

**TOWN COUNCIL OF DEWEY-HUMBOLDT  
STUDY SESSION MEETING NOTICE**

**Tuesday, August 7, 2018, 2:00 P.M.**

**COUNCIL STUDY SESSION MEETING  
2735 S. HWY 69, SUITE 10**

**COUNCIL CHAMBERS, TOWN HALL  
DEWEY-HUMBOLDT, ARIZONA**

**AGENDA**

The issues that come before the Town Council are often challenging and potentially divisive. In order to make sure we benefit from the diverse views to be presented, the Council believes that the meeting be a safe place for people to speak. With this in mind, the Council asks that everyone refrain from clapping, heckling and any other expressions of approval or disapproval. Council may vote to go into Executive Session for legal advice regarding any matter on the open agenda pursuant to A.R.S. 38-431.03 (A) (3), which will be held immediately after the vote and will not be open to the public. Upon completion of Executive Session, the Council may resume the meeting, open to the public, to address the remaining items on the agenda. Agenda items may be taken out of order. Please turn off all cell phones. The Council meeting may be broadcast via live streaming video on the internet in both audio and visual formats. One or more members of the Council may attend either in person or by telephone, video or internet conferencing. **NOTICE TO PARENTS:** Parents and legal guardians have the right to consent before the Town of Dewey-Humboldt makes a video or voice recording of a minor child. A.R.S. § 1-602.A.9. Dewey-Humboldt Council Meetings are recorded and may be viewed on the Dewey-Humboldt website. If you permit your child to participate in the Council Meeting, a recording will be made. You may exercise your right not to consent by not permitting your child to participate or by submitting your request to the Town Clerk that your child not be recorded.

**1. Call To Order.**

**2. Roll Call.** Town Council Members Jack Hamilton, Mark McBrady, Amy Timmons, Doug Treadway, Victoria Wendt, Vice Mayor John Hughes and Mayor Terry Nolan.

**3. Study Session.** No legal action to be taken

**A. Discussion of Study Session Procedures**

**1. Study Sessions are held for “discussion only” by the governing body. No formal action will be taken by the Mayor & Council at any Study Session.**

**2. A Study Session item will first be discussed – uninterrupted – by the Mayor & Council.**

**3. Upon the conclusion of its discussion of a Study Session topic, there will be Public Comment on that topic. All comments will be limited to three (3) minutes per speaker.**

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**B. Review and discussion of an ordinance, amending Dewey-Humboldt Town Code, Title III Administration, Chapter 30 Town Council and Officials, Council Meetings, §30.105 Council Agenda; §30.107 Time of Adjournment; and §30.108 Agenda Packets, Subsection (A), related to council meetings and agendas (As directed by Council 5/1/18)**

9

**C. Review of revisions and discussion of Chapter 92 “The Dewey-Humboldt Nuisance Abatement Ordinance” by reference as the nuisance abatement regulations of the Town; amending the Dewey-Humboldt Code of Ordinances, Title IX General Regulations to add new Chapter 92 Nuisance Abatement related to definitions, prohibition of public nuisances, and procedures for notice and abatement of nuisances. (As directed by Council 4/17/18)**

**4. Adjourn.**

**For Your Information:**

Next Town Council Meeting: Tuesday, August 14, 2018 at 6:30 p.m.

Next Town Council Work Session: Tuesday, September 4, 2018 at 2:00 p.m.

Next Planning & Zoning Meeting: Thursday, September 6, 2018 at 6:00 p.m.

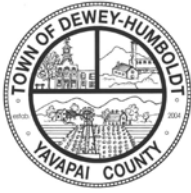
Persons with a disability may request reasonable accommodations by contacting the Town Hall at 632-7362 at least 24 hours in advance of the meeting.

If you would like to receive Town Council agendas via email, please sign up at [AgendaList@dhaz.gov](mailto:AgendaList@dhaz.gov) and type Subscribe in the subject line, or call 928-632-7362 and speak with Julie Gibson, Town Clerk.

