ORDINANCE NO. 2022-359

AN ORDINANCE OF THE TOWN OF WINDSOR AMENDING WINDSOR MUNICIPAL CODE TITLE I "GENERAL PROVISIONS", CHAPTER 1 "GENERAL PROVISION," REGARDING CODE ENFORCEMENT PROCEDURES (ORD 21-31)

WHEREAS, the Town of Windsor's Municipal and Zoning Codes contain many rules, standards, and regulations adopted in order to preserve, protect and enhance the public health, safety, and welfare; and

WHEREAS, the Town Council desires to update the Municipal Code to incorporate additional administrative enforcement tools for violations of the Municipal Code or Zoning Code.

NOW, THEREFORE THE TOWN COUNCIL OF THE TOWN OF WINDSOR, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. CEQA Findings.

The Town Council finds that:

1. This Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Section 15061(b)(3), the General Rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. The proposed amendment does not allow for or encourage any more development than is already anticipated under the Town's 2040 General Plan and can be seen with certainty that there is no possibility that the amendments in question may have a significant effect on the environment.

SECTION 2. Deletion of Title I, Chapter 1, Article 2. Title I "General Provisions," Chapter 1 "General Provision," Article 2 "Code Enforcement" of the Town of Windsor Municipal Code, is hereby deleted in its entirety.

SECTION 3. Amendment to Title I, Chapter 1. Title I "General Provisions", Chapter 1 "General Provision", of the Town of Windsor Municipal Code is hereby amended to included Article 2 "General Penalty," Article 3 "Administrative Citations," and Article 4 "Administrative Notice and Order" to read as follows:

CHAPTER 1
ARTICLE 2 - GENERAL PENALTY

1-1-210 Violation of Code Constitutes a Public Nuisance
1-1-220 Separate Offenses
1-1-230 Criminal
1-1-240 Civil
1-1-250 Administrative Proceedings
1-1-260 Nuisance Abatement Proceedings
1-1-270 Public Health Order Violations

1-1-210 Violation of Code Constitutes a Public Nuisance

A. A violation of this Code, including any condition caused or permitted to exist in violation of any of the provisions of this Code, or California law is unlawful and shall constitute a public nuisance. In addition to the foregoing, it shall be unlawful, prohibited, and a violation of this Code to violate any term or condition of any license, permit, agreement, or approval granted or issued pursuant to this Code. Any such violation is unlawful and shall constitute a public nuisance.

B. The Town Manager, or any person or body designated by the Town Manager, may pursue any remedies provided within this Code or under any applicable state or federal statute for any violation of this Code. The remedies available of the Town shall not be exclusive and may be pursued in addition to any other available criminal, civil, or administrative remedy established under this Code or under applicable state law or otherwise. The Town Manager, or any person or body designated by the Town Manager, may inspect any public or private property located within the Town for any suspected violations of this Code.

C. For the purposes of this Article, this Code shall mean the Town of Windsor Municipal Code, Building Code, Zoning Code, and any Uniform Codes that have been incorporated into this Code by reference.

1-1-220 Separate Offenses

A. A separate offense shall be deemed committed each and every calendar day a violation of any provision of this Code occurs or continues.

B. With respect to provisions of this Code relating to parking time limitations a separate offense shall be deemed committed for each unit of parking time limitation a vehicle is stopped, parked or left standing in violation of any such provision.

1-1-230 Criminal

A. Unless otherwise specifically provided, a violation of any provision of this Code is a misdemeanor. Notwithstanding the preceding sentence or any other provision of this Code, any violation constituting a misdemeanor may, in the discretion of the enforcing authority, be charged and prosecuted as an infraction.

B. Any person convicted of a misdemeanor pursuant to this Code shall be punished by a fine or by imprisonment not to exceed the maximum amount or time, respectively, allowed by law, or by both such fine and imprisonment. Any person convicted of an infraction pursuant to this Code shall be punished by a fine not to exceed the maximum amount allowed by law.

