

**CITY OF SARATOGA SPRINGS
CITY COUNCIL WORK SESSION
AGENDA**

Tuesday, May 6, 2014

Meeting held at the City of Saratoga Springs City Offices
1307 North Commerce Drive, Suite 200, Saratoga Springs, Utah 84045

One or more Councilmember may participate in this meeting electronically via video or telephonic conferencing

City Council Work Session

5:45 p.m.

1. Agenda Review:
 - a. Discussion of current City Council agenda staff questions.
 - b. Discussion of future City Council policy and work session agenda items.
2. Discussion the draft Public Involvement RFP for Secondary Water Phase 2 meter retrofit project.
3. Discussion of the modified Legacy Farms Community Plan and Village Plan.
4. Discussion of the Lakeside Trail with Laura Ault.
5. Discussion of Proposed Amendments to Title 20, Administrative Code Enforcement.
6. Reports:
 - a. Mayor.
 - b. City Council.
 - c. Administration communication with Council.
7. Adjourn to Policy Session.

City Council Staff Report

Author: Owen Jackson, Public Relations Manager
Subject: Public Involvement RFP for Secondary Water Phase 2
Date: April 30, 2014
Type of Item: Discussion Item



Description:

A. Topic: Discussion of the request for proposals for the public involvement/public relations component of the Secondary Water Phase 2 project.

B. Background: The City is preparing to begin implementation of the Secondary Water Phase 2 meter project during the 2014 irrigation season. This project will affect more than 2,000 residences in the City, often resulting in the disturbance of landscaping along with a brief interruption of secondary water service.

The City Council considered proposals during the April 15, 2014 policy session that included both engineering design costs and public involvement. Gilson Engineering was awarded the contract for the engineering design portion of the project and staff was directed to draft a separate RFP for the public involvement/public relations component of the project.

Attached is a draft RFP for the public involvement/public relations component of the Phase 2 meter project.

C. Analysis: It is staff's opinion that the Phase 2 project will require frequent coordination and communication between Gilson Engineering, hired contractors and impacted residents. How the City handles the communication and coordination between all the involved parties will be crucial to the success of the Phase 2 project. By including a public information/public involvement portion to the project, the City will be able to develop a unified message regardless of the number of contractors working on the project, provide a single point of contact for residents and provide information delivered directly to affected residents and included in the City's newsletter, website and social media efforts. It is expected that the public involvement/public relations consultant will also help resolve issues between residents and contractors and log residents' questions, complaints and the resolutions to each phone call or email for review.

It is expected that staff will be involved in the public involvement/public relations efforts, but having a public relations consultant lead the project will provide a better efficiency of staff time and resources.

D. Department Review: City Manager, Engineering, Public Relations

SARATOGA SPRINGS PHASE 2 SECONDARY WATER METER PROJECT
PUBLIC OUTREACH and INFORMATION

1. NOTICE TO PROFESSIONALS

Through this **Request for Proposals** (RFP) the City of Saratoga Springs (hereinafter the City) is soliciting competitive sealed proposals from qualified firms to provide assistance with public outreach services for the proposed Phase 2 Secondary Water Meter Project. The selected firm will work with City staff, the engineering consultant, and project Contractor(s) to provide public outreach and information services to approximately 3,000 residents impacted by the citywide secondary water meter installation project. The City intends to compare and evaluate all eligible submittals and select a firm as outlined in subsection 4.13 EVALUATION CRITERIA of this request. This is a Request for Proposals only and should not be interpreted as a solicitation for services or as a contract for services. Submittals should be comprehensive, concise, and directly responsive to the goals and format as outlined in this RFP.

2. BACKGROUND

The City, in an effort to conserve secondary water, is installing secondary water meters throughout the City. The City estimates that there are approximately 4,000 connections that will require a new meter, with about 3,000 of those also requiring a meter box and meter setter.

A separate (Phase 1) secondary water meter project is currently underway for the 1,000 connections that will require only a meter; those properties are expected to be minimally impacted.

Phase 2 consists of those locations that will have more significant impacts due to the need to install new meter boxes and other associated improvements or modifications to the existing irrigation system in each lot. The City desires to complete installation of all meters, or as many as feasible, based on Contractor(s) schedule, prior to the end of the irrigation season (October 15, 2014). It is anticipated that construction contract will be awarded the second week of June 2014 with meter installations beginning June 16, 2014. That is about 122 days with approximately 24-25 meters installed per day. In order to accommodate this volume of installations the construction contract may be awarded to one large Contractor or multiple smaller Contractors.

The City would like to complete meter installation by the end of the 2014 irrigation season so that the City has collected sufficient data to prepare and adopt a metered rate structure for the 2015 irrigation season.

3. SCOPE OF WORK

The City requires assistance to manage the public outreach and information services for the residents affected by the phase 2 secondary meter project. The consultant shall assist the City and engineering consultant by developing and implementing a plan for public outreach and information to the approximately 3,000 impacted residents. The consultant shall work closely with the City's Public Information Officer during the project to provide him with Public Relations support and provide the on-the-ground public outreach work necessary to answer questions and to deal with issues as they arise

during construction. It is anticipated that the scope will include, but not be limited to, the following:

- a. **Plan for and host a public open house prior to project commencement.**
- b. Establish and manage a hotline phone number and an e-mail address for public comment and concern. Answer questions and resolve issues with residents and contractor(s) or route to the appropriate City department if needed. All calls should be documented by the consultant, including resolutions, by the consultant and provided for review as needed.
- c. Prepare public notification documents, Frequently Asked Questions (FAQ) project updates, and pertinent information and coordinate with City staff for inclusion in the City website, newsletter, and social media.
- d. Prepare a flyer to be delivered to all property owners impacted 48 hours prior to commencement of work at each respective connection.
- e. Maintain daily contact with Contractor(s)
- f. Work closely with engineering consultant.
- g. Attend weekly project update meeting.
- h. Attend pre-construction meeting.
- i. Attend on-site meetings with; property owners, managers, neighborhoods/HOAs, and others to document and resolve concerns. It is anticipated that these meetings will only be necessary at the request of the property owner.
- j. Other items that the consultant may see as necessary to the success of the project should be included in the proposed scope. Any items proposed by the consultant that are not included in the proposed price should include the cost to include each item individually.

4. INSTRUCTIONS TO PROPOSERS

4.1 PROJECT TIMETABLE

The following timetable has been established for this project. *LATE PROPOSALS WILL NOT BE ACCEPTED.*

- **Pre-Proposal Meeting (mandatory) May 8, 2014 3:00 p.m. at City Hall.**
- **Closing Date for Receipt of Proposals May 21, 2014 3:00 p.m. at City Hall 1307 N. Commerce Drive**
- **Kickoff Meeting/Commencement of Work June 4, 2014 (projected)**

4.3 PROPOSALS EVALUATION

The procedure for response to this RFP, evaluation of proposals, and selection of a Consultant is as follows:

1. Interested entities will prepare and submit their proposals according to the Project timetable contained in Subsection 4.1
2. The City and/or its representatives will evaluate all submitted proposals in accordance with the evaluation criteria as outlined in Subsection 4.13.

3. A Professional Services Agreement incorporating the provisions, terms and conditions of this RFP will be executed between the City and the selected Consultant.

4.4 PROPOSAL SUBMISSION

Each respondent must submit *FIVE (5) COPIES* of its *SEALED* proposal to the **City of Saratoga Springs**. The envelope containing the proposal must be clearly labeled "SEALED PROPOSAL – PHASE 2 SECONDARY WATER METER PROJECT PUBLIC OUTREACH and INFORMATION". The proposals must be delivered to:

**1307 North Commerce Drive Suite 200
Saratoga Springs, Utah 84045**

4.5 PROPOSAL ORGANIZATION AND CONTENT

All requested documentation must be included. The proposal must include (in the following order):

- A. Transmittal letter stating the respondent's intent to participate in the contract. The letter of transmittal shall be on official business letterhead and shall include the following:
 1. A statement that the respondent will comply with all terms and conditions as indicated in the RFP.
 2. A statement indicating whether the respondent is a corporation or other legal entity.
 3. A statement of affirmative action that the respondent does not discriminate in its employment practices with regard to race, color, religion, age (except as provided by law), sex, marital status, political affiliation, national origin, or handicap.
 4. A certification statement to the effect that the person signing the proposal is authorized to do so, on behalf of the respondent.
 5. Names of the key contact persons with their title and telephone numbers. Also, indicate first and second back-up contact persons if the person signing the proposal is not available to take a call from the City.
 6. Name and complete mailing address of the respondent along with telephone number and fax number.
- B. Comprehensive RFP response including all requested information and documentation. Proposals shall also include a copy of current billing rates for key personnel. The proposal response shall include at a minimum the following sections:
 1. Executive summary (two pages maximum)

2. Organizational chart showing the team involved including individual members, all organizations, relationships, and breakdown of responsibilities, and the percentage of work that is expected to be performed locally. Indicate other offices/locations that might provide services along with a percentage of work to be performed at those locations.
3. Proposer Qualifications: This section should describe the proposer's experience on similar projects, including the individual team members' involvement on the specific projects described. Project information for the identified projects should be briefly included. For all major participants, note the approximate full time equivalent hours to be devoted to the project. Provide a minimum of three references, including name, address and telephone number, of persons who can attest to performance on relevant projects.
4. Work Plan: This section should describe the methodology and process proposed to be used to complete the scope of work defined in Section 3, including any potentially innovative or creative solutions for the project. It should address the proposed schedule for the Consultant's work, identify any proposed strategies to be used to control costs, maximize construction economy and insure operational effectiveness; describe outputs to be delivered; and identify advantages of the proposal to the City.
5. Proposed Fee: The proposed fee shall be LUMP SUM inclusive of all costs to complete the work including but not limited to travel, equipment, testing, and plan reproduction costs. The fee shall provide a separate cost for the following:
 - a. Each Item Listed under Section 3, Scope of Work, shall have a specific price. (Items a-j)
 - b. Any additional items not included in the base bid shall have a separate cost specified in the event the City chooses to include one or more of those items.
6. Billing Rates: The current billing rates for all key personnel.

