY SESSION

Councilmember Peterson moved to approve the minutes from the November 28, 2017 work
session, the December 5, 2017 work session, the January 8, 2018 policy session, and the
January 23, 2018 policy session, as written, seconded by Councilmember Bush. The motion
carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps,
Roper and Thompson. Voting NO – None.
OPEN COMMENT PERIOD

There were no public comments.

APPROVAL AND CONSENT TO THE MAYOR’S PROPOSED APPOINTMENTS OF INDIVIDUALS TO THE PLANNING COMMISSION

Mayor Shepherd stated the candidates for the Planning Commission were interviewed during work session on January 23, 2018. He acknowledged there were many good applicants and it was a difficult decision. Mayor Shepherd recommended appointing Mallory Call, current alternate member, and Levi Lloyd to fill the regular member vacancies, and Nicole Bigelow and Ruth Jones to serve as alternate members of the Planning Commission.

Councilmember Roper moved to approve and consent to the Mayor’s appointment of Mallory Call as a regular member of the Planning Commission with a term expiring in February 2023; Levi Lloyd as a regular member of the Planning Commission with a term expiring in February 2020; Nicole Bigelow as an alternate member of the Planning Commission with a term expiring February 2023; and Ruth Jones as an alternate member of the Planning Commission with a term expiring February 2022, and authorize the Mayor’s signature to any necessary documents, seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper and Thompson. Voting NO – None.

APPROVAL OF THE CITY MANAGER’S APPOINTMENT OF SUMMER PALMER AS THE ASSISTANT CITY MANAGER

Mayor Shepherd stated during the policy session on January 23, 2018 JJ Allen was appointed as the City Manager. He indicated Mr. Allen had conducted interviews and asked that Summer Palmer be appointed as the Assistant City Manager.

Councilmember Phipps expressed his support of Mr. Allen and this new responsibility to staff the City with individuals which would best meet the needs of the City.

Councilmember Phipps moved to approve the City Manager’s appointment of Summer Palmer as the Assistant City Manager, seconded by Councilmember Roper. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper and Thompson. Voting NO – None.

APPROVAL OF THE CITY MANAGER’S APPOINTMENT OF SPENCER BRIMLEY AS THE COMMUNITY DEVELOPMENT DIRECTOR

JJ Allen, City Manager, informed the Council that with the appointment of Summer Palmer as the Assistant City Manager her position as Administrative Services Director would be dissolved as many of those responsibilities carried with her. He explained the shift of responsibility lent to the need for reorganization especially among the executive team. He noted the position of Community Development Director existed previously in the organization and he desired to
reinstitute that position and appoint Spencer Brimley who had been serving as the Development Services Manager as the natural choice to fill that role. He indicated Mr. Brimley would assume additional responsibilities with community development including planning and zoning, permits, business licensing, and all the responsibilities of the customer service center and its functions.

Councilmember Thompson moved to approve the City Manager’s appointment of Spencer Brimley as the Community Development Director, seconded by Councilmember Bush. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper and Thompson. Voting NO – None.

FINANCIAL UPDATE

Rich Knapp, Finance Manager, updated the Council with data for the first half of fiscal year (FY) 2018 ranging from July through December of 2017. He reviewed the revenues; expenses; net changes; three year historic trends from FY16, FY17, and FY18; budget performance; as well as economic trends.

He explained the City had planned to spend down almost two million dollars during the fiscal year for capital projects so it would be in compliance with State law. He indicated State Law limited the City to 25 percent of its revenues in reserve; however, if budget funds were spent as projected the City would still have $230,000 over the 25 percent allowed by the end of the fiscal year. He continued revenues were coming in higher than expected so there was a chance it could be even higher.

Mr. Knapp highlighted sales tax revenue was much higher than budgeted. He mentioned charges for services revenue was lower due to a change in legislation for 911 funding. He explained the monies received from 911 funding changed from number of lines to call volume and the City did not know how that update would affect the budget; however, the revenues had been lower than previous years for the charges for services category. Mr. Knapp summarized the City’s General Fund was trending according to budget based on the data showing 51 percent spent within the first half of the budget year.

He noted the fund expenditures provided in the agenda packet were summary data; however, the data for expenditures by each division could be obtained by contacting the City. Mr. Knapp reviewed other funds revenues and expenditures including the Community Development Renewal Agency (CDRA), Water, Sewer, Storm and Garbage. He noted water consumption was slightly lower and there was a slight increase to the fee. He commented impact fees were down significantly due to a large decrease in the fees last year and less building activity for the first half of the fiscal year. Mr. Knapp explained operationally the City was in good shape even though the fund balances were lower because it was reflecting the plan to spend down excess reserve monies.