**Certification of Posting**

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following locations: Dewey-Humboldt Town Hall, 2735 South Highway 69, Humboldt, Arizona, Chevron Station, 2735 South Highway 69, Humboldt, Arizona, Blue Ridge Market, Highway 69 and Kachina Drive, Dewey, Arizona, on the 1<sup>st</sup> day of August, 2018, at \_\_\_\_\_ a.m./p.m. in accordance with the statement filed by the Town of Dewey-Humboldt with the Town Clerk, Town of Dewey-Humboldt.

By: \_\_\_\_\_, Town Clerk's Office.



**TOWN OF DEWEY-HUMBOLDT**  
**P.O. BOX 69**  
**HUMBOLDT, AZ 86329**  
**Phone 928-632-7362 ▪ Fax 928-632-7365**

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**TOWN COUNCIL STUDY SESSION**

**August 7, 2018 – 2:00 p.m. Town Council Meeting Chambers**

**Agenda Item - #3. B. Review and discussion of an ordinance, amending Dewey-Humboldt Town Code, Title III, Administration, Chapter 30 Town Council and Officials, Council Meetings, §30.105 Council Agenda; §30.107 Time of Adjournment; and §30.108 Agenda Packets, Subsection (A), related to council meetings and agenda** (As directed by Council 5/1/18)

**To: Mayor and Town Council Members**  
**From: Tom Wilson**  
**Date submitted: July 31, 2018**

**Summary:**

On June 5, 2018, Council reviewed Staff's proposed revisions to Town Code §30.105 Council Agenda; §30.107 Time of Adjournment; and §30.108 Agenda Packets as current in Town Code. Council requested revisions, which have been made.

The highlights of changes to the Code are:

- 30.105 (A) Clarification of the composition of the Agenda Committee
- 30.105 (C) Clarification of how Council Agenda Action Request Forms (CAARFs) are to be agendized and acted upon
- 30.105 (D) (1) Order of Agenda Items and flexibility of order as determined appropriate by Agenda Committee
- 30.107 Time of Adjournment
- 30.108 Agenda Packets available Thursday.

**Recommendation:**

Review and discuss the proposed, amended Town Code §30.105 Council Agenda; §30.107 Time of Adjournment; and §30.108 Agenda Packets and direct Staff as appropriate.

**ORDINANCE No. 18-142**

**AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, COUNTY OF YAVAPAI, ARIZONA, AMENDING THE TOWN OF DEWEY-HUMBOLDT, ARIZONA CODE OF ORDINANCES, TITLE III ADMINISTRATION, CHAPTER 30 TOWN COUNCIL AND OFFICIALS, COUNCIL MEETINGS, SECTIONS 30-105 COUNCIL AGENDA, 30-107 TIME OF ADJOURNMENT, AND 30.108 AGENDA PACKETS, SUBSECTION A, ALL RELATED TO COUNCIL MEETINGS AND AGENDAS; PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES.**

**Be it ordained** by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, as follows:

The Town of Dewey-Humboldt, Arizona Code of Ordinances, Title III Administration, Chapter 30 Town Council And Officials, Council Meetings, Section 30-105 Council Agenda is hereby amended to read as follows:

§ 30.105 COUNCIL AGENDA.

(A) The Town Manager and Town Clerk are responsible for receiving and organizing all materials for Council Meeting Agendas, in collaboration with the Mayor and Vice-Mayor. The Mayor, Vice Mayor, Town Manager and Town Clerk shall constitute the Agenda Committee. The Mayor or Town Manager should be contacted if an individual Councilmember wishes to modify the agenda.

(B) Any resident of the Town may request that an item be placed on a Council Agenda by presenting the item at a Council meeting under the topic of "Public Comment on Non-agendized Items", or by requesting that a Councilmember submit a "Council Agenda Action Request Form".