1-1-240 Civil

In addition to, or in lieu of the remedies provided in this article or this Code, the Town may commence an action for abatement, including, but not limited to, an injunction thereof, nuisance abatement action, abatement warrant, inspection warrant, and/or appointment of a receiver, in the manner required by law and shall take such other steps to obtain such relief as will abate or remove violations and restrain and enjoin any person from violating any provisions of this Code, or other applicable laws and regulations. All costs of such abatement shall be recoverable.

1-1-250 Administrative Proceedings

In addition to or in lieu of the remedies provided in this article or this Code, the Town may initiate administrative enforcement proceedings under the provisions of Article 3 or 4 of Chapter 1.

1-1-260 Nuisance Abatement Proceedings

A. Public Nuisance. Any condition caused or permitted to exist in violation of any of the provisions of this Code, resolution of the Town council, or statute of the state of California may be abated as provided by this article or as otherwise provided by this Code.

B. Summary Abatement. Whenever, in the reasonable judgment of the enforcement officer, the existence or continuance of any public nuisance poses an imminent or immediate danger of significant harm to persons or property, or to the health, welfare, or safety of the public at large, an enforcement officer may act to abate such nuisance. Enforcement officers acting in the public interest on public nuisances requiring summary abatement are responsible for their acts and the acts of their subordinates, but the expense or cost resulting from such summary abatement shall be enforceable as a personal obligation of the person(s) or entity responsible for the nuisance. The expense of summary abatement is collectible as a lien or a special assessment as described in Section 1-1-270.

1-1-270 Cost Recovery and Impositions of Liens or Special Assessments

A. If a judicial order or administrative order allows the Town to abate a public nuisance, the Town Official responsible for the abatement project shall keep an account of the cost of abatement and shall render a written report to the Town Council showing the cost of removing and/or abating the nuisance. In any civil action, administrative proceeding, or special proceeding to abate a public nuisance in which the Town elects to seek recovery of its attorneys' fees, the prevailing party shall be entitled to recover reasonable attorneys' fees; provided, that the award does not exceed the amount of reasonable attorneys' fees incurred by the Town in the action or

proceeding. Before the report is submitted to the Town Council, a copy shall be posted for at least three (3) business days on the bulletin board of the Town Hall with a notice of the time and place when the report will be submitted to the Town Council for confirmation. A copy of the report and notice shall be mailed to the violator, or owner of the property where the nuisance existed if the nuisance concerned real property, at the address shown on the last tax roll. The copy of the report and notice shall be mailed at least ten (10) days prior to the submission of the report to the Town Council.

B. At the time and place fixed for receiving and considering the report, the Town Council shall hear a summary of the report and any objections by the violator or property owner against whom the cost of abatement is being charged or against whose property an abatement lien or special assessment may be imposed for the cost of abatement. After considering the report and any objections thereto, the Town Council may make such modifications to the report, as it deems appropriate, after which the report shall be confirmed by resolution or order.

C. Liens. Any fines or penalties imposed for violations of this Code, including any other Codes or statutes that have been incorporated into this Code, any expenses of enforcement, and the cost or expenses associated with the abatement of a public nuisance that are levied in accordance with this article may be enforced by the recordation of a lien against the property of the violator or the owner of the real property where the nuisance condition existed. Any such lien shall be recorded in the County Recorder's office in the County in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien. A lien authorized by this section shall specify the amount of the lien, the name of the Town on whose behalf the lien is imposed, the date of the abatement order, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel. Before recordation of a lien authorized by this section, notice shall be served in accordance with Government Code section 38773.1 on the owner of record of the parcel of land on which the nuisance existed, based on the last equalized assessment roll or the supplemental roll, whichever is more current.

