

**CITY OF UNION GAP, WASHINGTON  
ORDINANCE NO. 2511**

**AN ORDINANCE** of the City of Union Gap, Washington, relating to code enforcement, repealing Chapter 1.18 “Civil Violations” and adopting a new Chapter 1.18, “CODE ENFORCEMENT”; providing for severability; and establishing an effective date.

**WHEREAS**, the City continues to work toward more efficient and effective processing of civil code violations; and

**WHEREAS**, City staff has proposed changes to the Code Enforcement Chapter to ensure greater efficiencies;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNION GAP, WASHINGTON, DO ORDAIN** as follows:

**Section 1. UGMC Chapter 1.18, Repealed.** Union Gap Municipal Code Chapter 1.18, entitled “Civil Violations” is hereby repealed.

**Section 2. New UGMC Chapter 1.18, Adopted.** A new Union Gap Municipal Code Chapter 1.18, entitled “Code Enforcement” is hereby adopted and reads as follows:

**CHAPTER 1.18  
CODE ENFORCEMENT**

**1.18.010 Purpose.** The purpose of this chapter is to establish an efficient process for enforcement of code violations.

**1.18.020 Scope.** The procedures set forth in this chapter shall be utilized to enforce violations of the Union Gap Municipal Code, as such violations are described within the Code, and as this chapter is referenced throughout the Code.

**1.18.030 Violations.**

A. It is unlawful for any person to initiate, maintain, or cause to be initiated or maintained, the use of any structure, land or property within the City without first obtaining the permits or authorizations required for the use by the applicable provisions of any of the Union Gap Municipal Code.

B. It is unlawful for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished, any structure, land, or property within the City in any manner that is not permitted by the terms of any permit or authorization issued pursuant to the applicable provisions of the Union Gap Municipal Code.

C. It is unlawful for any person to engage in or conduct business within the City of Union Gap without first obtaining appropriate business licensing.

D. It is unlawful to:

1. Remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter;
2. Misrepresent any material fact in any application, plans, or other information submitted to obtain any building or construction authorization; and,
3. Fail to comply with any of the requirements of an order to cease activity issued under this chapter or issued pursuant to authority provided in other chapters of the Union Gap Municipal Code.

E. It is unlawful to:

1. Maintain, allow, permit or fail to prevent a nuisance as defined in Union Gap Municipal Code Chapter 8.20 or as defined throughout the Union Gap Municipal Code; and
2. Fail to comply with any applicable provisions of the Union Gap Municipal Code, including, but not limited to, the regulations and requirements found in the following sections, as now in effect or as may be amended hereafter:

UGMC Title 6 Animals, Chapters 6.02 Slaughtering, 6.04 Dogs, and 6.08 Livestock

Title 8 Public Peace, Safety and Morals, Chapters 8.16 Posting  
Advertisements, 8.18 Graffiti Removal, and 8.20 Nuisances

Title 9 Vehicles and Traffic, Chapter 9.28 Abandoned and Junk Vehicles

#### **1.18.040 Enforcement.**

A. The Code Enforcement Officer(s) is/are the person(s) authorized by the Mayor to enforce the civil provisions of the Union Gap Municipal Code.

B. The Code Enforcement Officer shall have the responsibility for enforcement of this chapter. The Code Enforcement Officer may call upon the police, fire, building, public works or other appropriate City departments to assist in enforcement. As used in this chapter, "Code Enforcement Officer" shall also mean his or her duly authorized designee.

C. This chapter shall be enforced for the benefit of the health, safety, and welfare of the general public, and not for the benefit of any particular person or class of persons.

D. It is the intent of this chapter to place the obligation for complying with its requirements upon the owner, occupier, tenant, manager, agent, or other person responsible for the condition of land and buildings situated within the City of Union Gap and within the scope of the Union Gap Municipal Code.

E. No provision or any term used in this chapter is intended to impose any duty upon the City or any of its officers or employees which would subject them to damages in a civil action.

#### **1.18.050 Investigation, Civil Infraction Citations, and Notices of Violation.**

A. Authority to Enter. The Code Enforcement Officer may, with the consent of the owner or occupier of a building or premises, enter at reasonable times any building or premises in order to perform the duties imposed by this chapter.