4.6 ORAL PRESENTATION

As part of the proposal evaluation process, selected proposers may be invited to make oral presentations to the City. These presentations must be made by the same project team personnel who will be assigned to the project should the proposer be awarded a contract.

4.7 SUBMITTAL OWNERSHIP

All proposals (and the information contained therein) shall become the property of the City. Proposers should carefully consider the items submitted before submitting items that would not be disposable to the proposer. Proposals submitted may be reviewed and

evaluated by any persons at the discretion of the City. No proposal shall be returned to the respondent regardless of the outcome of the selection process. Cost for developing proposals and making proposal presentations are entirely the responsibility of the proposer and shall not be chargeable in any manner to the City.

4.8 CITY USE OF PROPOSAL IDEAS

The City reserves the right to use any or all ideas presented. Selection or rejection of the proposal does not affect this right.

4.9 QUESTIONS AND CLARIFICATIONS

Questions regarding this RFP should be submitted in writing and be directed to:

Owen Jackson – Public Information Officer

OJackson@saratogaspringscity.com

Business Hours: M-Th 7:00 a.m. to 6:00 p.m.; F 8:00 a.m. to 5:00 p.m. GMT

Telephone: 801-766-9793 ext 123 Fax: 801-766-9794

4.10 ACCEPTANCE OF PROPOSAL

- A. The City reserves the right to reject any or all proposals for any reason and or waive minor irregularities when to do so would be in the best interests of the City. Minor irregularities are those which will not have a significant adverse effect on overall competition or performance levels.
- B. The responding party agrees that the City may terminate this procurement procedure at any time, and the City shall have no liability or responsibility to the responding party for any costs or expenses incurred in connection with this RFP, or such party's response.

4.11 DISQUALIFICATION OF PROPOSAL

- A. The City reserves the right to reject any and all proposals received by reason of this RFP, or to negotiate separately with any source whatsoever in any manner necessary to serve the best interests of the City. The City may or may not award a contract solely on the basis of this RFP and will not pay for the information solicited or obtained. The information obtained will be used in determining the proposal that best meets the City's needs and is the most advantageous proposal received. No oral, telegraphic or telephonic proposals or modifications will be considered.
- B. The occurrence of any of the following may result in disqualification of a proposal:
 - 1. Failure to respond by the established submission deadline.
 - 2. Failure to completely answer all questions posed in the RFP.
 - 3. Use of any other type of form or format other than those indicated in the RFP.
 - 4. Failure to provide requested documentation at the time of proposal submission.
 - 5. Illegible responses.
 - 6. If the proposer adds any provisions reserving the right to accept or reject an award or to enter into a contract pursuant to an award, or any other unauthorized conditions, limitations or provisions.

7. If the proposer is unable to evidence a satisfactory record of integrity.
8. If the proposer is not qualified legally to contract.

THE CITY RESERVES THE RIGHT TO REJECT ANY OR ALL PROPOSALS

4.12 WITHDRAWAL OF PROPOSAL

The proposal may be withdrawn upon request by the proposer, without prejudice, prior to, but not after, the time fixed to receive proposals.

4.13 EVALUATION CRITERIA

- A. All requirements identified in this RFP must be satisfied to insure that the proposal will qualify for consideration. The City desires to receive proposals from firms who can demonstrate operational and technical qualifications and capabilities.
- B. All proposals will be evaluated by representatives of the City to identify the proposal that best meets the needs of the City as set forth in the RFP. A component based system will be used to evaluate all proposals. A brief description of each component includes:
 1. Qualifications: This category represents an evaluation of the Consultant's understanding of the project and the technical approach to be used to meet the City's needs for design, bidding and construction management.
 2. Key Personnel: This category deals with the experience level of key personnel proposed for this project and the proposer's willingness and demonstrated ability to work effectively with the City. Experience relates to the overall assessment of the proposer's assigned personnel. Evaluation will be based on resumes that are provided, direct contact with identified current and previous clients, submitted information in response to the RFP, and the oral interviews
 3. Project Approach: This category represents an evaluation of the Consultant's plan for managing the project including information acquisition, design, bidding, construction management, and construction inspection. This category will also evaluate the Consultant's proposed completion date.
 4. Project and Client Experience: This category deals with the proposer's performance on similar prior projects and the proposer's willingness and demonstrated ability to work effectively with the City. Experience relates to the overall assessment of the proposer's assigned personnel. Evaluation will be based on resumes that are provided, direct contact with identified current and previous clients, submitted information in response to the RFP, and the oral interviews.
 5. Fee Proposal: This category will evaluate the Consultant's proposed fees.

5. GENERAL REQUIREMENTS

5.1 AMENDMENTS

No oral modifications or amendments to this RFP shall be effective. If it becomes necessary to revise any part of the RFP, an addendum will be provided to all who received an RFP.

5.2 EMPLOYMENT STATUS VERIFICATION

Consultant shall register and participate in the Status Verification System and comply with Utah Code Annotated Section 63G-11-103 of the Identity Documents and Verification Act. Consultant shall, by contract, require its contractors, subcontractors, contract employees, staffing agencies, or any contractors regardless of their tier to register and participate in the Status Verification System and comply with Utah Code Annotated Section 63G-11-103 of the Identity Documents and Verification Act.

Consultant shall also agree to abide by the Federal and State regulations pertaining to Equal Opportunity Employment that requires project participants not to discriminate against any employee or applicant for employment because of race, color, religion, sex, age, disability, or national origin. The City will make every effort to ensure all bidders are treated fairly and equally throughout the entire advertisement, review, and selection process.

5.3 COMPENSATION FOR SERVICES

The City intends to enter into a professional services contract covering the projects outlined in this RFP. Failure of the successful proposer to enter into a written contract may result in cancellation of the award. Compensation for the services rendered will be based a task completion basis and may not exceed the fees provided in the response to this proposal.

5.4 NON-COLLUSION

Consultant shall guarantee that the proposal submitted is not a product of collusion with any other bidder and no effort has been made to fix the proposal price of any bidder or to fix any overhead, profit, or cost estimate of any proposal or its price.

5.5 OMISSIONS

Should the RFP not contain sufficient information in order for the firm to obtain a clear understanding of the services required by the City, or should it appear that the instructions outlined in the RFP are not clear or contradictory, the Consultant may obtain written clarification from the City at least 24 hours prior to the required time and date for proposal submission. The Consultant shall include a copy of the written clarification with its submission



Community Plan and Village Plan

Legacy Farms

May 6, 2014

Work Session

Report Date:	April 29, 2014
Applicant:	D.R. Horton
Owner:	Corporation of Presiding Bishopric Church of Jesus Christ of LDS
Location:	SE corner intersection of Redwood and 400 south, extending to Saratoga Dr.
Major Street Access:	Redwood Road and 400 South
Parcel Number(s) & Size:	66:058:0007, 176.44 acres; 58:041:0185, 5.497 acres
	Total: 181.937 acres
Parcel Zoning:	Planned Community (PC)
Adjacent Zoning:	PC and Low Density Residential (R-3)
Current Use of Parcel:	Agriculture
Adjacent Uses:	Agriculture, Residential
Previous Meetings:	PC Work Sessions December 12, 2013 and January 9, 2014 CC Work Session January 14, 2014 PC Public Hearings February 13, 2014 PC Work Session April 24, 2014
Previous Approvals:	Annexation Agreement (2010) Rezone to PC zone (2010) City Center District Area Plan (2010)
Land Use Authority:	City Council
Future Routing:	City Council
Author:	Kimber Gabryszak, Planning Director

A. EXECUTIVE SUMMARY

The applicants are requesting approval of a Community Plan and Village Plan pursuant to Section 19.26 of the Land Development Code (Code) and the City Center District Area Plan (DAP). The proposal allocates a maximum of 1000 units of density to ~182 acres within the DAP.

The Community Plan lays out the broader guidelines for the development while the Village Plan provides the specifics for the first phase of development. The application proposes the use of Form Based Code to implement specific standards for blocks, subzones, unit layout and type, transition of density, building setbacks, architecture, roadways, open space, landscaping, lighting, and other applicable standards.

The Planning Commission held public hearings on the Community Plan and Village Plan on February 13, 2014, and voted on the proposals. Due to significant changes in the layout stemming from the relocation of the school site, the applicants have requested additional hearings on the revised plans. For the convenience of the Council, significant changes since the previous meetings are highlighted in yellow.

Staff recommends that the City Council hold a work session to review the changes and give the applicant feedback in preparation for a public hearing in June.