Any member of the Town Council may request an item be placed on a future Council agenda. A request to modify or remove an agenda item may be made by the Councilmember who requested the item be placed on the agenda, in which case it shall be modified or removed without further action. The Mayor or any other Councilmember may request an item that was submitted by another Councilmember be modified or removed, in which case it may only be modified or removed with the concurrence of the Councilmember who requested it be put on the agenda.

(C) Agenda item requests shall be submitted by a Councilmember using a "Council Agenda Action Request Form". The Agenda Committee shall place all such requested items on the next appropriate agenda. An emergency agenda request may be submitted after the deadline pursuant to § 30.031(B)(10).

(D) Order of agenda.

(1) Regular Council Meeting Agendas shall begin with the following items:

- (a) Call to order;
- (b) Roll Call;
- (c) Pledge of Allegiance;
- (d) Invocation;

The following agenda items shall be appropriately placed on the agenda by the Agenda Committee, based on content.

- (e) Public Comment
- (f) Public Hearing;
- (g) Consent agenda;
- (h) General Reports; Town Manager's Report
- (i) General Business
- (j) Announcements, Proclamations;
- (k) Consideration of Additional Special Session(s) this month
- (l) Adjournment.

(2) When Council holds a Study Session or Special Council meeting, the following agenda items shall be appropriately placed on the agenda by the Agenda Committee, based on content.

- (a) Call to order;
- (b) Roll call;
- (c) Discussion only items;
- (d) Action items (special meetings only);
- (e) Adjournment.

(E) *Modifications to the agenda.*

(1) The presiding officer or any Councilmember may request a change in the order of the agenda items which, if approved by a majority of the Council, shall be granted.

(2) An agenda item may be continued to a date certain or postponed indefinitely by motion and approval by a majority of the members present who have not declared a conflict of interest.

The Town of Dewey-Humboldt, Arizona Code of Ordinances, Title III Administration, Chapter 30 Town Council And Officials, Council Meetings, Section 30-107 Time of Adjournment is hereby amended to read as follows:

§ 30.107 TIME OF ADJOURNMENT.

It is the policy of the Town that all Study Sessions, Special Meetings, and Regular Council Meetings shall be adjourned no later than 3-1/2 hours from the scheduled start time. These times shall be referred to as the normal times of adjournment. At or before the normal time of adjournment, the presiding officer shall ask for a motion to continue or adjourn the meeting.

The Town of Dewey-Humboldt, Arizona Code of Ordinances, Title III Administration, Chapter 30 Town Council And Officials, Council Meetings, Section 30-108 Agenda Packets, Subsection A is hereby amended to read as follows:

§ 30.108 AGENDA PACKETS.

Agenda packets are to be made available at the Town Clerk's office, the town's web site ([www.dhaz.gov](http://www.dhaz.gov)), and at all Council meetings. Council meeting agendas, minutes and staff reports are available for public review by close of business the Thursday preceding each Council meeting.

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Section II. Savings Clause

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance as amended is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance.

Section III. Repeal of Conflicting Ordinance

All other code provisions, ordinances, or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed as of the effective date hereof.

**PASSED AND ADOPTED** by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, this \_\_\_\_ day of August, 2018, by the following vote:

AYES: \_\_\_\_\_

NAYES: \_\_\_\_\_ ABSENT: \_\_\_\_\_

EXCUSED: \_\_\_\_\_ ABSTAINED: \_\_\_\_\_

APPROVED this \_\_\_\_ day of August, 2018.

\_\_\_\_\_  
Terry Nolan, Mayor

ATTEST:

\_\_\_\_\_  
Julie Gibson, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Gust Rosenfeld, PLC, Town Attorney  
By Susan D. Goodwin

I, JULIE GIBSON, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 18-142 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, ARIZONA ON THE \_\_\_ DAY OF AUGUST, 2018, WAS POSTED IN THREE PLACES ON THE \_\_\_\_ DAY OF AUGUST, 2018.

