

**Title 20. ADMINISTRATIVE CODE ENFORCEMENT**

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- 20.02. General Authority and Offenses.**
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**Chapter 20.01. General Provisions and Definitions.**

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**20.01.01. Short Title.**

This Title shall be known as “Administrative Code Enforcement.” This Title shall also be known as Title 20 of the City of Saratoga Springs City Code. It may be cited and pleaded under either designation.

(Ord. 11-9; Ord. 09-10)

**20.01.02. Declaration of Purpose.**

The City Council of the City of Saratoga Springs finds that the enforcement of the Saratoga Springs City Code throughout the City is an important public service. Code enforcement is vital to the protection of the public’s health, safety, welfare, and quality of life. A comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gaining compliance with City ordinances.

(Ord. 11-9; Ord. 09-10)

**20.01.03. Scope.**

The provisions of this Title may be applied to all violations of the City Code. It has been designed as an additional remedy for the City to use in achieving compliance with its ordinances and regulations.

(Ord. 11-9; Ord. No. 09-10)

**20.01.04. Existing Law Continued.**

The provisions of this Title do not invalidate any other title or ordinance, but shall be read in conjunction with those titles and ordinances as an additional remedy available for enforcement of

those ordinances.

(Ord. 11-9; Ord. 09-10)

**20.01.05. Criminal Prosecution Right.**

The City has sole discretion in deciding whether to file a civil or criminal case for the violation of any of its ordinances. The enactment of this administrative remedy shall in no way interfere with the City’s right to prosecute City ordinance violations as criminal offenses. The City may use any of the remedies available under the law in both civil and criminal prosecution. However, for all violations of Chapter 13.03, 13.04, 13.05, 13.06, and 13.07, the City shall file a criminal prosecution. Although most minor City Code violations should be enforced through this Title, the City may choose to file a criminal prosecution under any of the following circumstances:

1. the violator has one prior violation of the City Code within the last year;
2. the violation caused bodily injury, substantial bodily injury, or serious bodily injury to an individual, all of which shall have the same definition in Utah Code § 76-1-601;
3. the violator, in a single criminal episode, violated one or more provisions of the Utah Criminal Code as well as one or more provisions of the City Code, and all violations are being charged as a single criminal episode as defined in Utah Code § 76-1-401;
4. the violator is being charged with any violation of Title 10 of the City Code; or
5. the violation caused a significant health or safety risk to the public.

(Ord. 17-19; Ord. 11-9; Ord. 09-10)

**20.01.06. No Mandatory Duty—Civil Liability.**

It is the intent of the City Council that in establishing performance standards or establishing the authority to act by a City officer or employee, these standards shall not be construed as creating a mandatory duty if the officer or employee fails to perform his or her directed duty or duties.

(Ord. 11-9; Ord. 09-10)

**20.01.07. Definitions.**

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

1. **“Abatement”** means any action the City may take on public or private property and any adjacent property as may be necessary to remove or alleviate a violation, including demolition, removal, repair, boarding, and securing or replacement of property.

2. **“Administrative Law Judge”** means the administrative law judge presiding over the Administrative Code Enforcement Program established pursuant to Chapter 3.11 of the City Code.
3. **“Administrative Law Judge Order”** means an order issued by an Administrative Law Judge. The order may include an order to abate the violation, pay civil penalties and administrative costs, or take any other action as authorized or required by this Title and City ordinances.
4. **“City”** means the area within the territorial city limits of the City of Saratoga Springs.
5. **“City Code”** means any ordinance passed by the City Council and any other Title, ordinance, regulation, or amendment lawfully codified pursuant to Utah law including Utah Code § 10-3-707.
6. **“City Council”** means the City Council of the City of Saratoga Springs.
7. **“Code Enforcement Coordinator”** means the person who has been designated by the Saratoga Springs City Manager to coordinate and schedule hearings, mail out notices of hearings, send out notices of costs and itemized bills, and perform other duties as specified in this Title.
8. **“Code Enforcement Officer”** means any person designated by the City Manager with the responsibility to enforce the City Code and ordinances passed by the City Council and who performs the duties specified herein. The Code Enforcement Officer may or may not be a member of the Saratoga Springs Police Department. Code Enforcement Officers include the City Building Official, Planning Director, City Building and Engineering Inspectors, and their designees.
9. **“Code enforcement performance bond”** means a bond posted by a responsible person to ensure compliance with the City Code, applicable state law, a judicial action, or an Administrative Law Judge Order.
10. **“Code enforcement tax lien”** means a lien recorded to collect outstanding civil penalties, administrative fees, and costs.
11. **“Financial institution”** means any person that holds a recorded mortgage or deed of trust on a property.
12. **“Good cause”** means incapacitating illness, death, lack of proper notice, unavailability due to unavoidable, unpreventable, or extenuating emergency or circumstance, imminent and irreparable injury, and acts of nature adverse to performing required acts.
13. **“Imminent life or safety hazard”** means any condition that creates a present, extreme, and immediate danger to life, property, health, or public safety.

14. **“Legal interest”** means any interest that is represented by a document, such as a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic’s lien, or other similar instrument that is recorded with the County Recorder.
15. **“Notice of compliance”** means a document issued by the City representing that a property complies with the requirements outlined in a notice of violation, administrative citation, or Administrative Law Judge Order.
16. **“Notice of satisfaction”** means a document or form that indicates that all outstanding civil penalties and costs have been either paid in full, or that the City has negotiated an agreed amount, or that a subsequent administrative or judicial decision has resolved the outstanding debt. In addition to the satisfaction of the financial debt, the property must also be in compliance with the requirements outlined in the notice of violation.
17. **“Notice of violation”** means a written notice prepared by a Code Enforcement Officer that informs a responsible person of code violations and orders them to take certain steps to correct the violations.
18. **“Oath”** includes affirmations and oaths.
19. **“Ordinance Enforcement Administrator”** means the supervisor of the Ordinance Enforcement and Animal Control Division as designated by the City Manager.
20. **“Person”** means any person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, sergeant, officer, or employee of any of them, or any other entity that is recognized by law as the subject of rights or duties.
21. **“Property owner”** means the record owner of real property based on the county recorder’s records.
22. **“Public nuisance”**:
  - a. means any condition caused, maintained, or permitted to exist that constitutes a threat to the public’s health, safety, and welfare, or that significantly obstructs, injures, or interferes with the reasonable or free use of property in a neighborhood or community or by any considerable number of persons; and
  - b. also has the same meaning as set forth in the Utah Code or Utah common law.
23. **“Responsible person”** means a person including the property owner and any person or entity, whether as owner, agent, or occupant, who commits, aids in committing, contributes to, causes, supports, retains, or permits a City Code violation in the City, regardless of whether that violation occurs on real property. Every successive owner or tenant of a property or premises who fails to correct a City Code violation upon or in the use of property or premises caused by a former owner or tenant is also a responsible person. In cases where there is more than one responsible person, the City may proceed against one, some, or all of them.