B. BACKGROUND

The City Center District Area Plan (DAP) was approved in 2010 following annexation of just under 3000 acres into the City. As part of the annexation agreement and DAP, the 2883 acres is approved for 16,000 residential units and 10,000,000 square feet of non-residential density:

Land Use Table

Type of Land Use	Quantity
Residential Housing	16,000 Units
Non-residential Area	10 million sq. ft.
Equivalent Residential Units	20,620 Units

The DAP has also approved Place Types ranging in density from 5-75 dwelling units per acre:

Place Types	Dwelling Unit Density Range	Range of FAR *
Urban Center	14-75	0.39–2.34
Transit Oriented Development	8–75	1.25–2.4
Town Neighborhood	6–34	0.36–1.82
Business Park	0	0.39–0.93
Office Warehouse	0	0.39–0.93
Neighborhood Commercial	5–14	0.39–1.5
Regional Retail	0	0.36–0.47
Traditional Neighborhood	5 –32	0.47–1.04
Master Planned Subdivision	4–14	0.35–0.50
Resort/Hospitality	6–8	.36–.93

* FAR = Floor Area Ratio

(Note: the DAP can be found by visiting www.saratogaspringscity.com/planning then clicking on “Master Plans” and then “City Center District Area Plan.”)

While the DAP includes several conceptual scenarios for the distribution of various place types, both the DAP and Code allow the place type for individual developments to be identified and finalized at the time of Community Plan approval.

The DAP does not specify how to allocate the 16,000 Residential and 10,000,000 s.f. of non-residential development (total of 20,620 ERUs) to each phase, however there are several ranges to act as guidelines:

- The Traditional Neighborhood Place Type under the DAP would permit a range of 900-5760 units.
- Utilizing a “fair share” approach, imagining that the 20,620 residential and commercial ERUs were allocated evenly across the entire DAP, the ~182 acre Community Plan would be eligible for up to 1324 units, a density of 7.27 units per acre. (Note: the DAP does not require density to be evenly allocated across the property. Some phases will be denser while others are less dense.)
- The Community Plan proposes block specific limits for densities, further decreasing the potential density to 842-1782.

C. SPECIFIC REQUEST

The Community Plan covers the entire ~182 acre project, and the applicants are proposing the Traditional Neighborhood place type for the entire Community Plan.

The applicants are proposing a maximum limit of 1000 units on the entire property, governed by the Community Plan. The 1000 unit limit is well below the maximums achievable in the Traditional Neighborhood place type and with the proposed Block Types. The applicants are proposing a layout and distribution of units would result in approximately 856 units.

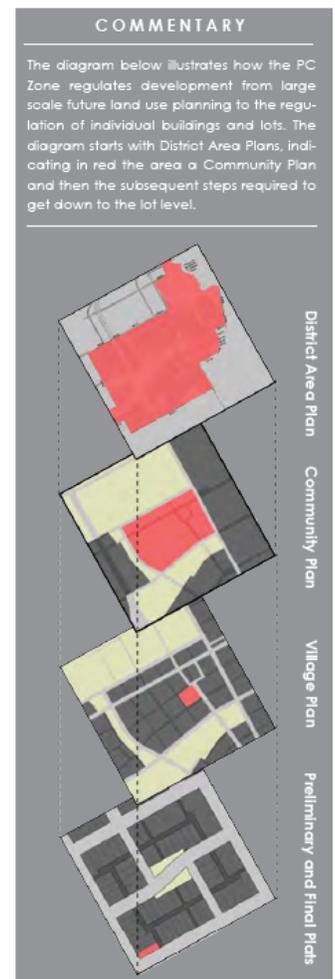
Village Plan 1 covers the western blocks of the Community Plan and contains 47.95 acres. Within this first Village Plan, the applicants are proposing a range of 278 and 558 units. Village Plan 1 contains several higher density blocks closer to Redwood and 400 South, and therefore contains a higher proportion of the density than the remaining Village Plans to come. As the project moves away from Redwood Road, future Village Plans will transition to a lower density. In no case will more than 1000 units be permitted in the entire Community Plan area.

The layout presented to the Commission on February 13, 2014, and in work session to the Council on January 14, 2014, showed a school in the northeastern portion of the development. Due to concerns of the school district based upon recent experiences developing in Lehi, the district has requested that the school site be relocated internally to the development. As a result, the unit layout has changed significantly. The applicant is proposing that an age-restricted senior community replace the area formerly occupied by the school.

D. PROCESS / HOW IT WORKS

Section 19.26 of the Code describes development in the PC zone, and the graphic to the right shows the hierarchy of the different plans:

1. For a large-scale planned community district, an overall governing document is first approved, known as the District Area Plan (Section 19.26.13).
 - *The City Center DAP was approved in 2010.*
2. A Community Plan is then proposed and approved (Sections 19.26.03-19.26.08). The Community Plan lays out the more specific guidelines for a sub-district within the DAP.
 - *The Legacy Farms Community Plan will govern only the ~182 acres of the Legacy Farms development.*
3. Following and / or concurrently with the Community Plan, a Village Plan is proposed and approved (Sections 19.26.09 – 19.26.10). The Village Plan is the final stage in the Planned Community process before final plats, addressing such details specific to the sub-phase as open space, road networks, and lots for a sub-phase of the Community Plan.
 - *The applicants are currently proposing Village Plan 1 for the westernmost blocks (47.95 acres) of the Community Plan.*



The approval process for the Community Plan and Village Plan 1 includes:

1. A public hearing and recommendation by the Planning Commission
2. A public hearing and final decision by the City Council (19.26 states that the process is per Section 19.17, which is Code amendments / rezones, and requires hearings with the Council.)

E. COMMUNITY REVIEW

These items were noticed as public hearings in the *Daily Herald*; and mailed notice sent to all property owners within 300 feet. A community open house was also held at which time neighbors and City residents had the opportunity for an initial look at the proposed development, and previous hearings were held by the Commission on February 13, 2014.

F. REVIEW

Place Type

The Community Plan designates the entire ~182 acre Legacy Farms development as Traditional Neighborhood, which is described in the DAP as follows:

TRADITIONAL NEIGHBORHOOD

Range of Average Dwelling Units/Acre	5–32 du/ac
Range of Average FAR	0.47–1.04
Range of Open Space	18 - 24%

Open Space Types:

- Plaza
- Entrance park
- Pocket park
- Neighborhood park
- Community park
- Regional park
- School park
- Sports complex
- Special use
- Community garden
- Parkway (Boulevard)
- Greenway

Traditional neighborhoods in this district are medium-density residential areas typically comprised of many small lot single-family dwellings, some townhomes and small scale apartments. Houses in these neighborhoods are close enough to the street to encourage interaction among neighbors and create a “front porch” culture. Houses are closer together and on smaller lots than in a master planned subdivision. There are small neighborhood serving parks and connections to trails. Street connectivity is relatively favorable, allowing for a walkable environment and transit options. On-street parking slows traffic and creates a buffer between traffic and pedestrians on the sidewalks.

Density

The Community Plan proposes a maximum of 1000 residential units, and 55 non-residential unit equivalents, which results in an average of ~5.8 units per acre. The distribution of units is not even, however, with some blocks containing larger lots and other blocks containing small lots, twin homes, and townhomes. Such a varied distribution is allowed and contemplated by the DAP.

The densities of adjacent existing residential properties (to the south) contain approximately 3.5 – 5 units per acre. To transition density appropriately within the Legacy Farms development, the Community Plan and Village Plan propose 10,000 s.f. and 8,000 s.f. lots in the blocks closest to these existing neighborhoods, with lot size decreasing and densities increasing as the blocks move north and farther away from these existing neighborhoods.

Unit Type

Legacy Farms proposed a mixture of large-lot single family homes, small-lot and cottage single family homes, twin homes, and several types of townhomes. The DAP anticipated and permitted this type of development. While also permitted by the DAP, “small scale apartments” were removed from the proposal in earlier versions; the current proposal does not contain apartment units in the planned layout, however apartments are proposed to return as an allowed use in the BT-3 and BT-4 categories.

Traffic and Infrastructure

The applicants have provided a traffic study and infrastructure plans, which were previously reviewed by the City Engineer. **Due to the changes, a revised traffic study is required. (See Engineer's report.)**

Form Based Code / Development Standards

City Staff has been working with the applicants on the governing standards and principles of the project, which are contained in the Community Plan and Village Plan 1.

The Community Plan contains the general standards for the entire ~182 acre project:

- Community Plan Process
- Place Type Designation
- Block Types
- Transition in density from existing residential development
- Equivalent Residential Unit (ERU) allocation
- Thoroughfare Plans (street / road standards)
 - Frontage Types
 - Utility Easements
 - Turning Radii
 - Pedestrian Crossings
 - Planting Information
- Parking
- Lighting Standards
- Architectural Styles
- Open Space types and conceptual layout
- Landscape Guidelines
- Signage Standards
- Fencing Standards
- Phasing
- Infrastructure
- Constraints
- Traffic Study
- Definitions

Village Plan 1 contains additional standards to implement the Community Plan on a particular sub-phase. While these topics were addressed at a higher level in the Community Plan, the information in the Village Plan is more specific and applies only to the 47.95 acres contained in the Village Plan:

- Village Plan Process
- Sub-districts
- Private Frontages
- Conceptual Lotting Plan (lot layout)
- Product types (10,000 s.f. lots, 8,000 s.f. lots, 6,000 s.f. lots, cottages and rear lane cottages, twin homes, and several townhome types)
- Thoroughfares
- Street Names
- Pedestrian Plan
- Architectural details / materials
- Color Palette

- Open space
- Phasing
- Infrastructure and Utilities

More detail on the standards above are found in the proposed Legacy Farms Community Plan and Village Plan 1, obtained by visiting www.saratogaspringscity.com/planning, and clicking on “pending applications”. Both the last versions and the new proposals are available.