D. Special Assessments. As an alternative to the lien procedure described above, any fines or penalties imposed for violations of this Code, including any other Codes or statutes that have been incorporated into this Code, any expenses of enforcement, and the cost or expenses associated with the abatement of a public nuisance that are levied in accordance with this article, may become a special assessment and lien against the real property where the nuisance condition existed. Any special assessment imposed on real property pursuant to this section may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as is provided for ordinary municipal taxes. Notice of any special assessment that is levied on real property pursuant to this section shall be given to the property owner by certified mail, and shall contain the information set forth in Government Code Section 38773.5(c). All laws applicable to the levy, collection, and enforcement of municipal taxes, including those described in Government Code Section 38773.5(c), shall be applicable to such special assessment.

E. Attorneys' Fees. In any civil action, administrative proceeding, or special proceeding to abate a public nuisance, the prevailing party shall be entitled to recover reasonable attorneys' fees; provided, that the award does not exceed the amount of reasonable attorneys' fees incurred by the Town in the action or proceeding.

1-1-280 Public Health Order Violations

A violation of a public health order is a violation of this Code. "Public health order" means any order issued by the county public health officer, the state public health officer, or a federal agency; any federal, state, or local guidance or directives issued by the federal, state, or county public health officer containing mandatory, binding, or enforceable obligations applicable to the public; or any site- or industry-specific protocols required by federal, state, or local jurisdictions.

Chapter 1
ARTICLE 3 - ADMINISTRATIVE CITATIONS

1-1-310 Purpose and application.
1-1-320 Definitions.
1-1-330 Fines.
1-1-340 Contents of citation.
1-1-350 Service procedures.
1-1-360 Satisfaction of the administrative citation.
1-1-370 Appeal of the administrative citation.
1-1-380 Hearing procedure.
1-1-385 Hearing officer's decision.
1-1-390 Collection of unpaid fines.
1-1-395 Right to judicial review.

1-1-310 Purpose and application.

Any violation of this Code may be redressed with an administrative citation through the proceedings set forth under this article. It is the intent of this article that an administrative procedure be established as provided under Government Code Section 53069.4 which may be applied to any violation of this Code.

1-1-320 Definitions.

As used in this Article:

A. "Code" means the Town of Windsor Municipal Code, Building Code, Zoning Code, and any Uniform Codes that have been incorporated into this Code by reference.

B. "Enforcement Officer" means Town of Windsor employee, contractor, or agent of the Town authorized to enforce any provision of this Code or this article.

C. Fines. For purposes of this article, "fine" or "fines" refers to any fines, fees, or penalties assessed or imposed by the Town or order of the hearing officer under this article, not including administrative costs.

D. "Person" means a natural person or legal entity.

E. "Responsible Person" means a person or person's agent, employee, or independent contractor, including a property owner, property manager, tenant, subtenant, occupant, or any person in possession of property where a property-related code violation occurs, who causes, permits, allows, maintains, contributes, conceals, or aids or abets a code violation to occur. Each responsible party shall be jointly and severally liable for any and all fines, fees, and penalties awarded, upheld, assessed, or imposed under this article.

F. "Town Manager" means the Town Manager of the Town of Windsor or his or her designee.

1-1-330 Fines.

Except as otherwise specified in this Code, the fines for administrative violations of this Code shall be as follows:

1. A fine not exceeding one hundred dollars for a first violation.
2. A fine not exceeding two hundred dollars for a second violation of the same ordinance within one year.
3. A fine not exceeding five hundred dollars for each additional violation of the same ordinance within one year.

1-1-340 Contents of citation.

Each administrative citation shall contain the following information:

A. Date, approximate time, and address or definite description of the location of the violation(s);
B. The code sections or conditions violated and a description of the violation(s);
C. The amount of the fine for the violation(s);
D. An explanation of how the fine shall be paid and the time period by which it shall be paid;
E. Explanation of rights of appeal, including the time within which such claimed violation may be contested and the procedure for requesting a hearing to contest the violation;
F. The name and signature of the enforcement officer issuing the citation; and
G. If the violation is one which is continuing, an order to correct the violation and prohibiting the continuation or repeated occurrence of the violation, including an explanation of the consequences for failing to correct the violation as ordered. The explanation of the consequences should state that a separate violation exists for each and every calendar day any violation of any provision of this Code is committed, continued, or permitted.