24. **“Substantial Evidence”** means relevant, reliable, factual, and credible evidence that is sufficient to convince a reasonable mind that a violation of the City Code has been committed. Substantial evidence does not mean that all or the majority of the evidence is in support of the decision made.

25. **“Written”** includes handwritten, typewritten, photocopied, computer printed, or facsimile.

(Ord. 11-9; Ord. 09-10)

**20.01.08. Acts Include Causing, Aiding, or Abetting.**

Whenever any act or omission is made unlawful in this Title, it shall include causing, permitting, aiding, or abetting such act or omission.

(Ord. 11-9; Ord. 09-10)

**20.01.09. Service of Process.**

1. Except for violations of Title 19, whenever service is required to be given under this Title for enforcement purposes, a Code Enforcement Officer or the Code Enforcement Coordinator (or designees) shall serve the document by any of the following methods, unless otherwise provided:
  - a. Regular mail, postage prepaid, to the last known address of the owner(s) or other responsible person(s);
  - b. Posting the notice conspicuously on or in front of the property. If not inhabited, the notice must also be mailed as described in (a) above;
  - c. Personal service pursuant to Utah Rule of Civil Procedure 4; or
  - d. Published in a newspaper of general circulation where the identity or whereabouts of the person to be served are unknown and cannot be ascertained through reasonable diligence, where service is impracticable under the circumstances, or where there exists good cause to believe that the person to be served is avoiding service of process.
2. For violations of Title 19, or any land use ordinance as defined in Utah Code Section 10-9a-102, whenever service is required to be given under this Title for enforcement purposes, the document shall be served in accordance with Utah Code § 10-9a-803, as amended, which requires written notice, by mail or hand delivery, of each ordinance violation to the address of the owner of record on file in the office of the county recorder or person designated in writing by the owner of record as the owner's agent for the purpose of receiving notice of an ordinance violation.
3. Service by regular mail in the manner described above shall be deemed served three business days, not including the day it was mailed, after the date of mailing.

4. If service complies with the requirements of this Section, it shall be deemed a valid service even if a party claims not to have received the service and it shall not affect the validity of any proceedings taken under this Title.
5. The failure to serve all responsible person(s) shall not affect the validity of any proceedings.

(Ord. 11-9; Ord. 09-10)

**20.01.10. Constructive Notice of Recorded Documents.**

Whenever a document is recorded with the County Recorder as authorized or required by this Title or applicable state codes, recordation shall provide constructive notice of the information contained in the recorded documents.

(Ord. 11-9; Ord. 09-10)

**Chapter 20.02. General Authority and Offenses.**

**Sections:**

- 20.02.01. General Enforcement Authority.**
- 20.02.02. Adoption of Policy and Procedures.**
- 20.02.03. Authority to Inspect.**
- 20.02.04. Power to Cite.**
- 20.02.05. False Information or Refusal Prohibited.**
- 20.02.06. Failure to Obey a Subpoena.**

**20.02.01. General Enforcement Authority.**

1. Whenever a Code Enforcement Officer finds that a violation of the City Code or City ordinances has occurred or continues to exist, the appropriate administrative enforcement procedure may be used as outlined in this Title.
2. So long as authorized in this Title, a Code Enforcement Officer has the authority and power necessary to gain compliance with the provisions of the City Code and City ordinances. These powers may include the power to issue notices of violation and administrative citations, inspect public and private property, abate violations on public and private property, and use whatever judicial and administrative remedies are available under the City Code or applicable state law.

(Ord. 11-9; Ord. 09-10)

**20.02.02. Adoption of Policy and Procedures.**

The Administrative Law Judge is authorized to develop policies and procedures relating to the hearing procedures, scope of hearings, and subpoena powers subject to the requirements of this Title, City Code, and state law. The City Council shall determine other matters relating to the Administrative Code Enforcement Hearing Program.

(Ord. 11-9; Ord. 09-10)

**20.02.03. Authority to Inspect.**

1. A Code Enforcement Officer is authorized to enter upon any property or premises to ascertain whether the provisions of the City Code or City ordinances are being obeyed and to make any examinations and surveys as may be necessary in the performance of the enforcement duties. This may include the taking of photographs, samples, or other physical evidence.
2. All inspections, entries, examinations, and surveys shall be done in a reasonable manner based upon cause. Except as otherwise authorized in this Title, if the responsible person refuses to allow a Code Enforcement Officer to enter the property, then the Code



Enforcement Officer shall obtain a search warrant or other judicial order.

(Ord. 11-9; Ord. 09-10)

**20.02.04. Power to Cite.**

Each Code Enforcement Officer is authorized to cite any person whenever there is substantial evidence to believe that the person has committed a violation of the City Code or City ordinances.

(Ord. 11-9; Ord. 09-10)

**20.02.05. False Information or Refusal Prohibited.**

It shall be unlawful for any person to willfully make a false statement or refuse to give his or her name or address with intent to deceive or interfere with a city employee when in the performance of his or her official duties under the provisions of this Title. A violation of this Section is a class C misdemeanor.

(Ord. 11-9; Ord. 09-10)

**20.02.06. Failure to Obey a Subpoena.**

It is unlawful for any person to refuse or fail to obey a subpoena issued for an administrative code enforcement hearing. Failure to obey a subpoena constitutes contempt and may be prosecuted as a class C misdemeanor.