\_\_\_\_\_  
Julie Gibson, Town Clerk

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**TOWN OF DEWEY-HUMBOLDT**  
**P.O. BOX 69**  
**HUMBOLDT, AZ 86329**  
**Phone 928-632-7362 ▪ Fax 928-632-7365**

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**TOWN COUNCIL STUDY SESSION**

**August 7, 2018 – 6:30 p.m. Town Council Meeting Chambers**

**Agenda Item - #3. C. Review of revisions and discussion of Chapter 92 “The Dewey-Humboldt Nuisance Abatement Ordinance” by reference as the nuisance abatement regulations of the Town; amending the Dewey-Humboldt Code of Ordinances, Title IX General Regulations to add new Chapter 92 Nuisance Abatement related to definitions, prohibition of public nuisances, and procedures for notice and abatement of nuisances**

**To: Mayor and Town Council Members**  
**From: Tom Wilson**  
**Date submitted: July 31, 2018**

**Summary:**

At its May 15, 2018, Regular Council Meeting the Mayor and Council reviewed a revised, proposed Nuisance Abatement ordinance and directed Town Staff to make additional revisions. The requested revisions and some additional Staff adjustments have been made.

Attached is an index/guide to the changes made which Staff will review with the Council.

**Recommendation:**

The Town Manager recommends that the Mayor and Council review and discuss the proposed ordinance and provide direction to Staff.

July 31, 2018

Significant

Changes/Adjustments to the DRAFT of a D-H Nuisance Abatement Ordinance

- 92.02 B. - Each week (seven day period) separate offense
- 92.03 A. - Probable cause...that there is an imminent danger to life, health or safety
- 92.04 A. - Provides - fine not to exceed \$250 and a probation term of one year
- 92.04 B. - Same as 92.04 A. above
- 92.04 C. - Evidence of identity – full name, residence address and date of birth
- 92.05 A. & A.1. - Town Manager determines public nuisance emergency...and imminent hazard
- 92.06 - Town Manager          Town Prosecutor          Town Attorney
- 92.07 A.2.b. - probable cause to believe
  - A.2.k. - 30 – calendar
- 92.08 A. - thirty (30)
- 92.09 A. - Town Manager
- 92.10 B.6. - Town Manager
  - B.7. - removed authority to foreclose lien/sell property
  - B.8. - thirty (30) days
- 92.11 A. - thirty (30) days
- 92.13 C. - time of any sale or transfer of ownership of property
- 92.14 - Annual installments of assessment liens

**THE 2018 DEWEY-HUMBOLDT NUISANCE ABATEMENT ORDINANCE**

**Chapter 92 NUISANCE ABATEMENT**

Sections:

- 92.01 Definitions
- 92.02 Duty to Maintain Premises; Declaration of Public Nuisance.
- 92.03 Authority to Inspect
- 92.04 Interference with Inspection; False Information; Failure to Provide Evidence of Identity.
- 92.05 Emergency Abatement
- 92.06 Abatement in Lieu of or Addition to civil or Criminal Complaint
- 92.07 Abatement Procedures
- 92.08 Appeal of Abatement
- 92.09 Abatement by Town; Cost
- 92.10 Assessment; Notice of Assessment
- 92.11 Appeal of Assessment
- 92.12 Hearing on Appeal of Assessment
- 92.13 Assessment Lien; Recordation; Collection
- 92.14 Annual Installments of Assessment Liens
- 92.15 Subsequent Assessments

**92.01 Definitions.**

The following words, terms, and phrases, when used in this chapter shall have the meanings set forth below, unless the context clearly indicates a different meaning.

***BLIGHTOR BLIGHTED:*** Any deteriorated, dilapidated or decayed condition characterized by neglect, lack of maintenance, damage, or similar condition creating an imminent danger to life, health or safety.

***BUILDING:*** Any real property structure, movable or immovable, permanent or temporary, vacant or occupied, used (or of a type customarily used) for human occupancy or business purposes, or where livestock, produce, or personal or business property is located, stored or used.