1-1-350 Service procedures.

Service of any administrative citations and the notices of correction shall be made as follows:

A. Personal Service. The enforcement officer shall attempt to locate and personally serve the responsible person and obtain the signature of the responsible person on the administrative citation. If the responsible person served refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation or of subsequent proceedings.

B. Service of Citation by Mail. If the enforcement officer does not succeed in personally serving the responsible person, the administrative citation shall be mailed to the responsible person by certified mail, postage prepaid with a requested return receipt. Simultaneously, the citation shall be sent by first class mail. If the citation is sent by certified mail and returned unsigned, then service shall be deemed effective pursuant to first class mail, provided the citation sent by first class mail is not returned. The location of the responsible person outside of the Town of Windsor shall be sufficient grounds for service of citation by mail without first attempting personal service.

1-1-360 Satisfaction of the administrative citation.

A. The responsible person must pay the fine to the Town within thirty calendar days from service of the citation. All fines assessed shall be payable to the Town of Windsor in accordance with the payment instructions on the citation.

B. Payment of a fine shall not excuse or discharge a failure to correct continuing violations nor shall it bar further enforcement action by the Town.

1-1-370 Appeal of the administrative citation.

A. Time to File an Appeal. Any recipient of an administrative citation may contest that there was a violation of this Code or that it continues to exist, or that he or she is the responsible person, by completing a "request for hearing" form and returning it to the Town in accordance with the instructions on the form within fifteen calendar days from the date the administrative citation is served or deemed to have been served, together with an advanced deposit of the total fines due. Such "request for hearing" forms shall be made available at no charge at Town Hall, the Town website, and/or through the Town's designated agent. A failure to file a timely "request for hearing" form shall be deemed a waiver of the right to appeal the citation and to seek judicial review. The requirement that the fine be deposited in advance may be waived if an advanced deposit hardship waiver form has been filed and approved in accordance with procedures adopted by the Town Manager.

B. Return of Deposit. Any administrative citation fine which has been deposited shall be refunded, in whole or in part, to the extent it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

C. Hearing Officer. The Town Manager shall be authorized to assign a hearing officer to any person or persons, qualified by training or experience, whom the Town Manager may appoint or who are retained by contract to conduct such hearings. The hearing officer may, but is not required to be, a Town employee.

1-1-380 Hearing procedure.

A. No hearing to contest an administrative citation before a hearing officer shall be held unless and until a timely "request for hearing" form has been completed and submitted and the fine has been deposited in advance or waived as provided under Section 1-1-370.

B. After receipt of the "request for hearing" and fine deposit, a hearing before the hearing officer shall be set for a date that is not less than fifteen and not more than sixty (60) calendar days from the date that such request is filed in accordance with the provisions of this section. The person requesting the hearing and the Town may agree to a hearing date that is either sooner or later than the time periods required herein for a hearing. Unless advanced notice is otherwise waived by the requesting party, the person requesting the hearing shall be notified of the time and place set for the hearing at least ten calendar days prior to the date of the hearing. The failure of any recipient of an administrative citation to appear at the scheduled hearing shall constitute a forfeiture of the fine and be a bar to judicial review of the hearing officer decision based upon a failure to exhaust administrative remedies.

C. The hearing officer shall only consider evidence that is relevant to whether the violation occurred, the severity of the violation, and whether the responsible person has caused or maintained the violation of this Code on the date(s) specified in the administrative citation. Such relevant evidence includes, without limitation, staff reports or presentations, oral, physical, and documentary evidence regarding the alleged violation(s), and proposed method of abatement, if any.