B. Investigation Upon Complaint or Personal Knowledge. The Code Enforcement Officer shall investigate any structure or use when he or she receives a complaint or when the Code Enforcement Officer reasonably believes, based on personal knowledge, that any structure or use does not comply with the applicable standards and requirements of the Union Gap Municipal Code.

C. Civil Infraction Citation. If after investigation the Code Enforcement Officer has probable cause to believe that the applicable standards or requirements of the Union Gap Municipal Code have been violated, the Code Enforcement Officer may issue a civil infraction citation in accordance with RCW 7.80, which is incorporated herein by this reference, upon the owner, tenant, occupier, manager, agent, or other person responsible for the condition.

D. Notice of Violation and Order/Administrative Proceeding. Alternatively, after investigation, the Code Enforcement Officer may serve a Notice of Violation and Order upon the owner, tenant, occupier, manager, agent, or other person responsible for the condition. The Notice of Violation shall contain the following information:

1. The Notice of Violation and Order shall contain a brief and concise description of the conditions alleged to be in violation of the municipal code.

2. The Notice of Violation and Order shall contain a statement of the corrective action required and shall specify a reasonable time within which the action must be accomplished.

3. The Notice of Violation and Order shall contain an explanation of the appeal process and the specific information required to file an appeal.

E. Service of a Notice of Violation and Order. A Notice of Violation and Order shall be served on the owner, tenant, occupier, manager, agent, or other person responsible for the condition by personal service, registered mail, or certified mail with return receipt requested, addressed to the last known address of such person. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the person(s) is unknown or service cannot be accomplished and the Code Enforcement Officer makes an affidavit to that effect, then service of the Notice of Violation and Order upon such person(s) may be made by:

1. Publishing the Notice of Violation and Order once each week for two (2) consecutive weeks in the City's official newspaper; and

2. Mailing a copy of the Notice of Violation and Order to each person named on the

Notice by first class mail to the last known address if known, or if unknown, to the address of the property involved in the proceedings.

F. Posting. A copy of the Notice of Violation and Order shall be posted at a conspicuous place on the property, unless posting the notice is not physically possible.

G. Amendment. A Notice of Violation and Order may be amended at any time in order to:

1. Correct clerical errors; or
2. Cite additional authority for a stated violation.

H. Final Orders. Any Notice of Violation and Order issued by the Code Enforcement Officer pursuant to this chapter shall become a final order unless, no later than ten calendar days after the Notice of Violation and Order is served, any person aggrieved by the Notice of Violation and Order files an appeal with the Code Enforcement Officer in accordance with UGMC 1.18.090 and 1.18.095.

I. Separate Offenses. For enforcement purposes, each day, defined as the twenty-four-hour period beginning at 12:01 a.m., in which a violation of this chapter occurs, shall constitute a separate violation.

#### **1.18.060 Time In Which To Comply.**

A. Civil Infraction Citations. Civil infraction citations will be issued and processed in accordance with RCW 7.80, which is incorporated herein by reference. The Union Gap Municipal Court shall have jurisdiction over all civil infraction citations issued under this chapter.

B. Determination of Time For Compliance With Notices of Violation and Order. Persons receiving a Notice of Violation and Order shall rectify the code violations identified within the time period specified by the Code Enforcement Officer pursuant to section 1.18.050(D)(2) of this chapter.

**1.18.070 Stop Work Orders.** Whenever a continuing violation of this Code will materially impair the Code Enforcement Officer's ability to secure compliance with this Code, or when the continuing violation threatens the health or safety of the public, the Code Enforcement Officer may issue a Stop Work Order specifying the violation and prohibiting any work or other activity at the site. Any violation of a Stop Work Order is hereby declared to be a nuisance and the Code Enforcement Officer is authorized to enjoin or abate such nuisance summarily by any legal or equitable means as may be available. The costs for injunction or abatement shall be recovered by the City from the owner, tenant, occupant, manager, agent, or other responsible person in the manner provided by law.