***BLIGHTED BUILDING, STRUCTURE OR PROPERTY:*** Any building, structure or property in a condition of blight as determined by the Town.

***LESSEE:*** A person who has the right to possess real property pursuant to a lease, rental agreement, or similar instrument.

***OWNER:*** A person or legal entity who is shown as owner of real property in the official records of the Yavapai County recorder, and includes a person holding equitable title under a recorded installments sales contract, contract for deed or similar instrument.

***PERSON IN CONTROL:*** A person who has responsibility for the care and maintenance of private property, whether or not the person has possession or the use and enjoyment of said property. “Person in Control” includes, but is not limited to, the owner, occupant, property manager, or designated agent of the owner.

**PREMISES:** Any real property and buildings and structures thereon.

**PUBLIC NUISANCE:** Any blighted building, structure or property and any unsafe building.

**STRUCTURES:** Improvements and other facilities that are constructed or placed on land.

**UNSAFE BUILDING:** A building for which any one of the following conditions is present and is an imminent danger to life, health or safety:

1. Inadequate means of egress facilities;
2. Is a fire hazard or otherwise condition that is an imminent danger to life, health or safety;
3. Is vacant for an extended period of time and is not secured to prevent entry.

#### **92.02 Duty to Maintain Premises; Declaration of Public Nuisance.**

A. It shall be unlawful and a public nuisance for any person in control to maintain any public nuisance in the Town.

B. Any person found in violation of this chapter shall be responsible for a civil offense subject to the penalties and habitual offender provisions set forth in § 10.99 of this code. Each week (seven day period) that the violation continues shall constitute a separate offense.

C. In addition to and separate from actions for civil or criminal offenses, violations of this chapter may be abated by injunctive or other equitable relief, pursuant to state and common law and the procedures set forth in this chapter. Imposition of a penalty or civil sanction does not prevent abatement or other equitable relief.

#### **92.03 Authority to Inspect.**

A. Town employees are hereby authorized to inspect property in response to a citizen complaint that an alleged violation of this chapter may exist or when the employee has probable cause that there is a public nuisance that is an imminent danger to life, health or safety. No anonymous citizen complaints shall be accepted.

B. In order to determine compliance with this chapter, private property may be entered with the consent of the person in control or as authorized by a court of competent jurisdiction.

C. This section shall not be construed to require regular inspections of private premises by the Town, nor shall the Town have an obligation to abate any public nuisance, reported or unreported within a specific time period. Neither the Town nor any of its officers or officials shall be liable in any manner for injuries or damages which result or are alleged to have resulted from any delay or failure to enforce the provisions of this chapter.

**92.04 Interference with Inspection; False Information; Failure to Provide Evidence of Identity.**

A. Any person who interferes, prevents, or attempts to interfere or prevent an individual employed or contracted for by the Town from investigating an alleged violation of this chapter, or from correcting or abating a violation of this chapter is guilty of a class one misdemeanor and shall be subject to a fine not to exceed \$250 and a probation term of one year.

B. Any person who knowingly makes a false or fraudulent statement, or knowingly misrepresents a fact, or misleads an individual employed or contracted for by the Town when that individual is investigating, correcting or abating a violation of this chapter is guilty of a class one misdemeanor and shall be subject to a fine not to exceed \$250 and a probation term of one year.

C. Any person who or refuses to accurately identify him/herself to an individual employed by or contracted for by the Town when that individual is investigating an alleged violation of this chapter is guilty of a class one misdemeanor and shall be subject to a fine not to exceed \$250 and a probation term of one year. Evidence of identity under this section shall consist of a person's full name, residence address and date of birth.

**92.05 Emergency Abatement.**

A. If the Town Manager determines that there is probable cause to believe that a public nuisance presents an emergency and there is an imminent hazard to life, health or public safety, the Town may do one or more of the following:

1. Issue an emergency notice to abate the nuisance, directing the person in control to immediately take such action as is appropriate to correct or abate the public nuisance upon notice by the Town Manager to the person in control.
2. Act to correct or abate the emergency public nuisance, whether or not the Town is able to contact the owner, occupant, or person in control.