D. The hearing is intended to be informal in nature. Formal rules of evidence and discovery do not apply. The Town Manager may, from time to time, adopt procedures for the format and proceedings of the administrative hearing. The person contesting the administrative citation shall be given the opportunity to testify and present witnesses and evidence concerning the administrative citation. The Town shall have the burden of proof by preponderance of the evidence to establish that the responsible person committed the violation specified in the administrative citation.

E. Each witness, prior to providing oral testimony, shall be sworn by the hearing officer or his or her designee. Each party shall have the opportunity to cross-examine witnesses and present evidence in support of the party's cause.

F. Upon request which provides reasonable advanced notice to Town, the recipient of an administrative citation shall be provided with copies of the citations, reports and other documents submitted or relied upon by the issuing officer/employee when issuing the citation, as well as any additional materials provided to the hearing officer for the hearing.

G. On the hearing officer's own discretion or upon request by any party, the hearing officer may continue the hearing and request additional information from any person or witness prior to issuing a written decision. Notice of the continued hearing must be given to each party and shall include the time, date, and place to which the hearing is to be continued.

1-1-385 Hearing officer's decision.

A. After considering all of the testimony and evidence submitted at the hearing or continued hearing, the hearing officer shall issue a written decision setting forth the findings supporting the decision within fifteen (15) calendar days of the hearing, unless the hearing officer determines good cause exist to extend time. The written decision shall include the reasons for the decision.

B. If the hearing officer determines that the administrative citation should be upheld as to a responsible party, then any fine amount on deposit with the Town shall be retained by the Town. The hearing officer shall impose and assess the prescribed fine against each responsible party.
C. In the event of a hardship waiver of the deposit requirement, the order shall also state the date all payments are due and the fine for any late payment for any amount ordered by the hearing officer and that, if the violation continues, the responsible party may be subject to additional fines, penalties, or administrative costs authorized by law. The order shall also state that fines and penalties shall also be collectible as set forth under Section 1-1-270.

D. If the hearing officer determines that the administrative citation should be canceled in whole or in part, then the Town shall promptly refund the corresponding amount of any deposited fine, without interest, to that responsible party.

E. The written decision shall be served upon each party in the manner set forth by Section 1-1-350.

1-1-390 Collection of unpaid fines.

Failure of any person to pay the fine assessed by an administrative citation within thirty calendar days or such other time limit set forth in the administrative citation, or by the time determined by the hearing officer as provided in Section 1.28.090, shall constitute a debt owed to the Town and may be enforced as a personal obligation of the responsible party. Administrative fines shall accrue interest from the date due at the same annual rate as any civil judgment in favor of the Town, in accordance with Code of Civil Procedure Section 685.010. In the event a civil action is commenced to collect the administrative fines, the Town shall be entitled to recover all costs associated with the collection of the fines, including, but not limited to, staff time and attorney fees incurred in the collection of the fines and those costs set forth in Code of Civil Procedure Section 1033.5. The Town may take such other actions as are allowed for enforcement of a civil judgment as provided for by applicable law. The remedies set forth in this section are not exclusive, and the Town may collect any past due amounts assessed or ordered by all available legal means, including through the recording of a lien or special assessment as authorized by Section 1-1-270.

1-1-395 Right to judicial review.

The decision of the hearing officer shall be deemed the final administrative order of the Town. Any person who is aggrieved by the decision of the hearing officer under this article may obtain judicial review of such decision by filing an appeal to be heard in the Sonoma County superior court in accordance with California Government Code Section 53069.4. If no appeal is filed with the superior court within twenty calendar days after service, then the written decision is hereby deemed confirmed.

Chapter 1
ARTICLE 4 - ADMINISTRATIVE NOTICE AND ORDER

1-1-410 General enforcement authority for this article and purpose.
1-1-420 Definitions.
1-1-430 Fines.
1-1-440 Administrative notice and order.
1-1-450 Recordation of administrative notice and order.
1-1-460 Service procedures.
1-1-470 Hearing procedure.
1-1-480 Hearing officer's decision.
1-1-485 Collection of unpaid fines or administrative costs.
1-1-490 Right to judicial review.