He reviewed the national, state and local economy trends. He stated nationally the annual wage growth had increased 2.4 percent over the last 10 years. Mr. Knapp noted in January of 2018 it bumped up 2.9 percent which was the highest rate since 2009. He indicated the Utah consumer prices were higher than those of the nation based on the Consumer Price Index (CPI).
Councilmember Phipps asked if the data reflected that it was more expensive to live in Utah. Mr. Knapp responded it was becoming more expensive to live in Utah; however, there were more benefits which balanced the expense value. He stated Utah had the strongest year over year employment growth in the nation and in November was at 2.8 percent which was double the national average. He highlighted Utah was ranked third in the nation in population growth rate. He explained 61 percent of that total was from natural increase and 39 percent was from net migration.

Mr. Knapp indicated point of sale revenue was the best data to review for determining how the City’s economy was doing. He stated the growth in Clearfield’s point of sales revenues was higher than the growth of the State.

Councilmember Phipps questioned if there was a better understanding for why the change in point of sales revenue for Clearfield. Mr. Knapp answered he didn’t know why the change and wondered if it had to do with online sales but had not had time to study it for more in depth details.  He concluded overall everything was tracking according to budget and offered to share more details if he were contacted.

Mayor Shepherd thanked Mr. Knapp for the report.

COMMUNICATION ITEMS

**Mayor Shepherd**
1. Met at Antelope Elementary to learn more about the needs of the Head Start program.
2. Spoke with a second grade class at Wasatch Elementary about economic development. He learned the second grade children would like to have a toy store and a candy store in the City.
3. Reported the Utah Defense Alliance held meetings with the legislature and had all of the military components from Utah represented.
4. Participated in a webinar for the National League of Cities (NLC) about the purpose, functions and uses of enhanced use leases (EUL) similar to the one created for Falcon Hill through Utah’s Military Installation Development Authority (MIDA).
5. Attended the 75th, 388th, and 419th fighter wings’ award ceremonies.

**Councilmember Bush**
1. Congratulated the Planning Commissioners on their appointments.
3. Reported the joint meeting with the Planning Commission on February 6, 2018 was informative.
4. Expressed his excitement for the new playground equipment at the 200 South Park. He wondered when the swings would be attached. Eric Howes, Community Services Director, responded the swings were currently in place and could be used.

**Councilmember Peterson** – mentioned North Davis Fire District was continuing to grow its safety and education program for elementary schools. She stated a new fire pal with the stage name of Siren was added to help with the presentations. She noted NDFD had been nationally recognized for its safety program and the presentations had been attributed to saving lives. She continued having the education component was important and helpful for the elementary aged children in the community.
**Councilmember Phipps**
1. Recognized the work and preparation of staff and expressed appreciation for its efforts with recent meetings. He mentioned specifically the off-site meeting on February 2, 2018 was well thought out, organized and a good effective use of time.
2. Expressed his excitement to see the 200 South Park coming together.

**Councilmember Roper** – thanked the Planning Commission (PC) for its efforts. He attended the meeting on February 7, 2018 and expressed appreciation for the opportunity given to youth for PC participation. He indicated it would be a good way for youth to learn more about local government.

**Councilmember Thompson** – participated in the Point-in-Time (PIT) Count. He stated he was able to go out with a group in effort to identify the estimated number of people without safe, stable housing in the Layton area. He said it was a good eye opening experience; however, he had the impression many were embarrassed by their situation. He expressed his desire to share information about available services in a way which might help them not feel ashamed.

**STAFF REPORTS**

**JJ Allen, City Manager**
1. Reported after reorganization, staff was settling into the new roles.
2. Agreed the budget retreat on February 2, 2018 was successful.
3. Expressed appreciation for the Council’s input on the monthly reports. He announced the reports would resume in March of 2018 and planned to keep it more concise.
4. Shared his personal highlight of the week was when one of the school kids asked how to fire the Mayor during Lunch with the Mayor held earlier in the month.
5. Announced budget meetings would begin next week on a staff level to prepare the draft budget.
6. Planned to watch legislative bills carefully during the session and share any that would be of concern to the City.
6. Reported the Community Reinvestment Area (CRA) process for Lifetime Products was underway. He indicated meetings went well with Davis County and the Davis County School Board and the process for preparing the project area would begin shortly. He stated the CRA would be presented to Council and the Community Development and Renewal Agency’s Board for consideration in the near future.

**Eric Howes, Community Services Director** – reported on the progress of the installation of new playground equipment at 200 South Park and Central Park. He noted the swings were in place; the gravity rail had been tested; and wood chips would be delivered by Friday, February 16, 2018 for installation at the 200 South Park. He indicated once the proper surfacing was in place and safe for the public, the gravity rail playground equipment would be completed. He stated woodchips were scheduled to arrive at Central Park the same day and both parks should be completed early next week.