Planning Commission Work Session

The Planning Commission held a work session to review the revised plans on April 24, 2014. The Commission was generally supportive of the changes, and expressed concern with similar items as in the previous version. Comments included:

- Privacy vs. semi-private fencing along trail corridors and roadways
- The request for a relocation of the 20’ buffer along the perimeter, and credit for the existing trail corridor on the adjacent property
- Safety along the Tickville Wash open culvert
- Support for the splash-pad option
- Support for the age-restricted community
- Concern over the shared open-space with the school and ensuring that access for the community is ensured
- Potential need for turning lanes near the school
- Parking stall dimensions and back-up space in the shared-lanes
- Snow storage effectiveness and access

G. GENERAL PLAN

The General Plan Land Use map identifies this area as Planned Community, which states:

k. Planned Community. The Planned Community designation includes large-scale properties within the City which exceed 500 acres in size. This area is characterized by a mixture of land uses and housing types. It is subject to an overall Community Plan that contains a set of regulations and guidelines that apply to a defined geographic area. Required Village Plans contain regulations that apply to blocks of land and provide specific development standards, design guidelines, infrastructure plans and other elements as appropriate. Development in these areas shall contain landscaping and recreational features as per the City’s Parks, Recreation, Trails, and Open Space Element of the General Plan.

The 2883 acre DAP was approved in 2010 in compliance with the General Plan and the intent of the Planned Community designation. The proposed Community Plan includes trail connections and parks in compliance with the related master plans.

H. CODE CRITERIA

The property is zoned PC, and is subject to the standards and requirements in Section 19.26 of the Code, and its several sub-sections.

19.26.04 – Uses Permitted within a Planned Community District

- The application includes multi-family and single family homes, school and church sites, parks, and trails. All of these uses are permitted in the PC zone.

COMMUNITY PLAN CODE REQUIREMENTS

Section 19.26.06 – Guiding Standards of Community Plans

The standards for a Community Plan are below:

1. Development Type and Intensity. The allowed uses and the conceptual intensity of development in a Planned Community District shall be as established by the Community Plan.
Staff finding: complies. *Subdivision plats and building permits will be reviewed for compliance with the Community Plan.*
2. Equivalent Residential Unit Transfers.
Staff finding: complies. *The Community Plan contains a maximum of 1000 units, and a provision for density to be transferred between Village Plans within the development area.*
3. Development Standards. Guiding development standards shall be established in the Community Plan.
Staff finding: complies. *The Form Based Code in the Community Plan has established common standards and architectural guidelines, and will be the governing standards for the development. Any conflicts between the Code and the Community Plan will be governed by the Community Plan, while any topics not addressed in the Community Plan will be governed by applicable regulations and standards of the City. A discussion of private vs. semi-private fencing along trail corridors and open space was not fully resolved at the Commission hearing, and the applicants have proposed a different approach to fencing that warrants discussion.*
4. Open Space Requirements.
Staff finding: complies. *While the Code currently requires 30% open space, the DAP is the governing document for the proposed Community Plan, and the proposed open space meets the standards and range of 18-24% as identified in the DAP.*
5. No structure (excluding signs and entry features) may be closer than twenty feet to the peripheral property line of the Planned Community District boundaries.
 - a. The area within this twenty foot area is to be used as a buffer strip and may be counted toward open space requirements, but shall not include required back yards or building set back areas.
 - b. The City Council may grant a waiver to the requirement set forth in this Subsection upon a finding that the buffer requirement will result in the creation of non-functional or non-useable open space area and will be detrimental to the provision of useful and functional open space within the Project.
Staff finding: up for discussion. *The applicants have requested a waiver to this requirement to allow them to provide a trail corridor along Sherwood Drive instead of a buffer at the back of homes. The Commission was split in their discussion of this request during the February 13, 2014 hearing and it was still an issue at their April 24th work session.*

19.26.07 – Contents of Community Plans

The items summarized below are required to be part of a Community Plan:

1. Legal Description. **Provided**
2. Use Map. **Provided**
3. Buildout Allocation. **Provided**
4. Open Space Plan. **Provided**
5. Guiding Principles. **Provided**
5. Utility Capacities. **Provided**
6. Conceptual Plans. Other elements as appropriate - conceptual grading, wildlife mitigation, open space management, hazardous materials remediation, fire protection. **Pending**
8. Additional Elements.
 - a. responses to existing physical characteristics of the site **Provided**
 - b. findings statement **Provided**
 - c. environmental issues **Provided**
 - d. means to ensure compliance with standards in Community Plan **Provided**
9. Application and Fees. **Provided**

19.26.05 – Adoption and Amendment of Community Plans

The criteria for adoption of a Community Plan are below:

- a. is consistent with the goals, objectives, and policies of the General Plan, with particular emphasis placed upon those policies related to community identity, distinctive qualities in communities and neighborhoods, diversity of housing, integration of uses, pedestrian and transit design, and environmental protection;
Staff finding: complies. See Section G of this report.
- b. does not exceed the number of equivalent residential units and square footage of nonresidential uses of the General Plan;
Staff finding: complies. The General Plan does not identify ERUs or square footage, however the DAP does. The project is well below the maximum allowed per the DAP.
- c. contains sufficient standards to guide the creation of innovative design that responds to unique conditions;
Staff finding: complies. The proposed standards are innovative and will permit the proposed densities and maintain quality of design.
- d. is compatible with surrounding development and properly integrates land uses and infrastructure with adjacent properties;
Staff finding: complies. Adjacent developed residential properties contain similar densities to those densities proposed along the southern edge of the development, and the proposal transitions into higher density only once no longer adjacent to existing residential development.
- e. includes adequate provisions for utilities, services, roadway networks, and emergency vehicle access; and public safety service demands will not exceed the capacity of existing and planned systems without adequate mitigation;
Staff finding: complies. The applicants have provided information to staff for review, however finalization of the utility plan is awaiting finalization of the Tickville Wash floodplain remediation and determination with FEMA. The applicants have requested that

the Commission consider forwarding a motion with conditions concerning the utilities and floodplain and that the Council consider a similar condition in their CP and VP decisions. Staff is confident that details will be finalized prior to preliminary plat approvals.

- f. is consistent with the guiding standards listed in Section 19.26.06; and
Staff finding: up for discussion. *The application complies with standards 1-4, however the project is requesting an exemption from standard 5.*
- g. contains the required elements as dictated in Section 19.26.07.
Staff finding: complies. *The application contains the minimum required items.*

VILLAGE PLAN CODE REQUIREMENTS

19.26.03.2 – Additional Village Plan Requirements

Additional requirements for a Village Plan are summarized below:

- a. A detailed traffic study - **Provided. Revised study needed due to plan changes.**
- b. A map and analysis of backbone infrastructure systems - **Provided.**
- c. Detailed architectural requirements and restrictions - **Provided**
- d. If applicable, details regarding the creation of an owners' association, master association, design review committee, or other governing body. - **Provided.**

19.26.09 – Village Plan Approval

The criteria for a Village Plan approval are summarized below:

- a. is consistent with the adopted Community Plan;
Staff finding: complies. *The Village Plan has been reviewed for compliance with the densities, uses, block types, conceptual layout, and standards of the Community Plan.*
- b. does not exceed the total number of equivalent residential units dictated in the adopted Community Plan;
Staff finding: complies. *The proposed density for Village Plan 1 is 278 to 558 units. This falls within the density ranges contemplated in the Community Plan for the Block Types in the Village plan. Regardless, in no case may the density in the entire Community Plan exceed 1000 residential unit equivalents, 1055 including the nonresidential portion.*
- c. for an individual phase, does not exceed the total number of equivalent residential units dictated in the adopted Community Plan unless transferred per the provisions of the Community Plan;
Staff finding: complies. *The densities within the phases also comply with the density ranges for the Block Types of each phase.*
- d. is consistent with the utility, infrastructure, and circulation plans of the Community Plan; includes adequately sized utilities, services, and roadway networks to meet demands; and mitigates the fair-share of off-site impacts;
Staff finding: still under discussion. *The street layout and utility plans are consistent with the plans provided in the Community Plan. The drainage and storm water plans are still being finalized.*
- e. properly integrates utility, infrastructure, open spaces, pedestrian and bicycle systems, and amenities with adjacent properties; and

Staff finding: up for discussion. The project does properly integrate utility and infrastructure; however there may be some discussion of pedestrian and bicycle systems and the integration of such systems with adjacent properties. The requested exception from the perimeter buffer, through lack of expansion to a shared trail corridor, may minimize such integration. Staff requests Council input and direction. Additionally, most parks and open spaces are intended for the Legacy Farms community and are not public in nature.

- f. contains the required elements as dictated in Section 19.26.10.

Staff finding: in process. See below. Nearly all required topics have been included, and remaining topics are being prepared by the applicant.