B. The person in control may appeal an order to abate to the Town Council. Upon notice and request by the owner, occupant or person in control, a hearing before the Town Council shall be scheduled as soon as practicable. Such appeal shall in no case stay the abatement or correction of such emergency public nuisance.

C. The Town may recover its costs incurred in abating an emergency public nuisance under this section in the same manner as provided for in this chapter to the extent practicable under the circumstances.

**92.06 Abatement in Lieu of or in Addition to Civil or Criminal Complaint.**

In addition to or in lieu of filing a civil or criminal complaint, the Town may file notice to abate any nuisance as defined in this code. Such abatement shall proceed independently of any civil or criminal violation filed. The Town Manager, Town Prosecutor and Town Attorney are authorized to file civil or criminal complaints to abate a public nuisance.

## **92.07 Abatement Procedures.**

### **A. *Notice to Abate.***

1. If, after an inspection, the Town finds one or more violations of this chapter, and the Town elects to use the abatement process, the Town shall, in writing, notify the person in control of the property.
2. The notice to abate shall set forth the following information:
  - a. The street address, legal description, or location by book, map and parcel number if street address is unknown, sufficient for identification of the property on which the alleged violation occurred;
  - b. A statement that the Town has determined that there is probable cause to believe that a violation of this chapter has occurred on the property identified in the notice to abate;
  - c. Notice that the person in control has thirty (30) days from the date of mailing or personal service of the notice to abate or correct the violation;
  - d. A statement of the violation(s) in sufficient detail to allow a reasonable person to identify and correct the violation(s);
  - e. A statement that all materials removed from the premises must be disposed of at an approved waste collection facility or by other appropriate legal means and that a tipping fee receipt or other evidence of legal disposal is to be submitted to the Town prior to a determination of compliance with the notice to abate;
  - f. A warning statement that if the violation is not corrected within 30 days of the date of the Notice, the Town may abate the nuisance and assess the owner, occupant, or person in control the cost of such abatement and record a lien against the property for payment of the assessment;
  - g. An estimate of the cost of removal or abatement by the Town, plus ten percent (10%) for the incidental costs associated with abating the nuisance;
  - h. Re-inspection date and time.
  - i. Name, address, telephone number, and email address of the Town enforcement officer who sent the notice to abate;
  - j. A statement that the person in control may appeal the abatement order in writing to the Town council within thirty (30) days from the date of the notice

and that failure to appeal will constitute waiver of all rights to an administrative hearing and determination of the matter.

- k. The 30-calendar day notice set forth in this section shall not apply to emergency abatements.

3. The Town Manager may extend the time limits set forth in this section if the person in control demonstrates to the satisfaction of the Town Manager that complying with the notice of violation or notice to abate is a hardship and if the person in control agrees in writing to a schedule for correcting the violation which will bring the property into compliance with the requirements of this title and complies with the schedule.

4. The notice requirements set forth in this subsection do not apply in an emergency abatement situation.

**B. *Service of Notices.***

1. Any notice required to be given for any purpose under this section shall be accomplished by an employee of the Town delivering the notice to the person in control of the property, or by mailing the notice to the person in control by certified mail, return receipt requested. If the property owner is not the occupant or person in control, a duplicate notice shall be mailed to him by certified return receipt requested mail at his last known address.

2. Notice is deemed effective on the date it is hand-delivered or deposited in the United States mail.

3. Nothing herein shall preclude the Town from giving additional oral or written notice at its discretion. If the Town does elect to give additional notice in any instance, it shall not thereby become obligated to give such additional notice thereafter in the same or other situation.

C. The notice to abate shall run with the land. The Town, at its sole option, may record a notice to abate with the Yavapai County recorder and thereby cause compliance by an entity thereafter acquiring such property. The non-filing of a notice to abate shall in no way affect the validity of such notice as to entities so notified. If the notice to abate is recorded and compliance with the notice to abate is subsequently satisfied, the Town shall record a satisfaction and release of the notice to abate with the County Recorder.