(Ord. 11-9; Ord. 09-10)

## **Chapter 20.03. Administrative Code Enforcement Procedures.**

### **Sections:**

- 20.03.01. Authority.**
- 20.03.02. Notice of Violation; Administrative Abatement.**
- 20.03.03. Failure to Bring Property into Compliance.**
- 20.03.04. Inspections.**
- 20.03.05. Emergency Abatement.**
- 20.03.06. Demolitions.**
- 20.03.07. Administrative Citations.**
- 20.03.08. Civil Penalties, Fines, and Fees.**
- 20.03.09. Animal Citations.**

### **20.03.01. Authority.**

Any condition caused, maintained, or permitted to exist in violation of any provisions of the City Code or City ordinances that constitutes a violation may be abated by the City pursuant to the procedures set forth in this Chapter.

(Ord. 11-9; Ord. No. 09-10)

### **20.03.02. Notice of Violation; Administrative Abatement.**

1. Whenever a Code Enforcement Officer determines that a violation of the City Code or City ordinances has occurred or continues to exist, the Code Enforcement Officer may choose to proceed under these administrative abatement procedures.
2. If the administrative abatement procedure is used, a notice of violation shall be issued to the responsible person. The notice of violation shall include the following information:
  - a. name of responsible person;
  - b. street address or location of violation;
  - c. date violation observed;
  - d. all codes or ordinances violated and an explanation as to how the code or ordinance was violated;
  - e. a statement explaining the type of remedial action required to permanently correct outstanding violations, which may include corrections, repairs, demolition, removal, or other appropriate action;
  - f. specific date to correct the violations listed in the notice of violation, which date shall be at least ten calendar days from the date of service;
  - g. explanation of the consequences if the responsible person fails to comply with the terms and deadlines as prescribed in the notice of violation, which may include criminal prosecution, civil penalties, administrative citations, revocation of permits, recordation of the notice of violation on the property, withholding of future municipal permits, abatement of the violation, costs, administrative fees, and any other legal remedies;
  - h. a statement that civil penalties will begin to accrue or be imposed immediately on

- expiration of the date to correct violations;
  - i. the amount of the civil penalty on each violation and a statement as to whether the penalty will accrue daily until the property is brought into compliance;
  - j. that only one notice of violation is required for any 12-month period, and that civil penalties or fines will begin or be imposed immediately upon any subsequent violations of the notice; and
  - k. procedures to request a hearing as provided in Section 20.04.03 and consequences for failure to request one.
3. The responsible person may request a hearing on renewed violations by following the same procedure as provided for in the original notice.
  4. The notice of violation shall be served by one of the methods of service listed in Section 20.01.09 of this Title.
  5. More than one notice of violation may be issued against the same responsible person if it encompasses different dates or different violations.

(Ord. 11-9; Ord. 09-10)

**20.03.03. Failure to Bring Property into Compliance.**

If the responsible person fails to bring a violation into compliance within the time specified in the Notice of Violation, civil penalties as provided in Section 20.03.08 shall be owed to the City.

(Ord. 11-9; Ord. 09-10)

**20.03.04. Inspections.**

1. It shall be the duty of the responsible person served with a Notice of Violation to request an inspection when his or her property has been brought into compliance. It is prima facie evidence that the violation remains on the property if no inspection is requested.
2. Civil penalties accumulate daily until the property has been inspected and a notice of compliance is issued.
3. Reinspection fees shall be assessed if more than one inspection is necessary.

(Ord. 11-9; Ord. 09-10)

**20.03.05. Emergency Abatement.**

1. **Authority.**
  - a. Whenever the Ordinance Enforcement Administrator determines that an imminent life or safety hazard exists that requires immediate correction or

elimination, the Ordinance Enforcement Administrator may exercise the following powers without prior notice to the responsible person:

- i. order the immediate vacation of any tenants, and prohibit occupancy until all repairs are completed;
  - ii. post the premises as unsafe, substandard, or dangerous;
  - iii. board, fence, or secure the building or site;
  - iv. raze and grade that portion of the building or site to prevent further collapse, and remove any hazard to the general public;
  - v. make emergency repairs as necessary to eliminate any imminent life or safety hazard; or
  - vi. take any other action appropriate to eliminate the emergency.
- b. The Ordinance Enforcement Administrator has the authority, based on cause, to enter the property without a search warrant or court order to accomplish the above listed acts to abate the safety hazard.
  - c. The responsible person shall be liable for all costs associated with the abatement of the life safety hazard. Costs may be recovered pursuant to this Title.

## 2. **Procedures.**

- a. The Ordinance Enforcement Administrator shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard. Costs incurred by the City during the emergency abatement process shall be assessed and recovered against the responsible person through the procedures outlined in Chapter 20.05 of this Title.
- b. The Ordinance Enforcement Administrator may also pursue any other administrative or judicial remedy to abate any remaining violations.

## 3. **Notice of Emergency Abatement.**

- a. After an emergency abatement, the City shall notify the owner or responsible person of the abatement action taken.
- b. The notice shall be served within ten days of completion of the abatement.

(Ord. 11-9; Ord. 09-10)

## **20.03.06. Demolitions.**

1. **Authority.** Whenever the Ordinance Enforcement Administrator, Chief Building Officer, or Fire Inspector determines that a property or building requires demolition, any one of them may order demolition or removal of the offending structure, or exercise any or all of the powers listed in Section 20.03.05, once appropriate notice has been given to a responsible person pursuant to applicable building codes, fires codes, and state law. The responsible person shall be liable for all costs associated with the demolition. Costs may be recovered pursuant to this Title.
2. **Procedures.** Once all of the notice requirements of the applicable laws have been met, the property will be abated pursuant to the abatement remedy. Other applicable remedies may also be pursued.

(Ord. 11-9; Ord. No. 09-10)

**20.03.07. Administrative Citations.**

**1. Declaration of Purpose.**

- a. The City Council finds that there is a need for an alternative method of enforcement for minor violations of the City Code. The City Council further finds that an appropriate method of enforcement is an administrative citation program.
- b. The procedures established herein shall be in addition to criminal, civil, administrative, or any other legal remedy established by law that may be pursued to address violations of the City Code or City ordinances.