19.26.10 – Contents of a Village Plan

The required contents of a Village Plan are summarized below:

1. Legal Description - **Provided**
2. Detailed Use Map - **Provided**
3. Detailed Buildout Allocation - **Provided**
4. Detailed Development Standards - **Provided**
5. Design Guidelines - **Provided**
6. Owners' / Governing Associations - **Provided**
7. Phasing Plan - **Provided**
8. Lotting Map - **Provided**
9. Landscaping Plan - **Provided**
10. Utility Plan - **Pending**
11. Vehicular Plan - **Provided**
12. Pedestrian and Bicycle Plan - **Provided**
13. Additional Detailed Plans. Other elements as necessary (grading plans, storm water drainage plans, wildlife mitigation plans, open space management plans, sensitive lands protection plans, hazardous materials remediation plans, and fire protection plans) - **Pending**
14. Site Characteristics - **Provided**
15. Findings Statement - **Provided**
16. Mitigation Plans. (Protection and mitigation of significant environmental issues) - **Pending**
17. Offsite Utilities - **Pending**
18. Development Agreement – **Pending (draft provided to applicants for revision)**

I. Recommendation and Alternatives:

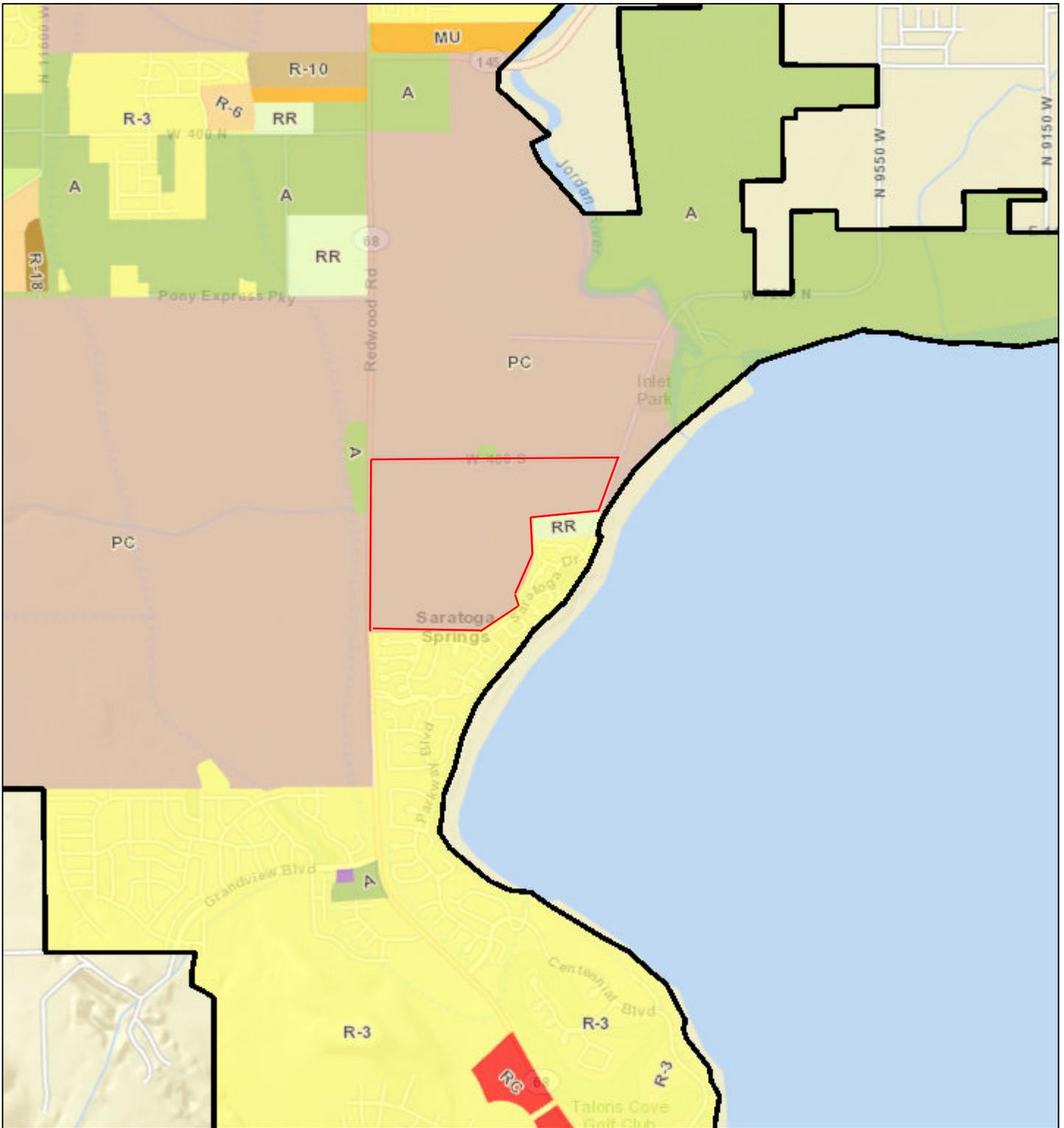
Staff recommends that the City Council hold a work session to discuss the changes to the plans, and give the applicant feedback in preparation for public hearings to be tentatively held in June. The Planning Commission will hold a public hearing on May 8, 2014; if a recommendation is made, the Council hearings will be scheduled for June of 2014.

J. Attachments:

- A. Location & Zone Map (page 11)
- B. Aerial Photo (page 12)
- C. City Engineer's Report dated April 17, 2014 (pages 13-16)
- D. February 13, 2014 Layout (page 17)
- E. April 7, 2014 Revised Layout (page 18)
- F. Community Plan: www.saratogaspringscity.com/planning, then "Pending Applications"
- G. Village Plan: www.saratogaspringscity.com/planning, then "Pending Applications"

Zoning & Planning

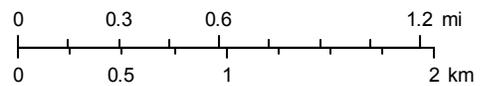
Exhibit A



February 11, 2014

1:36,112

 City Boundary



Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, iPC, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, 2013



City Council Staff Report

Author: Jeremy D. Lapin, City Engineer
Subject: Legacy Farms Community Plan
Date: April 24, 2014
Type of Item: Community Plan Approval



Description:

A. Topic: The Applicant has submitted a community plan application. Staff has reviewed the submittal and provides the following recommendations.

B. Background:

Applicant: D.R. Horton
Request: Community and Village Plan Approval
Location: Area east of Redwood Road and South 400 South
Acreage: 181.937 acres

C. Recommendation: Staff recommends the approval of community plan subject to the following findings and conditions:

D. Conditions:

- 1) The developer shall comply with all UDOT access permitting requirements. A permit for all points of access along Redwood Road shall be obtained from UDOT. Redwood Road is a Category 4 roadway and as such all access points, signalized or other, must meet UDOT’s standards for that roadway classification. Developer shall complete the half-width improvements along Redwood Road (Principal Arterial) and 400 South (Collector) as per the City’s Transportation Master Plan (TMP) and Engineering standards and specifications.
- 2) The submitted Traffic Impact study prepared by Hales Engineering dated August 2013 needs to be updated to reflect changes to the plan that have occurred since it was completed including, but not limited to, the new school location and the senior living community. Furthermore it identifies that the intersection of 400 South and Redwood road will require a signal in the future to mitigate the traffic impacts from this project. This intersection is not currently identified on the cooperative agreement between UDOT and Saratoga Springs dated October 28, 2008 (Federal ID # 870575087). This agreement needs to be modified to include a signal at the 400 south and Redwood road intersection.
- 3) The proposed location of the elementary school may require improvements to the

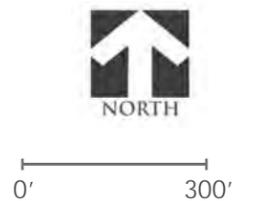
adjacent roads beyond their standard cross sections to accommodate ingress, egress, and queuing. These modifications shall be based on the amended traffic study and the final site layout of the school.

- 4) In Figure 3 (page 13) of the Traffic Impact study prepared by Hales Engineering dated August 2013, the numbers do not match the numbers in the Trip Generation section or the Trip Distribution and Assignment section of the report. These errors appear to be due to rounding but represent, in some cases, a difference of more than 5% from the intended distribution. This report shall be updated to ensure that the study intersections do not exceed thresholds with the revised distribution.