1-1-410 General enforcement authority for this article and purpose.

The purpose and intent of this article is to effectively enforce violations of this Code committed on a continuing or ongoing basis. This article is adopted pursuant to Government Code Section 36900 and 53069.4. for the purpose of making any violation of this Code subject to administrative fines, remedies, and penalties, and to redress and enforce violations of this Code that constitute public nuisances through a nuisance abatement mechanism. This article shall be used at the sole discretion of the Town.

1-1-420 Definitions.

As used in this Article:

A. "Administrative Costs" means any and all costs incurred by the Town in connection with the matter before the hearing officer, including but not limited to costs of investigation, staffing costs incurred in preparation for the hearing and for the hearing itself, the services of the hearing officer, any abatement costs, costs for all inspections, and attorneys' fees.

B. "Code" means the Town of Windsor Municipal Code, Building Code, Zoning Code, and any Uniform Codes that have been incorporated into this Code by reference.

C. "Enforcement Officer" means Town of Windsor employee, contractor, or agent of the Town authorized to enforce any provision of this Code or this article.

D. Fines. For purposes of this article, "fine" or "fines" refers to any fines, fees, or penalties assessed or imposed by the Town or order of the hearing officer under this article, not including administrative costs.

E. "Person" means a natural person or legal entity.

F. "Responsible Person" means a person or person's agent, employee, or independent contractor, including a property owner, property manager, tenant, subtenant, occupant, or any person in

possession of property where a property-related code violation occurs, who causes, permits, allows, maintains, contributes, conceals, or aids or abets a code violation to occur. Each responsible party shall be jointly and severally liable for any and all fines, fees, and penalties awarded, upheld, assessed, or imposed under this article.

G. "Town Manager" means the Town Manager of the Town of Windsor or his or her designee.

1-1-430 Fines.

Except as otherwise specified in this Code, the fines for administrative violations of this Code shall be as follows:

1. A fine not exceeding one hundred dollars for a first violation.
2. A fine not exceeding two hundred dollars for a second violation of the same ordinance within one year.
3. A fine not exceeding five hundred dollars for each additional violation of the same ordinance within one year.

1-1-440 Administrative notice and order.

A. Whenever a code enforcement officer determines that a violation of a provision of this Code has occurred, the code enforcement officer may issue an administrative notice and order to the responsible party for the violation.

B. Each administrative notice and order shall contain the following information:

1. Date of violation or date violation is identified and address or definite description of the location of the violation(s), such as the street address or tax assessor parcel number (APN);
2. The code sections or conditions violated and a description of the violation(s);
3. A description of the action necessary to correct the violation and reasonable time to correct the violation prior to the imposition of fines, except as otherwise allowed by Government Code section 53069.4. The reasonable time shall be determined in the judgment of the enforcement officer, based upon the circumstances of the particular nuisance, taking into consideration the means required to abate the nuisance, the period of time that the nuisance has existed, and the potential threat to public health and safety created by the nuisance;
4. The amount of the fine for the code violation(s);
5. An explanation of how the fine shall be paid, the time period by which it shall be paid, and the consequences of failure to pay the fine;
6. An order prohibiting the continuation or repeated occurrence of the violation and an explanation of the consequences for failing to correct the violation, including that a separate violation exists for each and every calendar day any violation of any provision of this Code is committed, continued, or permitted;
7. A description of the administrative review procedures, including the time, date and place of the hearing, which shall be no less than ten calendar days after the date of the administrative notice and order. The description shall also state that the purpose of the hearing will be to make a determination on the existence of the violation(s), public

nuisance, and on whether to adopt the administrative order, including the imposition of fines and administrative costs under this article;
8. The name, date, and signature of the issuing enforcement officer; and
9. A statement that any violation of this Code is deemed to constitute a public nuisance, which if not corrected or abated as required under this administrative notice and order may be found to exist and ordered to be abated after a public hearing, with abatement and related administrative costs being imposed on the responsible person and/or property owner, and collected judicially, or by special assessment or tax collection or lien, as provided under this Code.