**2. Authority.**

- a. Any person violating any provision of the City Code or City ordinances may be issued an administrative citation by a Code Enforcement Officer as provided in this Section.
- b. A civil penalty shall be assessed by means of an administrative citation issued by the Officer and shall be payable directly to the City Treasurer's Office.
- c. Penalties assessed by means of an administrative citation shall be collected in accordance with the procedures specified in Chapter 20.05 of this Title.

**3. Procedures.**

- a. Upon discovering any violation of the City Code or City ordinances, a Code Enforcement Officer may issue an administrative citation to the responsible person in the manner prescribed in this Section.
- b. The administrative citation shall be issued on a form meeting the requirements of subsection 20.03.07(4) of this Title..
- c. Once the responsible person has been located, the Code Enforcement Officer shall attempt to obtain the signature of that person on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal shall not affect the validity of the citation and subsequent proceedings. If the Code Enforcement Officer is unable to locate the responsible person for the violation, then the administrative citation shall be mailed to the responsible person in the manner prescribed in Section 20.01.09 of this Title.
- d. Except for Title 19 violations as specified in Section 20.01.09, if no one can be located at the property, then the administrative citation may be posted in a conspicuous place on or near the property and a copy subsequently mailed to the responsible person in the manner prescribed in Section 20.01.09 of this Title.
- e. The administrative citation shall also contain the signature of the Code Enforcement Officer.
- f. The failure of any person with an interest in the property to receive notice shall not affect the validity of any proceedings taken under this Part, except for Title 19 violations as specified in Section 20.01.09.

**4. Contents of Administrative Citation.** An administrative citation shall include:

- a. the date and location of the violations and the approximate time the violations were observed;
- b. the Code sections violated and the subject matter of those sections;
- c. the amount of penalty imposed for the violations;
- d. an explanation as to how the penalty shall be paid, the time period by which the penalty shall be paid, and the consequences of failure to pay the penalty;
- e. notice of the right and the procedures to request a hearing;
- f. the signature of the Code Enforcement Officer and the signature of the responsible person, if he or she can be located, as outlined in Section 20.03.07(3)(c) of this Title; and
- g. any other information deemed helpful or necessary by the Code Enforcement Administrator.

(Ord. 11-9; Ord. 09-10)

**20.03.08. Civil Penalties, Fines, and Fees.**

1. **In General.** As specified in the notice of violation or administrative citation, civil penalties may be assessed on a daily basis until the violation is corrected or immediately if an administrative citation is issued. Interest shall be assessed per City policy on all outstanding civil penalties balances until the case has been paid in full. The City may use one form for both notices of violation and administrative citations. Payment of the penalties, fines, and fees shall not excuse the failure to correct the violations, nor shall it bar further enforcement action by the City if the violation is not corrected.
2. **Amount.** Unless specified otherwise in the more specific section of the City Code or the City's Consolidated Fee Schedule, the penalties shall be as follows:
  - a. Fees for General City Code Violations:
    - i. Administrative Citations:
      - A. First Offense: \$100
      - B. Second Offense (within one year from first offense): \$200
      - C. Third (or more) Offense (within one year from first offense): \$400
    - ii. Civil Penalties per Notice of Violation or Administrative Law Judge Order:
      - A. \$25 per day per violation, accruing until the violation is brought into compliance
  - b. Fees for Violations of Title 13, Traffic and Parking:
    - i. Parking Violations:
      - A. Administrative Citations:
        - I. First Offense: \$25
        - II. Second Offense (within one year from first offense): \$50
        - III. Third (or more) Offense (within one year from first offense): \$100
      - B. Civil Penalties per Notice of Violation or Administrative Law Judge Order:
        - I. \$25 per day per violation, accruing until the violation is brought into compliance.

- ii. Traffic Violations:
  - A. Administrative Citations:
    - I. First Offense: \$50
    - II. Second Offense (within one year from first offense): \$100
    - III. Third (or more) Offense (within one year from first offense): \$150
  - B. Civil Penalties per Notice of Violation or Administrative Law Judge Order:
    - I. \$25 per day per violation, accruing until the violation is brought into compliance.
- c. Hearing Fee for Default Hearings or Administrative Code Enforcement Hearings: \$100 if Responsible Person is unsuccessful or fails to appear after proper notice.

**3. Non-Payment of Citation.**

- a. If the responsible person fails to make any payments within the time period specified in the notice, the City may send additional notices, file a small claims action, refer the matter to a collection agency, or pursue any remedy in law or equity.
- b. Interest may be assessed on all outstanding amounts at a rate of up to 20% per annum.
- c. The City has the authority to collect all costs associated with the filing of such actions, including administrative fees and service costs.

**4. Modification of Civil Penalties.**

- a. Upon completion of the required action pursuant to the notice of violation, administrative citation, or administrative enforcement order, the Administrative Law Judge may modify the civil penalties on a finding of good cause as defined in this Title.
- b. Civil penalties may be waived or modified by the Administrative Law Judge if there is a finding of good cause based on the responsible person's claim of nonconforming use, as defined per state law, or conditional use, as defined by the City Code, and:
  - i. the City's ability to verify the claim; or
  - ii. the responsible person's filing of an application for either use before the date of the Notice of Violation or Administrative Citation.
- c. **Reductions and Waivers for Animal Violations.**
  - i. The Code Enforcement Coordinator and Administrative Law Judge may grant reductions and waivers of fines for animal violations under the following circumstances:
    - A. Licensing and rabies fines may be dismissed upon proof that the violation has been corrected.
    - B. \$25.00 reduction may be given for first time offenders with good cause.
    - C. Offenders with a history of non-payment should generally not receive a reduction or waiver of fines or fees.

- D. At the City's discretion, flexible monthly plans may be set up according to responsible person's needs.
- E. Fines may be dismissed if the animal in violation is deceased.