- 5) While the existing utility systems (culinary water, pressurized irrigation, storm drain and sewer) currently have adequate capacity for the City's current rate of growth, the adoption of the community plan does not represent a reservation of capacity in any of the systems. Capacity is available on a first come, first serve basis and final verification of system capacity will need to be determined prior to the recordation of plats. At the time of plat recordation, Developer shall be responsible for the installation and dedication to City of all onsite and offsite improvements sufficient for the development of Developers' Property in accordance with the current City regulations. While the anticipated improvements required for the entire Property are set out in the community plan, that is only the City's best estimate at this time as to the required improvements and is not intended to be an exhaustive list. The required improvements for each plat shall be determined by the City Engineer at the time of plat submittal and shall primarily be based on the exhibits in the Community plan but may be adjusted in accordance with current City regulations. The infrastructure anticipated to be needed for the build out of this project shall be provided for in the community plan and includes, but is not limited to, the following:
 - Connections to CUWCD turnout vaults at Redwood Road/Pioneer Crossing and at 800 West/Pony Express Parkway.
 - A staging pond, filter station, and booster pump station on the Welby Jacob Canal and a 16" waterline connecting this new source to the existing secondary water system.
 - A 14" secondary waterline in 400 South from Saratoga Road to Redwood Road.
 - A 6" secondary waterline in Saratoga Road from 400 south extending south to the existing secondary water system in SSD.
 - A 12" secondary waterline in Redwood Road from 400 south and connecting to the existing 8" secondary waterline in Parkway Blvd.
 - A 16" waterline in Redwood Road from Parkway Blvd extending to and connecting to the existing 16" secondary waterline in Grandview Blvd.
 - An 8" sewer main in 400 South from approximately the existing power substation extending east to the Inlet Park lift station.
 - A 24" sewer main along the south eastern boundary of the property

- sufficient to bypass the last segment of the existing sewer main in SSD.
- Upgrades to the existing Inlet Park lift station.
 - On site storm drainage and detention sufficient to meet city standards.
 - Comprehensive Tickville Wash improvements sufficient to convey the 100-yr storm event to the lake compliant with all City, County, State, and FEMA requirements.
 - Frontage improvements along Redwood Road compliant with the City's transportation master plan and its Engineering standards and specifications.
 - Frontage improvements along 400 South compliant with the City's transportation master plan and its Engineering standards and specifications.
- 6) A map revision will be required through FEMA before any lots can be recorded in any area currently shown within the FEMA 100-yr flood plain including Zone "A" which is identified as those areas having a 1% annual chance flood event with no defined base flood elevation.
- 7) The developer shall obtain an Army Corp of Engineers (ACOE) 404 permit for any portion of the project that may disturb wetlands and must comply with all local, state, and federal laws.
- 8) Developer shall bury and/or relocate all overhead distribution power lines that are within this project.
- 9) Developer shall provide a geotechnical report and hydrologic/hydraulic storm drainage calculations for the overall project. Detention areas and volumes shall be identified as well as all proposed outfall locations. The project shall comply with all City, UPDES and NPDES storm water pollution prevention requirements. Storm water release shall not exceed 0.2 cfs/acre and must be cleaned to remove 80% of Total Suspended Solids and all hydrocarbons and floatables.
- 10) All roads shall comply with the City's TMP be designed and constructed to City and AASHTO standards, and shall incorporate all geotechnical recommendations as per the applicable soils report. Road cross sections shall match either the ones in the City's adopted Engineering Standards and Specifications or the Community Plan and must also comply with international fire code requirements. Intersection spacing along 400 south and on all internal roads shall comply with the spacing standards identified in the City's adopted TMP. The Community Plan shall include the required improvements to Redwood Road and 400 South in the Thoroughfare network plan as per the TMP and the City's engineering standards and specifications.
- 11) Road names and coordinates shall comply with current city ordinances and standards.

- 12) Project shall comply with the City's adopted Parks, Recreation, Trails, and Open Space Master Plan. Trail and open space designs shall comply with all City standards and specifications.
- 13) Park strips less than 9' in width shall only be planted with trees appropriate for narrow areas and that will not damage the sidewalk as they grow.
- 14) Open Space areas that will be maintained by the City must be designed in accordance with City Standards and the City's Engineering Standards and Specifications.
- 15) Developer shall prepare and submit signed easements for all public facilities not located in the public right-of-way. Sewer and storm drains shall be provided with a minimum of 20' wide easements and water and irrigation lines a minimum of 10' wide easements centered on the facility. Utility lines may not be closer than 10' apart from each other or from any structure. Developer shall provide 12' paved access roads and 20' wide access easements to any location where access is required outside the ROW such as sewer or storm drain manholes.
- 16) All street lighting and any other lighting proposed to be dedicated to and maintained by the City shall comply with the current City standards and specifications. All lighting shall be full-cutoff style and meet all other City and IESNA standards.
- 17) Project shall comply with all ADA standards and requirements.
- 18) Utilities including water, irrigation, sewer and storm drain shall not be located within any lot residential lot boundary (except for laterals).
- 19) Lots shall not contain any sensitive lands; all sensitive lands must be placed in protected open space.
- 20) Phasing plan within the Community Plan shall illustrate the phasing of the frontage improvements along 400 south and Redwood Road.
- 21) Secondary and Culinary Water Rights must be secured from or dedicated to the City with each plat proposed for recordation compliant with current City Code. Prior to acceptance of water rights proposed for dedication, the City shall evaluate the rights proposed for conveyance and may refuse to accept any right that it determines to be insufficient in annual quantity or rate of flow or has not been approved for change to municipal purposes within the City or has not been approved for diversion from City-owned waterworks by the State Engineer.



Block Type	Acres	% (181.9 ac.)	ERU's
BT-1	25.8	14.2	
BT-2	39.3	21.6	
BT-3	46.9	25.8	1,000 (Residential) 55 (Non-Residential)
BT-4	22.8	12.5	
Civic Space	17.0	9.3	
Community Open Space	16.9		
			Total Maximum = 1,055 ERUs





City Council Work Session Staff Report

Author: Kevin Thurman, City Attorney
Subject: Proposed Amendments to Title 20 of the City Code
Date: May 6, 2014
Type of Item: Legislative, Policy Decision

Summary Recommendation: Staff recommends the Council discuss the proposed amendments to Titles 20 of the City Code.

Description:

A. Topic

Amendments to Title 20 of the City Code.

B. Background

Title 20 was passed in 2010. Slight modifications were made in 2011 as part of the codification of the entire City Code. Through implementation and application of Title 20, it has become apparent that certain changes are necessary to update, streamline, and clarify the title. As a result, these changes are being brought to the Council for consideration.

C. Analysis

Following is a basic summary of the proposed amendments:

1. Chapter 20.01:
 - a. non-substantive, typographical corrections;
 - b. adds definitions of positions in code enforcement;
 - i. Code Enforcement Officer now includes building official, planning director, and inspectors;
 - c. adds definition of substantial evidence;
 - d. clarifies definitions;
 - e. updates service of process section to be consistent with the Utah Code;
 - i. Utah Code does not allow service by posting on property for zoning violations; and

- f. definition of “owner” changed to include a “firm, association, organization, trust, partnership, limited liability company, corporation, or any entity”
2. Chapter 20.02:
 - a. adds clarifications, such as state code violations are not subject to Title 20;
 - i. City does not have authority to enforce state code violations administratively as State Legislature has dictated penalties;
 - b. changes standard of proof from reasonable suspicion to substantial evidence;
 - i. This is more consistent with administrative law;
 3. Chapter 20.03:
 - a. non-substantive clarifications and edits;
 - b. changes to create flexibility with time period to comply (changed from 10 days to “as specified in the Notice of Violation”);
 - c. Civil penalties:
 - i. Section 20.05.02 moved to and combined with 20.03.08;
 - ii. Fines are a set amount rather than a range;
 - iii. Fines for traffic and parking reduced;
 1. Survey of cities found that most parking citations are \$25 and traffic citations are \$50.
 4. Chapter 20.04:
 - a. reorganizes some terms and provisions;
 - b. clarifications of duties and responsibilities;
 - c. reassigns clerical responsibilities to staff;
 - d. changes the standard of review from preponderance to substantial evidence, which is consistent with administrative law and proceedings;
 - e. clarifies conditions under which hearsay evidence is admissible; and
 - f. streamlines process when there is a failure to appear at a hearing; and
 5. Chapter 20.05:
 - a. assigns certain clerical duties to staff;
 - b. relocates some provisions;
 - c. modifies provisions to protect City;
 - d. removes provisions never used by City, such as a “Administrative Code Enforcement Hearing Program Abatement Superfund” and “Code Enforcement Administrative Fees and Cost Fund”;
 - i. standard accounting and auditing policies govern this.

D. Conclusion: The attached amendments update, streamline, and clarify Title 20.

E. Department Review: Kevin Thurman.

Recommendation: Staff recommends that the Council discuss the amendments.

Attachments: proposed amendments to Title 20

| Title 20. **ADMINISTRATIVE CODE ENFORCEMENT**

Chapters:

- 20.01. General Provisions and Definitions.**
- 20.02. General Authority and Offenses.**
- 20.03. Administrative Code Enforcement Procedures.**
- 20.04. Administrative Code Enforcement Hearing Procedures.**
- 20.05. Administrative and Judicial Remedies.**

Chapter 20.01. General Provisions and Definitions.

Sections:

- 20.01.01. Short Title.**
- 20.01.02. Declaration of Purpose.**
- 20.01.03. Scope.**
- 20.01.04. Existing Law Continued.**
- 20.01.05. Criminal Prosecution Right.**
- 20.01.06. No Mandatory Duty—Civil Liability.**
- 20.01.07. Definitions ~~Applicable to Title.~~**
- 20.01.08. Acts Include Causing, Aiding, ~~and~~ Abetting.**
- 20.01.09. Service of Process.**
- 20.01.10. Constructive Notice of Recorded Documents.**

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 Municipal 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 Municipal 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. ~~The City Council recognizes that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative code enforcement hearings and judicial proceedings.~~ The City Council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gaining compliance with these regulations. ~~Failure to comply with an administrative code enforcement action may require the City Attorney to file a judicial action to gain compliance.~~

(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 of its ordinances.

(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)

Section 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. 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 offense 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 definitions as provided 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 is City Code; or
5. the violation caused a significant health or safety risk to the public.

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

Section 20.01.06. No Mandatory Duty—Civil Liability.