C. Nothing in this article shall preclude, limit, prohibit, restrict, or otherwise prevent the Town under this Code or state or federal law from taking immediate action, including the immediate issuance of an administrative citation, administrative notice and order, or summary abatement, for violations of this Code that pertain to continuing or ongoing building, plumbing, electrical or other similar structural or zoning issues that create an immediate danger to health or safety.

1-1-450 Recordation of administrative notice and order.

A. If the responsible person does not comply with the administrative notice and order within a reasonable time designated in the notice and order, the code enforcement officer may file in the office of the county recorder a certificate describing the property and certifying the following:
1. That the building, structure, or property is in violation of this Code; and
2. That the owner has been so notified.

B. This certificate may be filed either prior to the administrative hearing designated in the administrative notice and order, or prior to any continuance thereof, or within a reasonable time following the issuance of the hearing officer's decision pursuant to Section 1.30.090.

C. Whenever the corrections ordered in the administrative notice and order have been abated, repaired, or corrected to the extent that a violation no longer exists, the code enforcement officer shall file, or cause to be filed, with the county recorder or, in lieu of such filing, provide to the property owner with notice a new certificate certifying that the building, structure, or property has been brought into compliance with the administrative notice and order, or that all required corrections have been made so that the building, structure, or property conforms to the requirements contained in the administrative notice and order.

1-1-460 Service procedures.

A. Service of the notices under this article shall be made by any of the following methods:
1. Personal service; or
2. Both prepaid first class United States Postal Service and posting the notice conspicuously on or in front of the property.

B. Where real property is in violation of this Code, written notice shall be personally served or mailed to the property owner at the address as shown on the most current publicly available

equalized county property tax assessment roll. In addition, a copy of the notice shall be conspicuously posted at the property which is in violation of this Code.

C. Notwithstanding the method of delivery, the failure of any person with an interest in the property to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under this Code.

1-1-470 Hearing procedure.

A. The purpose of the hearing is to provide a review of the administrative notice and order by a hearing officer and an opportunity to the person subject to a notice and order to object to the determination that a violation has occurred and/or that the violation has continued to exist or that a public nuisance exists.

B. Hearing Officer. The Town Manager shall be authorized to assign a hearing officer to any person or persons, qualified by training or experience, whom the Town Manager may appoint or who are retained by contract to conduct such hearings. The hearing officer may be, but is not required to be, a Town employee.

C. The hearing officer shall only consider evidence that is relevant to whether the violation occurred, the severity of the violation, and/or whether a public nuisance exists, whether the recipient of the notice and order is the responsible party, and the administrative costs incurred by the Town. Such relevant evidence includes, without limitation, staff reports or presentations, oral, physical, and documentary evidence regarding the alleged violation(s), proposed method of abatement, if any, and administrative costs incurred by the Town.

D. The hearing is intended to be informal in nature. Formal rules of evidence and discovery do not apply. The Town Manager may, from time to time, adopt procedures for the format and proceedings of the administrative hearing. The person contesting the administrative notice and order shall be given the opportunity to testify and present witnesses and evidence. The Town shall have the burden of proof by preponderance of the evidence to establish that the responsible person committed the violation specified in the notice and order.

E. Each witness, prior to providing oral testimony, shall be sworn by the hearing officer or his or her designee. Each party shall have the opportunity to cross-examine witnesses and present evidence in support of the party's cause.

F. The failure of a responsible party named in an administrative notice and order to appear at the administrative notice and order hearing shall constitute a failure to exhaust the party's administrative remedies.

G. On the hearing officer's own discretion or upon request by any party, the hearing officer may continue the hearing and request additional information from any person or witness prior to issuing a written decision. Notice of the continued hearing must be given to each party and shall include the time, date, and place to which the hearing is to be continued.

1-1-480 Hearing officer's decision.