(Ord. 11-9; Ord. 09-10)



## **Chapter 20.04. Administrative Code Enforcement Hearing Procedures.**

### **Sections:**

- 20.04.01. Declaration of Purpose.**
- 20.04.02. Authority and Scope of Hearings.**
- 20.04.03. Powers of the Administrative Law Judge.**
- 20.04.04. Request for Administrative Code Enforcement Hearing.**
- 20.04.05. Notification of Administrative Code Enforcement Hearing.**
- 20.04.06. Default Hearings and Orders.**
- 20.04.07. Procedures at Administrative Code Enforcement Hearing.**
- 20.04.08. Failure to Attend Administrative Code Enforcement Hearing.**
- 20.04.09. Administrative Law Judge Order.**
- 20.04.10. Failure to Comply with Order.**
- 20.04.11. Administrative Enforcement Appeals.**

### **20.04.01. Declaration of Purpose.**

The City Council finds that there is a need to establish uniform procedures for administrative code enforcement hearings conducted pursuant to this Title. It is the purpose and intent of the City Council to afford due process of law to any person who is directly affected by an administrative action. Due process of law includes notice, an opportunity to participate in the administrative hearing including the opportunity to call witnesses, present evidence, and cross-examine witnesses, and an explanation of the reasons justifying the administrative action. These procedures are also intended to establish a forum to efficiently, expeditiously, and fairly resolve issues raised in any administrative code enforcement action.

(Ord. 11-9; Ord. 09-10)

### **20.04.02. Policies and Procedures of Hearings.**

The Administrative Law Judge may develop policies and procedures to regulate the hearing process for any violation of the City Code that is handled pursuant to the administrative abatement procedures, the emergency abatement procedures, the demolition procedures, or the administrative citation procedures. Such policies and procedures shall be consistent with this Title 20 and other City ordinances and codes.

(Ord. 11-9; Ord. 09-10)

### **20.04.03. Powers of the Administrative Law Judge.**

1. The Administrative Law Judge has the authority to hold hearings, determine if violations of city ordinances exist, order compliance with city ordinances, and enforce compliance as provided in this Title on any matter subject to the provisions of the Title.
2. The Administrative Law Judge may continue a hearing based on good cause—as defined

in this Chapter—shown by one of the parties to the hearing. The Administrative Law Judge must enter on the record the reason for granting a continuance.

3. The Administrative Law Judge may issue subpoenas for witnesses, documents, and other evidence where such is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena. The Administrative Law Judge shall develop policies and procedures relating to the issuance of subpoenas in administrative code enforcement hearings, including the form of the subpoena and related costs. In the absence of any adopted policies, the Administrative Law Judge shall follow the Utah Rules of Civil Procedure.
4. The Administrative Law Judge has continuing jurisdiction over the subject matter of an administrative code enforcement hearing for the following purposes:
  - a. granting a continuance;
  - b. ordering compliance by issuing an Administrative Law Judge Order using any remedies available under the law; and
  - c. ensuring compliance of that order, which includes the following powers:
    - i. to authorize the City to enter and abate a violation,
    - ii. to modify an Administrative Law Judge Order, or
    - iii. to grant a new hearing where extraordinary circumstances exist.
5. The Administrative Law Judge has the authority to require the responsible person to post a code enforcement performance bond to ensure compliance with an Administrative Law Judge Order.
6. The Administrative Law Judge is subject to disqualification for bias, prejudice, interest, or any other reason for which a judge may be disqualified in a court of law. Rules and procedures for disqualification and replacement shall be in accordance with the Utah Rules of Civil Procedure.

(Ord. 11-9; Ord. 09-10)

#### **20.04.04. Request for Administrative Code Enforcement Hearing.**

1. A person served with one of the following documents or notices has the right to request an administrative code enforcement hearing if the request is filed within ten calendar days from the date of service:
  - a. notice of violation;
  - b. notice of itemized bill for costs;
  - c. administrative citation; or
  - d. notice of emergency abatement.
2. The request for hearing shall be made in writing and filed with the Code Enforcement Coordinator, who then shall provide a copy of the request to the Administrative Law

Judge and serve the request to all parties. The request shall contain the case number, the address of the violation, the signature of the responsible party, and the reason for the hearing including justifications for the offense, defenses, and requests for waiver or reduction in fines.

3. As soon as practicable after receiving the written notice of the request for hearing, the Code Enforcement Coordinator shall schedule a date, time, and place for the hearing.
4. Failure to request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the action.

(Ord. 11-9; Ord. 09-10)

**20.04.05. Notification of Administrative Code Enforcement Hearing.**

1. Written notice of the date, time, and place of the hearing shall be served by the Code Enforcement Coordinator or Code Enforcement Officer to the responsible person as soon as practicable prior to the date of the hearing.
2. The format and contents of the hearing notice shall be in accordance with rules and policies promulgated by the Administrative Law Judge. In the absence of such rules, the format and contents of the hearing shall be drafted by the Code Enforcement Coordinator so as to be consistent with this Title 20.
3. The notice of hearing shall be served by any of the methods of service listed in Section 20.01.09 of this Title.

(Ord. 11-9; Ord. 09-10)

**20.04.06. Default Hearings and Orders.**

1. If the responsible person fails to request an administrative code enforcement hearing before the expiration of the ten day deadline, the case shall be set for a default hearing by the Code Enforcement Coordinator. The Code Enforcement Coordinator shall notify the responsible person of the date, time, and place of the hearing by one of the methods listed in Section 20.01.09.
2. A default hearing shall also be scheduled for all cases that have outstanding or unpaid civil penalties, fines, fees, or costs due to the City before collection, if a hearing on that case has not already been held.
3. At the default hearing, the responsible person shall have the opportunity to present evidence to show that good cause exists, as defined in the Title, to do one or more of the following:
  - a. waive or reduce the fines which have accumulated;
  - b. postpone an abatement action by the City; or
  - c. excuse the responsible person's failure to request a hearing within the ten day

period.

4. If the evidence shows that the violations existed, the Administrative Law Judge shall enter an order requiring abatement of the violations and the payment of all fines, costs, and fees. Fines and costs shall run until the City issues a notice of compliance stating when the violations were actually abated. The order by the Administrative Law Judge shall not suspend further accrual of fines and costs.