**1.18.080 Emergency Orders.** Whenever any use or activity in violation of the Union Gap Municipal Code threatens the health and safety of the occupants of the premises or any member of the public, the Code Enforcement Officer may issue an Emergency Order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety be corrected. The Emergency Order shall specify the time for compliance and shall be posted in a conspicuous place on

the property, if posting is physically possible. Any condition described in the Emergency Order which is not corrected within the time specified is hereby declared to be a public nuisance and the Code Enforcement Officer is authorized to enjoin or abate such nuisance summarily by any legal or equitable means as may be available. The cost of such abatement shall be recovered from the owner, tenant, occupant, manager, agent, or other person responsible in the manner provided by law.

**1.18.090 Right of appeal - timeliness.**

A. Civil Infractions may be contested in the manner specified for such infractions pursuant to RCW 7.80.

B. Any person aggrieved by the Code Enforcement Officer's action, other than the issuance of a Civil Infraction, (defined as an order, decision, ruling or interpretation by the Code Enforcement Officer), may appeal the Code Enforcement Officer's action by filing a written request for appeal with the Code Enforcement Officer within ten calendar days after receiving or otherwise being served with notice of the Code Enforcement Officer's action. When the last day of the period so computed is a Saturday, Sunday, or state recognized holiday, the period shall run until 4:30 p.m. on the next business day. Failure to file a written request for appeal within time prescribed will result in the Code Enforcement Officer's action becoming a final order and the appellant shall be bound thereby.

C. A timely filed appeal will be heard by the City's Hearing Examiner, as established by Chapter 2.17 UGMC, following procedures set in UGMC 1.18.095. Any appeal of the Code Enforcement Officer's action may be affirmed, reversed or modified in the Hearing Examiner's final order. The decision of the Hearing Examiner shall be a final order and the appellant and the Code Enforcement Officer shall be bound thereby unless, within 21 days from the date of the issuance of the Hearing Examiner's final order, a person with standing to appeal files a petition to the superior court. The cost for transcription of all records ordered certified by the superior court for such review shall be borne by the appellant.

**1.18.095 Appeal Procedure.**

A. An aggrieved person who desires to file an appeal of the Code Enforcement Officer's action must do so pursuant to the provisions set forth in this section. The appellant shall file a written appeal to the Code Enforcement Officer within the time period prescribed in UGMC 8.45.090(B) and shall pay a filing fee of \$100 dollars. The written appeal shall contain the following information:

1. The names of all appellants participating in the appeal;
2. A brief statement of the specific Code Enforcement Officer's action protested, together with any material facts claimed to support the contentions of the appellant;
3. A brief statement of the relief sought, and the reason why the protested Code Enforcement Officer's action should be reversed, modified, or otherwise set aside;

4. The signatures of all parties named as appellants and their mailing addresses; and

5. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

B. Upon the receipt of the appeal and the filing fee, the Code Enforcement Officer shall transmit the same to the City Clerk who shall schedule an appeal hearing before the Hearing Examiner and give due notice thereof to the appellants.

C. At or after the appeal hearing, the Hearing Examiner may affirm, reverse, or modify the Code Enforcement Officer's action or continue the hearing to a date certain for receipt of additional information.

D. The Hearing Examiner shall issue a written decision within thirty (30) days after the hearing and shall cause copies thereof to be sent to the Code Enforcement Officer and appellants.

E. All written orders by the Hearing Examiner pursuant to this section shall include a report giving findings of fact, conclusions, and the Hearing Examiner's decision.

F. The written decision of the Hearing Examiner shall be a final order, and the appellant and the Code Enforcement Officer shall be bound thereby unless the order is appealed to superior court within the time period prescribed in UGMC 1.18.090(C) by a person with standing to appeal.

### **1.18.100 Penalties.**

A. Violations of the Union Gap Municipal Code.

1. Civil Infraction Citation.

a. Any person violating or failing to comply with the provisions of the Union Gap Municipal Code may be issued a civil infraction citation pursuant to section 1.18.050(B) of this chapter. Each civil infraction shall carry with it a monetary penalty of \$250.00.