It is the intent of the City Council that in establishing performance standards or establishing ~~an~~ obligation 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)

Section 20.01.07. Definitions ~~Applicable to Title~~.

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 ~~Civil Traffic~~Administrative Code Enforcement Program established pursuant to Chapter 3.112 of the City Code.
3. **“~~Administrative code enforcement order~~Administrative Law Judge Order”** means an order issued by ~~an Administrative Law Judge~~hearing officer. 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 ~~applicable state codes~~City ordinances.
4. **“City”** means the area within the territorial city limits of the City of Saratoga Springs.
- 4.5. **“City Code”** means any ordinance passed by the City Council including Titles 1-20 and any other Title, ordinance, regulation, or amendment lawfully codified pursuant to Utah law including Utah Code § 10-3-707.
- 5.6. **“City Council”** means the City Council of the City of Saratoga Springs.
7. **“Code Enforcement Coordinator”** means ~~the person who has been delegated 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.~~
6. **“Code enforcement tax lien”** means a lien recorded to collect outstanding civil penalties, administrative fees, and costs.
8. **“Code Enforcement Officer”** means any person delegated by the City Manager with the responsibility for enforcing 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 code enforcement order~~Administrative Law Judge Order.
- 7.10. **“Code enforcement tax lien”** means a lien recorded to collect outstanding civil penalties, administrative fees, and costs.
8. **“Enforcement official”** means any person authorized to enforce violations of the City

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~~Code or applicable state codes.~~

~~9.~~11. **“Financial institution”** means any person that holds a recorded mortgage or deed of trust on a property.

~~10.~~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.

~~11.~~13. **“Imminent life or safety hazard”** means any condition that creates a present, extreme, and immediate danger to life, property, health, or public safety.

~~12.~~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.

~~13.~~15. **“Notice of compliance”** means a document issued by the City, representing that a property complies with the requirements outlined in ~~the~~a notice of violation, administrative citation, or Administrative Law Judge Order.

~~14.~~16. **“Notice of satisfaction”** means a document or form ~~approved by the Administrative Law Judge or his or her designee~~approved by the 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.

~~15.~~17. **“Notice of violation”** means a written notice prepared by a Code Enforcement Officer~~an enforcement official~~ that informs a responsible person of code violations and orders them to take certain steps to correct the violations.

~~16.~~18. **“Oath”** includes affirmations and oaths.

~~17.~~19. **“Ordinance Enforcement Administrator”** means the supervisor of the Ordinance Enforcement and Animal Control Division, who is the City Manager or designee.

~~18.~~20. **“Person”** means any ~~natural~~natural 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.

~~19.~~21. **“Property owner”** means the record owner of real property based on the county recorder’s records.

20.22. **“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.

21. **“Responsible person”** means a person who commits a violation of the City Code 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. is responsible for causing or maintaining a violation of the City Code or applicable state codes.
- a. The property owner, tenant, person with a legal interest in the real property, or person in possession of the real property, shall be liable for any violation maintained on the property.
 - b. In all cases, the property owner shall be considered a Responsible Person.

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23.

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.

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

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

20.01.08. Acts Include Causing, Aiding, grand 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, thea Code Enforcement Officer or -the Code Enforcement Coordinator (or designees) shall serve the document shall be served by any of the following methods, unless different provisions are otherwise specifically stated to applyprovided:

- 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. ~~The form of the posted notice shall be approved by the Ordinance Enforcement Administrator or his or her designee;~~
 - c. Personal service pursuant to Utah Rules of Civil Procedure Rule 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, 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, which, as of the 2013 Utah Legislative Session, 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, on the third day 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 ~~the Ordinance Enforcement Administrator or enforcement official~~ a Code Enforcement Officer finds that a violation of the City Code or ~~applicable state codes~~ City ordinances has occurred or continues to exist, the appropriate administrative enforcement procedure may be used as outlined in this Title.
2. ~~The~~ So long as authorized in this Title, a ~~Ordinance Enforcement Administrator or any designated enforcement official has~~ Code Enforcement Officer has the authority and power necessary to gain compliance with the provisions of the City Code and ~~applicable state codes~~ 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, ~~and~~ 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~~ The ~~Ordinance Enforcement Administrator or any designated enforcement official is~~ Code Enforcement Officer is authorized to enter upon any property or premises to ascertain whether the provisions of the City Code or ~~applicable state codes~~ 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 ~~the enforcement official~~ a Code Enforcement Officer to enter the property, then ~~the Code Enforcement Officer~~ enforcement official 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 The Ordinance — Enforcement Administrator or any designated enforcement official~~ is authorized to cite any person whenever there is reasonable suspicion substantial evidence to believe that the person has committed a violation of the City Code or ~~applicable state codes~~ 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 BC 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 BC 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 or applicable state codes~~ that constitutes a violation may be abated by the City pursuant to the procedures set forth in this ~~Part~~Chapter.

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

20.03.02. Notice of Violation; Administrative Abatement.

1. Whenever ~~the Ordinance Enforcement Administrator or any designated enforcement official~~a Code Enforcement Officer determines that a violation of the City Code or ~~applicable state codes~~City ordinances has occurred or continues to exist, ~~the Administrator or enforcement official~~the Code Enforcement Officer may choose to proceed under these administrative abatement procedures.
- 1-2. If ~~this~~the administrative abatement procedure is used, a notice of violation shall be issued to ~~a~~the responsible person. The notice of violation shall include the following information:
 - a. name of ~~property owner~~responsible person;
 - b. street address or location of violation;
 - c. date violation observed;
 - d. all ~~codes or ordinances sections~~ violated and ~~description an explanation as to why the code or ordinance was violated~~of condition of the property that violates the applicable codes;
 - 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 calendar ten 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 that 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.

~~2.3.~~ The responsible person may request a hearing on renewed violations by following the same procedure as provided for in the original notice.

~~3.4.~~ The notice of violation shall be served by one of the methods of service listed in Section 20.01.09 of this Title.

~~4.5.~~ 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 ~~a~~the responsible person fails to bring a violation into compliance within the time specified in the Notice of Violation, ten days of service of the notice of violation, civil penalties as provided in Section 20.03.08 shall be owed to the City ~~for each and every subsequent day of violation~~.

(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 ~~any minimal~~ 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. ~~This~~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 demolish~~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 ~~the Ordinance Enforcement Administrator has determined that the City Chief Building Inspector or the Fire Marshall has complied with~~ 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 ~~applicable state codes~~ City ordinances.

2. Authority.

- a. Any person violating any provision of the City Code or ~~applicable state codes~~ City ordinances may be issued an administrative citation by ~~an enforcement official~~ Code Enforcement Officer as provided in this Section.
- b. A civil penalty shall be assessed by means of an administrative citation issued by the ~~enforcement official~~ 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 ~~applicable state codes~~ City ordinances, ~~a Code Enforcement Officer~~ an enforcement official may issue an administrative citation to ~~a 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, ~~approved by the Administrative Law Judge~~. ~~If the responsible person is a business, the enforcement official~~ Code Enforcement Officer shall attempt to locate the business owner and issue an administrative citation to the business owner. If the enforcement official ~~Code Enforcement Officer can only locate the manager of the business, the administrative citation may be given to the manager of the business. A copy of the administrative citation may also be mailed to the business owner or any other responsible person in the manner prescribed in Section 20.01.09 of this Title.~~
- c. Once the responsible person has been located, the Code Enforcement Officer ~~enforcement official~~ 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 ~~to sign~~ shall not affect the validity of the citation and subsequent proceedings. If the Code Enforcement Officer ~~enforcement official~~ 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 ~~enforcement official~~.
- 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 ~~titles 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; ~~and~~
- f. the signature of the Code Enforcement Officer ~~enforcement official~~ 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.

~~The City Council shall establish policies to assist in the assessment of civil penalties, fines, and fees.~~

- 1. **In General.** As specified in the notice of violation or administrative citation, civil penalties shall may be assessed on a daily basis until the violation is corrected or immediately if for each violation listed on the 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.
- 2. **Amount.** Unless specified otherwise in the 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:
 - a.i. Administrative Citations:

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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 expiration of the date to correct.

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

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20.03.09. Procedures for Animal Citations.

1. Fines, Reductions, Waivers,

- a. Licensing and rabies fines are dismissed upon proof that the violation has been corrected.
- b. \$25.00 reduction for first time offenders with good cause.
- c. No reductions are offered for offenders with a history of non-payment.
- d. Flexible monthly plans can be set up according to responsible person's needs.
- e. Fines are dismissed if dog is deceased.

2. Appeal.

- a. The responsible person has 10 days from date of citation to appeal in writing.
- b. Notice of hearing is mailed after our office receives an appeal notice.
- c. We subpoena the officer and any witnesses.
- d. Possible \$100.00 hearing fee if the responsible person is found guilty.

3. Non-payment.

- a. If fine is not paid within 30 days, we send an Account Summary to the last known address as a courtesy reminder.
- b. If fine is not paid with 30 days of the Account Summary, we send a Demand for Payment to the last known address.
- c. If fine is not paid within 30 days of the Demand for Payment, the matter is filed with the Small Claims Court to obtain a judgment.
- d. There is no current procedure to collect the money after a judgment is obtained from the Small Claims Court.

4. Revocation Hearing.

- a. A Revocation Hearing takes away a person's right to legally own an animal inside City boundaries.
- b. If the responsible person receives three or more animal violations within one 12-month period, a Revocation Hearing is set and a notice of the hearing is mailed to the responsible person.