(Ord. 11-9; Ord. 09-10)

#### **20.04.07. Procedures at Administrative Code Enforcement Hearing.**

1. Administrative code enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply; however, an informal exchange of discovery may be required. The request for discovery must be in writing and filed at least 10 business days before the hearing. Failure to request discovery shall not be a basis for a continuance.
2. Complainant information is protected and shall not be released unless the complainant is a witness at the hearing.
3. The procedure and format of the administrative hearing shall follow the procedures promulgated by the Administrative Law Judge.
4. The City bears the burden of proof at an administrative code enforcement hearing to establish the existence of a violation of the City Code or City ordinances.
5. The standard of proof to be used by the Administrative Law Judge in deciding the issues at an administrative hearing is whether there is substantial evidence in the record that the violations exist and that the person before the Judge is the responsible person.
6. Hearsay evidence, as defined by the Utah Rules of Evidence, is admissible so long as such hearsay evidence is not the only evidence relied upon by the Administrative Law Judge.
7. Each party shall have the opportunity to cross-examine witnesses that are in attendance and present evidence in support of his or her case. A written declaration signed under penalty of perjury may be accepted in lieu of a personal appearance so long as the declaration is not the only evidence relied upon by the Administrative Law Judge. Testimony may be given by telephone or other electronic means so long as the testimony by telephone or electronic means is not the only evidence relied upon by the Administrative Law Judge.
8. All hearings are open to the public. They shall be recorded by audio recording.
9. Hearings may be held at the location of the violation if the Administrative Law Judge so chooses and means are provided for an audio recording of the proceeding.

10. The responsible person has a right to be represented by an attorney.
11. No new hearing shall be granted, unless the Administrative Law Judge determines that extraordinary circumstances exist which justify a new hearing.

(Ord. 11-9; Ord. 09-10)

**20.04.08. Failure to Attend Administrative Code Enforcement Hearing.**

Any party whose property or actions are the subject of any administrative code enforcement hearing and who fails to appear at the hearing is deemed to have waived the right to a hearing, which will result in a default judgment for the City provided that proper notice of the hearing has been provided. The City shall not be required to put on evidence or prove that a violation was committed by the Responsible Person in such an event, and an entry of a default judgment shall have the same effect as if there was a judgment on the merits of the case.

(Ord. 11-9; Ord. 09-10)

**20.04.09. Administrative Law Judge Order.**

1. The parties may enter into a stipulated agreement, which must be signed by both parties or verbally stipulated on the record during the administrative code enforcement hearing. This agreement or stipulation shall be entered as the Administrative Law Judge Order. Entry of this agreement or stipulation shall constitute a waiver of the right to a hearing and the right to appeal.
2. Once all evidence and testimony are completed, the Administrative Law Judge shall issue an Administrative Law Judge Order that affirms, modifies, or rejects the notice, citation, or action by the Code Enforcement Officer. The Administrative Law Judge may increase or decrease the total amount of civil penalties and costs that are due pursuant to the City's fee schedule and the procedures in this Title.
3. The Administrative Law Judge may order the City to enter the property and abate all violations, which may include removing animals kept in violation of the City Code.
4. The Administrative Law Judge may revoke a kennel permit, an animal license, or the right to possess animals as provided in the City Code.
5. As part of the Administrative Law Judge Order, the Administrative Law Judge may reduce or stay civil penalties on the condition that the responsible person complete compliance by specified deadlines.
6. The Administrative Law Judge may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the Administrative Law Judge Order.
7. The Administrative Law Judge may order the responsible person to post a performance

bond to ensure compliance with the order.

8. The Administrative Law Judge Order shall become final on the date of the signing of the order.
9. The Administrative Law Judge Order shall be served on all parties by any one of the methods listed in Section 20.01.09 of this Title.  
(Ord. 11-9; Ord. 09-10)

**20.04.10. Failure to Comply with Order.**

1. After the Administrative Law Judge issues an Administrative Law Judge Order, the Code Enforcement Officer and Administrative Law Judge may monitor the violations and determine compliance.
2. Upon the failure of the responsible person to comply with the terms and deadlines set forth in the Administrative Law Judge Order, the City may use all appropriate legal means to recover the civil penalties and administrative costs to obtain compliance.

(Ord. 11-9; Ord. 09-10)

**20.04.11. Administrative Enforcement Appeals.**

1. Any person adversely affected by any decision made in the exercise of the provisions of this Chapter may file a petition for review of the decision or order to district court within thirty days after the decision is rendered.
2. No person may challenge in district court the Administrative Law Judge's decision until that person has exhausted his or her administrative remedies herein.
3. Unless otherwise provided by the Utah Rules of Civil Procedure or local court rules, within 120 days after submitting the petition, the party petitioning for appeal shall request a copy of the record of the proceedings, including transcripts of hearings when necessary. The Code Enforcement Coordinator shall not submit copies of files or transcripts to the reviewing court until the party petitioning for appeal has paid all required costs. The petitioning party's failure to properly arrange for copies of the record, or to pay the full costs for the record, within 180 days after the petition for review was filed shall be grounds for dismissal of the petition, unless otherwise provided by the Utah Rules of Civil Procedure or local court rules.
4. If a transcript of a hearing cannot be prepared because the tape recording is incomplete or unintelligible, the district court may, in its discretion, remand the matter to the Administrative Law Judge for a supplemental proceeding to complete the record. The district court may limit the scope of the supplemental proceeding to issues that, in the court's opinion, need clarification.
5. The district court's review is limited to the record of the administrative decision that is being appealed. The court shall not accept nor consider any evidence that is not part of

the record of that decision.

6. The courts shall:
  - a. presume that the Administrative Law Judge's decision and orders are valid; and
  - b. review the record to determine whether or not the decision was arbitrary, capricious, or illegal.