Councilmember Phipps questioned if there would be any help needed to spread the wood chips. Mr. Howes responded if the chips arrived early in the day staff would likely complete the work by the end of day or at the latest next week.

Councilmember Phipps suggested the 200 South Park be renamed. Mayor Shepherd said it may be necessary to solicit help from the public.
Nancy Dean, City Recorder – reviewed the Council’s schedule:
- Work Session on February 20, 2018 - tour developments in West Haven and Farmington
- Work and Policy Sessions on February 27, 2018
- Work Session on March 6, 2018 - open house meeting at the Clearfield Aquatic Center

Councilmember Phipps moved to adjourn and reconvene as the CDRA at 7:32 p.m., seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE: Councilmembers Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.

**The minutes for the CDRA are in a separate location**
TO: Mayor Shepherd and City Council Members
FROM: James Shoopman, Planner
MEETING DATE: Tuesday, February 27th, 2018
SUBJECT: Reprogram CDBG funds from 2014-2018

OBJECTIVES
1. Reprogram unused Community Development Block Grant (CDBG) funds from prior program years 2014-2015, 2015-2016, and 2016-2017
2. Reprogram Community Development Block Grant (CDBG) funds from current program year 2017-2018

BACKGROUND
Staff met with City Council in a work session on January 23rd, 2018 to discuss and receive direction on how to reprogram $115,497.48 of unspent/unused CDBG funds from program years 2014-2015, 2015-2016, 2016-2017, and $50,000 from the current program year 2017-2018, for a total of $165,497.48 as follows:

<table>
<thead>
<tr>
<th>Program Year &amp; Funds</th>
<th>Amount</th>
<th>%</th>
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<tbody>
<tr>
<td>July 1st, 2014 - June 30th, 2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Davis County Learning Center</td>
<td>108.92</td>
<td>0.07%</td>
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<tr>
<td>Total</td>
<td>108.92</td>
<td>0.07%</td>
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<tr>
<td>July 1st, 2015 - June 30th, 2016</td>
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<tr>
<td>Davis County Learning Center</td>
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<td>Total</td>
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<td>July 1st, 2016 - June 30th, 2017</td>
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<td>Safe Harbor</td>
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<td>Clearfield City Admin</td>
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<tr>
<td>Vacant Lot</td>
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<tr>
<td>Housing Rehab</td>
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<td>Emergency Home Repair</td>
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<td>Total</td>
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<td>Total Unspent 2014-17</td>
<td>115,497.48</td>
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<td>July 1st, 2017 - June 30th, 2018 (current yr.)</td>
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<tr>
<td>Vacant Lot</td>
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<tr>
<td>Total</td>
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<td>30.21%</td>
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<tr>
<td>Total Funds to Reprogram</td>
<td>165,497.48</td>
<td>100.00%</td>
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</table>
To utilize unspent funds from previous program years, and to avoid the risk of accruing more than 1.5 times the current 2017-2018 program year grant of $187,942 (max allowed by HUD), there was consensus that $165,497.48 should be reprogrammed towards capital improvement projects prior to June 30th, 2018.

Reprogramming this amount would reduce the accrued amount to .73 times the current 2017-18 program year grant of $187,942.

<table>
<thead>
<tr>
<th>Program Year &amp; Funds</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Unspent 2014-17</td>
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<tr>
<td>Current 2017-18 Grant</td>
<td>187,942.00</td>
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<td><strong>Total Accumulated Funds</strong></td>
<td><strong>303,439.48</strong></td>
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**Total Accum. Funds/Current 2017-18 Yr.** 1.61

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<td>Accumulated Funds</td>
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<td>Current 2017-18 Year x 1.5</td>
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<td><strong>Net over HUD 1.5</strong></td>
<td><strong>21,526.48</strong></td>
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<tbody>
<tr>
<td>Accumulated Funds</td>
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<tr>
<td>Total Funds to Reprogram</td>
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<tr>
<td><strong>Net Accumulated Funds</strong></td>
<td><strong>137,942.00</strong></td>
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**Net Accum. Funds/Current 2017-18 Yr.** 0.73

Identified capital improvement projects included replacing asphalt, curb, gutter, sidewalk, water lines, and storm water systems along 250 North Street connecting Main Street and 300 North Street.

**DECISION**

1. Reprogram **$115,497.48** of unused Community Development Block Grant (CDBG) funds from prior program years 2014-2015, 2015-2016, and 2016-2017 towards Capital Improvements

2. Reprogram **$50,000** of Community Development Block Grant (CDBG) funds from current program year 2017-2018 towards Capital Improvements