2. Notice of Violation and Order.

a. Any person violating or failing to comply with the provisions of the Union Gap Municipal Code, may, in the alternative, be issued a Notice of Violation and Order which shall carry with it a cumulative monetary penalty of \$500.00 per day for each violation from the date set for compliance in the Notice of Violation and Order until compliance with the Notice of Violation or order is achieved. Each day that a violation of the Chapter occurs constitutes a separate offense per UGMC 1.18.050(I).

b. In addition to any penalty that may be imposed by the City, any person violating or failing to comply with any of the provisions of the Union Gap Municipal Code shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to the violation.

c. The penalty imposed by this section under a Notice of Violation and Order may be collected by civil action brought in the name of the City. The Code Enforcement Officer may notify the City Attorney of the name of any person subject to the penalty, and the City Attorney may, with the assistance of the Code Enforcement Officer, take appropriate action to collect the penalty.

### 3. Criminal Penalties.

A. Every offense defined by this chapter or conduct made unlawful hereby shall also constitute an offense under the Union Gap criminal code and the Code Enforcement Officer is free to pursue a criminal action notwithstanding the provisions related to Civil Infraction Citations or Notices of Violation and Order. Any person convicted of such an offense shall be punished by a fine not to exceed one thousand dollars or by imprisonment in the jail not to exceed 90 days, or both imprisonment and fine.

B. Additional Relief. The Code Enforcement Officer may seek legal or equitable relief to enjoin any acts or practices and abate any condition that constitutes or will constitute a violation of the Union Gap Municipal Code. The remedies provided in this chapter are cumulative and shall be in addition to any other remedy provided by law. In the event that the Code Enforcement Officer seeks injunctive relief or an abatement order, the costs for the injunction or abatement shall be recovered by the City from the owner, tenant, occupant, manager, agent, or other responsible person in the manner provided by law.

#### **1.18.110. Voluntary Correction.**

A. Notwithstanding the provisions of this chapter concerning enforcement through the issuance of Infraction Citations, Notices of Violation and Orders, Criminal Citations, or injunctive relief, the Code Enforcement Officer, as an additional tool to gain compliance with the Union Gap Municipal Code may require, in lieu of issuing an Infraction Citation, Notice of Violation and Order, or Criminal Citation, that the person responsible for the code violation enter into a voluntary correction agreement.

B. A voluntary correction agreement may be entered into between the person responsible for the violation and the city, acting through the Code Enforcement Officer.

1. Content. The voluntary correction agreement is between the city and the person responsible for the violation. Under the voluntary correction agreement the person agrees to abate the violation within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

(a) The name and address of the person responsible for the violation;

(b) The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;

(c) A description of the violation and a reference to the provision(s) of the city ordinance or regulation that has been violated;

(d) The necessary corrective action to be taken, and a date or time by which correction must be completed;

(e) An agreement by the person responsible for the violation that the city may abate the violation and recover its costs and expenses and a monetary penalty pursuant to this chapter from the person responsible for the violation if terms of the voluntary correction agreement are not met; and

(f) An agreement that by entering into the voluntary correction agreement the person responsible for the violation waives the right to an administrative appeal of the violation and/or the required corrective action.

2. Right to a Hearing Waived. The person responsible for the violation waives the right to an administrative appeal of the violation and the required corrective action upon entering into a voluntary correction agreement.

3. Extension-Modification. An extension of the time limit for correction or a modification of the required corrective action may be granted by the Mayor if the person responsible for the violation has shown due diligence and/or substantial progress in correcting the violation but unforeseen circumstances rendered correction under the original conditions unattainable.

4. Abatement by the City. The city may abate the violation if the terms of the voluntary correction agreement are not met.

5. Collection of Costs. If the terms of the voluntary correction agreement are not met, the person responsible for the violation shall be assessed a monetary penalty commencing on the date set for correction and thereafter, in accordance with Section 1.18.100(A)(2)(a), plus all costs and expenses of abatement, as set forth in Section 1.18.100(B).

**Section 3. Severability.** Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 4. Effective Date.** This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ORDAINED** this 14<sup>th</sup> day of August 2006.

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Aubrey C. Reeves, Jr.  
Mayor

ATTEST:

APPROVED AS TO FORM:

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Kathryn Thompson, CMC  
City Clerk

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Robert F. Noe  
City Attorney