(Ord. 11-9; Ord. No. 09-10)

**20.04.12. Revocation of Animal Licenses.**

The Administrative Law Judge may revoke animal licenses, revoke the rights of a Responsible Person to legally own an animal inside City boundaries, and/or order the removal of an animal(s) if the responsible person receives three or more animal violations within any one 12-month period. In such a case, a Revocation Hearing shall be set and a notice of the hearing served by any of the methods in 20.01.09. During the Revocation Hearing, the Administrative Law Judge shall determine if there is substantial evidence in the record to show that three or more animal violations within any one 12-month period have occurred.

## **Chapter 20.05. Administrative and Judicial Remedies.**

### **Sections:**

- 20.05.01. Recordation of Notices of Violation and Administrative Law Judge Orders.**
- 20.05.02. Abatement of Violation.**
- 20.05.03. Recovery of Costs.**
- 20.05.04. Administrative Fees.**
- 20.05.05. Injunctions.**
- 20.05.06. Performance Bonds.**
- 20.05.07. Code Enforcement Tax Liens.**
- 20.05.08. Recovery of Costs by Writ of Execution.**
- 20.05.09. Recovery of Costs by Writ of Garnishment.**

### **20.05.01. Recordation of Notices of Violation and Administrative Law Judge Orders.**

#### **1. Declaration of Purpose.**

- a. The City Council finds that there is a need for alternative methods of enforcement for violations of the City Code and City ordinances that are found to exist on real property. The City Council further finds that an appropriate method of enforcement for these types of violations is the issuance and recordation of notices of violation and Administrative Law Judge Orders.
- b. The procedures established in this shall be in addition to criminal, civil, or any other remedy established by law that may be pursued to address the violation of the City Code or City ordinances.

- 2. **Authority.** Whenever a Code Enforcement Officer or Code Enforcement Coordinator determines that a property or violation has not been brought into compliance as required in this Title, the Code Enforcement Coordinator has the authority to record the notice of violation or Administrative Law Judge Order with the Recorder's Office of Utah County.

#### **3. Procedures for Recordation.**

- a. If a Code Enforcement Officer issues a notice of violation or administrative citation to a responsible person, and the property remains in violation after the deadline established in the notice of violation or is not corrected after the administrative citation is issued, and no request for an administrative hearing has been filed, the Code Enforcement Coordinator shall record a notice of violation with the Recorder's Office of Utah County.
- b. If an administrative hearing is held, and an order is issued in the City's favor, the Code Enforcement Coordinator shall record the Administrative Law Judge's Administrative Law Judge Order with the Recorder's Office of Utah County.
- c. The recordation shall include the name of the property owner, the parcel number, the legal description of the parcel, a copy of the notice of violation, administrative citation, or order, and any other relevant information.
- d. The recordation does not encumber the property, but merely places future interested parties on notice of any continuing violation found upon the property.



4. **Service of Notice of Recordation.** A notice of the recordation shall be served on the responsible person and the property owner pursuant to any of the methods of service set forth in Section 20.01.09 of this Title.
5. **Failure to Request.** The failure of any person to file a request for an administrative code enforcement hearing when served with a notice of violation shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded notice of violation.
6. **Notice of Compliance—Procedures.**
  - a. When the violations have been corrected, the responsible person or property owner may request an inspection of the property from a Code Enforcement Officer.
  - b. Upon receipt of a request for inspection, the Code Enforcement Officer shall reinspect the property as soon as practicable to determine whether the violations listed in the notice of violation, administrative citation, or the order have been corrected, whether all necessary permits have been issued, and/or whether final inspections have been performed.
  - c. The Code Enforcement Officer, in conjunction with the Code Enforcement Coordinator, shall serve a notice of compliance to the responsible person or property owner in the manner provided in Section 20.01.09 of this Title if the Code Enforcement Officer determines that:
    - i. all violations listed in the recorded notice of violation or order have been corrected;
    - ii. all necessary permits have been issued and finalized;
    - iii. all civil penalties, fines, and costs assessed against the property have been paid or satisfied; and/or
    - iv. the party requesting the notice of compliance has paid all administrative fees and costs.
  - d. If a request to issue a notice of compliance is denied, then, upon request, the Code Enforcement Officer, in conjunction with the Code Enforcement Coordinator, shall serve the responsible person with a written explanation setting forth the reasons for the Code Enforcement Officer's denial. The written explanation shall be served by any of the methods of service listed in Section 20.01.09 of this Title.
7. **Withholding the Issuance of Municipal Permits and Business Licenses.**
  - a. The City may withhold permits and business licenses until a notice of compliance has been issued by a Code Enforcement Officer.
  - b. The City may withhold business licenses, permits for kennels, permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, and any permits pertaining to the use and development of the real property or the structure.
  - c. The City may, in its sole discretion, issue permits or business licenses that are necessary to obtain a notice of compliance or that are necessary to correct serious health and safety violations.

8. **Cancellation of Recorded Notice of Violation or Administrative Law Judge Order.**  
In conjunction with the Code Enforcement Officers, the Code Enforcement Coordinator shall record the notice of compliance with the County Recorder's Office. Recordation of the notice of compliance shall have the effect of canceling the recorded notice of violation, administrative citation, or recorded Administrative Law Judge Order but shall not cancel any outstanding fines, fees, or costs.

(Ord. 11-9; Ord. No. 09-10)

**20.05.02. Abatement of Violation.**

1. **Authority to Abate.**

- a. A Code Enforcement Officer is authorized to enter upon any property or premises to abate the violation of the City Code and City ordinances.
- b. A Code Enforcement Officer is authorized to assess all costs for the abatement to the responsible person and use any remedy available under the law to collect the costs.
- c. If additional abatement is necessary within two years, treble costs may be assessed against the responsible person(s) for the actual abatement.

2. **Procedures for Abatement.**

- a. Once the procedures set forth in this Title have been complied with, the violation may be abated by City personnel or by a private contractor acting under the direction of the City.
- b. These City personnel or private contractors may enter upon private property in a reasonable manner to abate the ordinance violation as specified in the notice of violation or Administrative Law Judge Order.
- c. If the responsible person abates the violation before the City performs the actual abatement pursuant to a notice of violation, administrative citation, or Administrative Law Judge Order, a Code Enforcement Officer may still assess all costs incurred by the City against the responsible person.
- d. When the abatement is completed, a report describing the work performed and an itemized account of the total abatement costs shall be prepared by the Code Enforcement Officer overseeing the abatement. The report shall contain the names and addresses of the responsible persons of each parcel and the tax parcel numbers.
- e. The Code Enforcement Coordinator shall serve the notice of costs and the itemized bill of costs through any of the means in Section 20.01.09. The notice shall demand full payment within twenty days to the City Treasurer.