A. After considering all of the testimony and evidence submitted at the hearing or continued hearing, the hearing officer shall issue a written decision setting forth the findings supporting the decision within fifteen (15) calendar days of the hearing, unless the hearing officer determines good cause exists to extend such time. The decision is to be entitled "administrative enforcement order" and shall either uphold or cancel the administrative notice and order as to each named responsible party. The decision shall list the findings in support of the decision and the imposition of administrative costs and/or fines. When the administrative enforcement order directs the abatement of a violation, including a nuisance, the violation may be corrected or abated as authorized within this article or as otherwise permitted by law.

B. If the hearing officer determines that a public nuisance exists, then the written decision shall also include:

1. A description of the nuisance, which, if based upon a violation of this Code, shall identify the provision being violated including the factual findings and determinations supporting the decision; and
2. An order to correct or abate the nuisance by a certain date, which if not complied with shall direct that the Town take those steps necessary and authorized by law to enter onto the property and abate the nuisance at the cost of the property owner through a special assessment or lien as provided by this Code.

C. When the administrative enforcement order directs that the nuisance be corrected or abated, it shall also impose the fines and assess administrative costs against each responsible party incurred up to the date of the administrative hearing. The administrative enforcement order shall include notice to each responsible party that administrative costs incurred up to the date of the administrative hearing may become the subject of a lien or special assessment against the property where the violations occurred and payment is not received for such administrative costs within thirty calendar days of date of the order.

D. If the hearing officer determines that the administrative notice and order should be upheld as to a responsible party, then the hearing officer shall impose and assess the prescribed fine against each responsible party.

E. The order shall also state the date all payments are due and the fines for any late payment for any amount ordered by the hearing officer and that, if the violation continues, the responsible party may be subject to additional fines or administrative costs, as authorized by law. The order shall also state that fines and administrative costs shall also be collectible as set forth under elsewhere in this Code

F. The written decision shall be served upon each party in the manner set forth by Section 1-1-460 or by any other means agreed to by each party. When the administrative enforcement order is served on the Responsible Party, the order shall be deemed final,

1-1-485 Collection of unpaid fines or administrative costs.

The Town may collect any past due fines assessed and/or administrative costs in the administrative enforcement order by all available legal means.

1-1-490 Right to judicial review.

The decision of the hearing officer shall be deemed the final administrative order of the Town. In accordance with California Government Code Section 53069.4, any person who is aggrieved by the decision of the hearing officer regarding the imposition, enforcement or collection of administrative fines or penalties may seek review by filing an appeal to be heard by the superior court within 20 days after service of the final administrative order or decision of the hearing officer. The right to appeal is limited to the terms and conditions set out in California Government Code Section 53069.4. If an appeal is timely filed, the time for payment of any fine or penalties imposed by the hearing officer shall be suspended until the judgment of the superior court is final. Any decision by the hearing officer that a nuisance exists and any order made by the hearing officer to abate or correct the nuisance shall constitute a final, administrative determination, not be appealable, and shall be subject to judicial review in the superior court by filing with the court a petition for writ of mandate pursuant to the provisions and time limits set in Code of Civil Procedure Section 1094.6.

SECTION 5. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable. The Town Council of the Town of Windsor hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 6. Effective Date.

The provisions of this Ordinance shall become effective thirty (30) days from and after the date of its passage.

SECTION 7. Publication or Posting.

The Town Clerk of the Town of Windsor shall cause this Ordinance to be published and/or posted after its adoption in accordance with California Government Code section 36933.

PASSED, APPROVED, AND ADOPTED this 2nd day of March 2022, by the following vote:

AYES:	**COUNCILMEMBERS FUDGE, REYNOZA, VICE MAYOR LEMUS AND MAYOR SALMON**
NOES:	**NONE**
ABSTAIN:	**NONE**
ABSENT:	**NONE**

SAM SALMON, MAYOR

ATTEST:

IRENE CAMACHO-WERBY, TOWN CLERK