**92.08 Appeal of Abatement.**

Any person receiving a notice to abate may appeal to the Town Council as follows:

A. *Notice of Appeal.* A written notice of appeal shall be filed with the Town Clerk within thirty (30) days after the notice to abate was mailed or personally served. The date of receipt by the Town Clerk shall be the date of filing.

B. *Contents of Notice of Appeal.* The notice of appeal shall state in reasonable detail why the appellant should not be required to comply with the notice to abate.

C. *Hearing on Appeal.* Upon receipt of the notice of appeal, the Town Council shall place the matter on the agenda for its next available regular meeting. The Town shall appear and present evidence of the existence of the public nuisance. The person in control may present evidence controverting the existence of the public nuisance. The hearing shall be informal and without regard to the rules of procedure or evidence governing court proceedings. The Town Council shall decide the appeal, and its decision shall be final.

D. *Extension for Compliance.* If the Town Council's decision is adverse to the appellant, the date for compliance set forth in the notice to abate shall be extended by the number of days elapsing between the filing of the notice of appeal and the rendering of the Town Council's decision.

#### **92.09 Abatement by Town; Cost.**

A. *Abatement Time Limitation.* If the person in control fails to remove or otherwise abate the public nuisance within thirty (30) calendar days of mailing or personal service of the notice to abate (or such extension thereof as may be granted in writing by the Town Manager), the Town may, at the expense of the person in control, remove or abate the public nuisance or cause it to be removed or abated; provided, however, that if such removal or abatement is not undertaken within one hundred eighty (180) days after the right to do so first accrues to the Town, a new notice of abatement shall be served as provided in § 92.03.

B. *Determination of Cost of Removal.* The costs assessed for removal or abatement shall not exceed the actual costs plus ten percent (10%) for the incidental costs associated therewith, including associated legal costs. Before undertaking the actual removal or abatement, the Town shall attempt to obtain at least three written estimates from qualified contractors (if available locally) and shall accept the lowest such estimate that is otherwise satisfactory to the Town. In the alternative, the removal or abatement may be performed by Town personnel, and the cost shall be deemed to be the same as the lowest estimate obtained from a qualified contractor as determined by the Town.

C. *Removal from Tax Rolls.* Upon removing or demolishing a dilapidated building, the Town shall give notice to the county assessor to adjust the valuation of the real property on the property assessment tax roll from the date of removal.

#### **92.10 Assessment; Notice of Assessment.**

A. *Assessment.* Upon the removal or abatement of public nuisances, as provided in § 92.06, the actual cost of removal or abatement, together with the actual costs of any additional inspections and other incidental costs, including any legal fees, determined as set forth in § 92.09(B), shall be an assessment against the real property on which the public nuisance was located.

B. *Notice of Assessment.* A written notice of assessment shall be served in the same manner as the notice to abate. The notice of assessment shall provide the following information:

1. The street address, legal description, location by book, map, or tax parcel number of the property;
2. The facts supporting the assessment;



3. An itemized listing of the actual cost of removal or abatement;
4. The actual costs of any additional inspections and other incidental costs, including legal fees.
5. State that the entire cost is due and payable in full no later than thirty (30) days from the date of issuance of the notice of assessment and that the assessment will become delinquent as of that date.
6. Be signed by the Town Manager.
7. Contain the following statement in bold face print:

**NOTICE: PURSUANT TO A.R.S. § 9-499, THIS NOTICE OF ASSESSMENT SHALL CONSTITUTE A LIEN UPON THE PROPERTY DESCRIBED IN THIS NOTICE OF ASSESSMENT IN FAVOR OF THE TOWN OF DEWEY-HUMBOLDT.**

8. State that the person in control shall have thirty (30) days from the date of the mailing or personal service of the notice of assessment to appeal the amount of the assessment imposed by the Town.