(Ord. 11-9; Ord. 09-10)

**20.05.03. Recovery of Costs.**

1. **Declaration of Purpose.**

- a. The City Council finds that there is a need to recover costs incurred by Code Enforcement Officers and other City personnel who spend considerable time inspecting and reinspecting properties throughout the City in an effort to ensure compliance with the City Code or City ordinances.
- b. The City Council further finds that the assessment of costs is an appropriate method to recover expenses incurred for actual costs of abating violations, reinspection fees, filing fees, attorney fees, hearing officer fees, title search, and any additional actual costs incurred by the City for each individual case.
- c. The assessment and collection of costs shall not preclude the imposition of any administrative or judicial civil penalties or fines for violations of the City Code or City ordinances.

**2. Authority.**

- a. Whenever actual costs are incurred by the City on a property to obtain compliance with provisions of the City Code and City ordinances, a Code Enforcement Officer or Code Enforcement Coordinator may assess costs against the responsible person.
- b. Once a notice of violation has been issued, the property shall be inspected one time if the responsible person requests an inspection in writing. Any additional inspections shall be subject to reinspection fees pursuant to the City fee schedule.

**3. Notification of Assessment of Reinspection Fees.**

- a. Notification of reinspection fees may be provided in the notice of violation served to the responsible person.
- b. Reinspection fees assessed or collected pursuant to this Section shall not be included in any other costs assessed.
- c. The failure of any responsible person to receive notice of the reinspection fees shall not affect the validity of any other fees imposed under this Section.

**4. Failure to Timely Pay Costs.** The failure of any person to pay assessed costs by the deadline specified in the invoice shall result in a late fee pursuant to City ordinances.

(Ord. 11-9; Ord. No. 09-10)

**20.05.05. Administrative Fees.**

The Code Enforcement Officers and Code Enforcement Coordinator are authorized to assess administrative fees for costs incurred in the administration of the code enforcement program, such as investigation of violations, preparation for hearings, hearings, and the collection process. The fee assessed shall be the amount set forth in this Title or in the City fee schedule.

(Ord. 11-9; Ord. No. 09-10)

**20.05.06. Injunctions.**

In addition to any other remedy provided under the City Code or state codes, including criminal

prosecution or administrative remedies, any provision of the City Code may be enforced by injunction issued in the Fourth District Court upon a suit brought by the City.

(Ord. 11-9; Ord. No. 09-10)

**20.05.07. Performance Bonds.**

1. As part of any notice, order, or action, the Administrative Law Judge has the authority to require any responsible person to post a performance bond to ensure compliance with the City Code, City ordinances, or any judicial action.
2. If the responsible person fails to comply with the notice, order, or action, the bond will be forfeited to the City.

(Ord. 11-9; Ord. 09-10)

**20.05.08. Code Enforcement Tax Liens.**

1. **Declaration of Purpose.** The City Council finds that recordation of code enforcement tax liens will assist in the collection of civil penalties, administrative costs, and administrative fees assessed by the administrative code enforcement hearing program or judicial orders and lessen the cost to City taxpayers of code enforcement. The City Council further finds that collection of civil penalties, costs, and fees assessed for code enforcement violations is important in deterring future violations and maintaining the integrity of the City's code enforcement system. The procedures established in this Section shall be used to complement existing administrative or judicial remedies that may be pursued to address violations of the City Code or City ordinances.
2. **Tax Liens for Abatement Costs.**
  - a. Once the City has abated a property for weeds, garbage, refuse, or unsightly or deleterious objects or structures, the Code Enforcement Coordinator shall prepare three copies of the Itemized Statement of Costs incurred in the removal and destruction of the violations and deliver them to the City Treasurer within ten days after completion of the work of removing the violations.
  - b. The Code Enforcement Coordinator shall serve the Responsible Person by any of the methods in Section 20.01.09 a copy of the Itemized Statement of Costs informing him or her that a code enforcement tax lien is being recorded for the amount of actual costs of abatement. Payment shall be due within twenty calendar days from the date of mailing.
  - c. Upon receipt of the Itemized Statement of costs, the City Treasurer shall record a Code Enforcement Tax Lien against the property with the county treasurer's office.
  - d. The failure of any person with a financial interest in the property to actually receive the notice of the lien shall not affect the validity of the lien or any proceedings taken to collect the outstanding costs of abatement.

3. **Tax Liens for Judgments.** Once a judgment has been obtained from the appropriate court imposing costs, fines, or fees against the responsible person, the Code Enforcement Coordinator may record a code enforcement tax lien against any real property owned by the responsible person.
4. **Cancellation of Code Enforcement Tax Lien.**
  - a. Once payment in full is received for the outstanding civil penalties and costs, or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the Code Enforcement Coordinator shall either record a notice of satisfaction of judgment, or provide the property owner or financial institution, through any of the means of service in Section 20.01.09, with the notice of satisfaction of judgment so that it can record this notice with the county recorder's office.
  - b. The notice of satisfaction of judgment shall include the same information as provided for in the original code enforcement tax lien.
  - c. Such notice of satisfaction of judgment shall cancel the code enforcement tax lien.

(Ord. 11-9; Ord. 09-10 )

**20.05.09. Recovery of Costs by Writ of Execution.**

After obtaining a judgment, the City may collect the obligation by use of all appropriate legal means. This may include the execution on personal property owned by the responsible person by filing a writ with the applicable court.

(Ord. 11-9; Ord. 09-10 )

**20.05.10. Recovery of Costs by Writ of Garnishment.**

After obtaining a judgment, the City may collect the obligation by use of all appropriate legal means. This may include the garnishment of paychecks, financial accounts, and other income or financial assets by filing a writ with the applicable court.

(Ord. 11-9; Ord. 09-10 )