#### **92.11 Appeal of Assessment.**

A. *Appeal of Assessment.* A party wishing to appeal an assessment shall file a written notice of appeal with the Town Clerk within thirty (30) days after the date of the notice of assessment was mailed or personally served. The appeal shall clearly specify the grounds for the appeal. The date of receipt of the notice of appeal by the Town Clerk shall be the date of filing. No appeals of violations shall be heard at the hearing on an appeal of an assessment.

B. *Grounds for Appeal.* The following shall constitute reasonable grounds for appeal of an assessment:

1. A claim that the true intent of the section or standards described in the section have been incorrectly interpreted; or
3. A claim that the statement of costs for correcting or abating the violation is excessive.

C. *Report of Assessment.* If an appeal of the assessment is not timely filed, the Town shall prepare a report of assessment for consideration by the Town Council. The report shall list the address, legal description and/or tax parcel number of the property. The report of assessment shall set forth the facts supporting the assessment and an itemized list of the actual cost of removal or abatement, the actual costs of any additional inspections and other incidental costs, including legal fees. Upon acceptance of the report by the Council, it shall be signed by the Mayor.

#### **92.12 Hearing on appeal of assessment.**

A. *Hearing on Appeal.* Upon receipt of the notice of appeal, the Town Council shall place the matter on the agenda for its next available regular meeting. Written notice of the hearing shall be provided to all appropriate Town departments and to the appellant. The appropriate representative of the Town shall appear and present the facts supporting the assessment and an itemized listing of the actual cost of removal or abatement, the costs of any additional inspections and other incidental costs, including legal fees. The appellant may present evidence controverting the imposition of the assessment. The Town Council shall determine whether the assessment was made in accordance with the provisions of this chapter and applicable state statutes and whether the amount of the assessment is sufficient to cover the actual costs of abatement and related activities. The Town Council shall issue its findings in writing, upholding or modifying the amount of the assessment, or overturning the assessment. The decision of the Town Council shall be final.

B. *Extension of Compliance.* If the Town Council's decision is adverse to the appellant, the date for compliance set forth in the notice of assessment shall be extended by the number of days elapsing between the filing of the notice of appeal and the rendering of the Town Council's decision.

### **92.13 Assessment Lien; Recordation; Collection.**

A. *Recordation.* If the person in control fails to pay the assessment within thirty (30) calendar days after receipt of the notice of assessment (or any extension as may be granted in writing by the Town Council), the assessment shall be delinquent and may be recorded in the office of the Yavapai County recorder as a lien. The assessment lien shall include the date, amount of assessment, legal description, tax parcel number and name of the Town.

B. *Assessment Lien.* The assessment shall be a lien against the real property from and after the date of recordation and shall accrue interest at the statutory judgment rate, pursuant to A.R.S. § 44-1201, until paid. The assessment lien is prior and superior to all other liens, obligations, mortgages or other encumbrances, except liens for general taxes.

C. *Collection.* The Town shall not foreclose on an assessment lien. The assessment lien shall be paid no later than at the time of any sale or transfer of ownership of the property.

### **92.14 Annual installments of assessment liens.**

A. Assessments that are imposed pursuant to § 92.10 shall run against the property until paid and are due and payable in equal annual installments as follows:

1. Assessments of less than five hundred dollars shall be paid within one year after the assessment is recorded.
2. Assessments of five hundred dollars or more but less than one thousand dollars shall be paid within two years after the assessment is recorded.
3. Assessment of one thousand dollars or more but less than five thousand dollars shall be paid within three years after the assessment is recorded.
4. Assessment of five thousand dollars or more but less than ten thousand dollars shall be paid within six years after the assessment is recorded.

5. Assessments of ten thousand dollars or more shall be paid within ten years after the assessment is recorded.

**92.15 Subsequent assessments.**

A prior assessment shall not constitute a bar to a subsequent assessment or assessments for violations of this chapter and any number of liens on the same lot, tract of land or premises and may be recorded and enforced in the same or separate actions by the Town.