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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 ~~Code Enforcement~~ Law Judge Order.
- 20.04.10. Failure to Comply with Order.
- 20.04.11. Administrative Enforcement Appeals.
- ~~20.04.12. Disqualification of Code Enforcement Hearing Officer.~~

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 ~~the City Code~~ 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. ~~Authority and Scope~~ Policies and Procedures of Hearings.

~~Enforcement of City Code violations may be conducted through the Administrative Code Enforcement Program, presided over by the Administrative Law Judge.~~ The Administrative Law Judge ~~shall~~ may develop policies and procedures to regulate the hearing process for any violation of the City Code that ~~are~~ 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 good cause reason for granting which a continuance is granted.
3. The Administrative Law Judge, at the request of any party to the hearing, may sign may issue subpoenas for witnesses, documents, and other evidence where the attendance of the witness for the admission of evidencesuch 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. ~~of~~ granting a continuance;
 - b. ordering compliance by issuing an administrative code enforcement orderAdministrative 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 code enforcement orderAdministrative Law Judge Order, or;
 - 4.iii. to grant a new hearing where extraordinary circumstances exist; ~~to grant a new hearing.~~
5. The Administrative Law Judge has the authority to require ~~a~~the responsible person to post a code enforcement performance bond to ensure compliance with an administrative code enforcement orderAdministrative 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

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days from the date of service ~~of one of the following notices:~~

- 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, ~~and~~ 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 ~~Administrative Law Judge~~ 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 ~~a~~ 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 Administrative Law Judge shall schedule a default hearing.~~ The Code Enforcement Coordinator shall notify the responsible person ~~shall be notified~~ 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 responsible person fails to establish good cause to take one or more of the actions set forth in subparagraph 3, the Administrative Law Judge shall review the notice of violation and any other relevant information included in the case file. The Administrative Law Judge shall not accept any other evidence.~~
- ~~5.4.~~ 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 ~~applicable state codes~~ 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 ~~the preponderance of the evidence shows~~ 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.

6.7. 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.

7.9. 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.

8.10. The responsible person has a right to be represented by an attorney. If an attorney will be representing the responsible person at the hearing, notice of the attorney's name, address, and telephone number must be given to the City at least one day prior to the hearing. If notice is not given, the hearing may be continued at the City's request, and all costs of the continuance assessed to the responsible person.

9.11. 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 ~~Code Enforcement~~ 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 code enforcement

~~order~~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 code enforcement order~~Administrative Law Judge Order that affirms, modifies, or rejects the notice ~~, or 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 code enforcement order~~Administrative Law Judge Order, the Administrative Law Judge may ~~condition the total or partial assessment of~~reduce or stay civil penalties on the ~~condition that the~~ responsible person ~~'s ability to 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 code enforcement order~~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 code enforcement order~~Administrative Law Judge Order shall become final on the date of the signing of the order.
9. The ~~administrative code enforcement order~~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.

~~Upon the failure of the responsible person to comply with the terms and deadlines set forth in the administrative code enforcement order, the City may use all appropriate legal means to recover the civil penalties and administrative costs to obtain compliance.~~

1. After the Administrative Law Judge issues an ~~administrative code enforcement order~~Administrative Law Judge Order, the Code Enforcement Officer and Administrative Law Judge ~~shall~~may monitor the violations and determine compliance.

~~1.2.~~ Upon the failure of the responsible person to comply with the terms and deadlines set forth in the ~~administrative code enforcement order~~ 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. ~~Appeal of Administrative Code Enforcement Hearing Decision.~~ 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 ~~by to the~~ district court within thirty days after the decision is rendered.
2. No person may challenge in district court ~~an administrative code enforcement hearing officer's~~ 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, ~~W~~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 ~~Administrative Law Division~~ 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 code enforcement hearing officer's~~ 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. — Disqualification of Code Enforcement Hearing Officer.

~~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)~~

20.04.12. Revocation of Animal Licenses.

The Administrative Law Judge may revoke animal licenses and the rights of a Responsible Person to legally own an animal inside City boundaries 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. Administrative Civil Penalties.~~
- 20.05.0203. Abatement of Violation.
- 20.05.0304. Recovery of Costs.
- 20.05.0405. Administrative Fees.
- 20.05.0506. Injunctions.
- 20.05.0607. Performance Bonds.
- 20.05.0708. Code Enforcement Tax Liens.
- 20.05.0809. Recovery of Costs by Writ of Execution.
- 20.05.0910. Recovery of Costs by Writ of Garnishment.
- ~~20.05.11. Allocation of Funds Collected Under Administrative Code Enforcement Hearing Program Abatement Superfund.~~
- ~~20.05.12. Code Enforcement Administrative Fees and Cost Fund.~~
- ~~20.05.13. Allocation of Civil Penalties.~~

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 ~~applicable state codes~~ 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 ~~applicable state codes~~ City ordinances.

2. Authority. Whenever ~~the Ordinance Enforcement Administrator~~ 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 ~~Ordinance Enforcement Administrator~~ has the authority to record the notice of violation or ~~administrative code enforcement order~~ Administrative Law Judge Order with the Recorder's Office of Utah County.

3. Procedures for Recordation.

- a. If a Code Enforcement Officer issues ~~Once the Ordinance Enforcement Administrator has issued~~ 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 ~~Ordinance Enforcement Administrator~~ 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~~~~Ordinance Enforcement Administrator~~ shall record the ~~Administrative Law Judge’s administrative code enforcement order~~~~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, ~~and~~ 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 ~~the Ordinance Enforcement Administrator~~ ~~a Code Enforcement Officer.~~
 - b. Upon receipt of a request for inspection, ~~the Code Enforcement Officer~~~~the Ordinance Enforcement Administrator~~ 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, ~~and~~ whether all necessary permits have been issued, ~~and/or whether~~ final inspections have been performed.
 - c. The ~~Ordinance Enforcement Administrator~~~~Code Enforcement Officer, in conjunction with the Code Enforcement Coordinator,~~ shall serve a notice of ~~compliance~~~~satisfaction~~ to the responsible person or property owner in the manner provided in Section 20.01.09 of this Title; if the ~~Ordinance Enforcement Administrator~~~~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, ~~finer,~~ ~~and costs~~ assessed against the property have been paid or satisfied; ~~and/or~~
 - iv. the party requesting the notice of ~~compliance~~~~satisfaction~~ has paid all administrative fees and costs.
 - d. If ~~the Ordinance Enforcement Administrator denies~~ a request to issue a notice of ~~compliance is denied, then~~~~satisfaction,~~ upon request, the ~~Code Enforcement Officer, in conjunction with the Code Enforcement Coordinator,~~~~Ordinance Enforcement Administrator~~ shall serve the responsible person with a written explanation setting forth the reasons for the ~~Code Enforcement Officer’s~~ denial.

Comment [BV1]: We need to be careful to not confuse a “notice of compliance” with a “notice of satisfaction.” The definitions section makes it clear that these are totally different items. I believe I corrected all the places where the mistake was made in confusing these two items.

The written explanation shall be served by any of the methods of service listed in Section 20.01.09 of this Title.

7. **Prohibition Against 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.
 - a-b. ~~The City may withhold business licenses;~~ permits for kennels; ~~or~~ permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, ~~or~~ and any permits pertaining to the use and development of the real property or the structure.
 - b. ~~The City may withhold permits until a notice of satisfaction has been issued by the Ordinance Enforcement Administrator.~~
 - c. The City may, in its sole discretion, issue not withhold permits or business licenses that are necessary to obtain a notice of compliance ~~satisfaction~~ 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 ~~The Ordinance Enforcement Administrator or responsible person~~ shall record the notice of compliance ~~satisfaction~~ with the County Recorder's Office. Recordation of the notice of compliance ~~satisfaction~~ 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. Administrative Civil Penalties.~~

Comment [KT2]: Moved to and combined with 20.03.08

~~2. Authority.~~

- a. ~~Any person violating any provision of the City Code or applicable state codes may be subject to the assessment of civil penalties for each violation.~~
- b. ~~Each and every day a violation of any provision of the City Code or applicable state codes exists is a separate violation subject to the assessment of civil penalties.~~
- e. ~~Civil penalties cannot be assessed when a criminal case has been filed for the same date and violation, because fines will be assessed with the criminal case.~~
- d. ~~Interest shall be assessed per City policy on all outstanding civil penalties balances until the case has been paid in full.~~
- e. ~~Civil penalties for violations of any provision of the City Code or applicable state codes shall be assessed pursuant to Title 1, Chapter 2, of the Consolidated Fee Schedule.~~

~~3. Civil Penalties.~~

- a. ~~If a responsible person fails to bring a violation into compliance within ten days of service of the notice of violation, civil penalties shall be owed to the City for~~

~~each and every subsequent day of violation.~~

- ~~b. Civil penalties are assessed and owing immediately for any violation of the City Code or applicable state codes for an administrative citation.~~

4. ~~Determination of Civil Penalties.~~

- ~~a. Civil penalties shall be assessed per violation per day pursuant to the City fee schedule for a notice of violation.~~
- ~~b. Civil penalties shall continue to accrue until the violation(s) has/have been brought into compliance with the City Code or applicable state codes.~~

5. ~~Modification of Civil Penalties.~~

- ~~a. Upon completion of the notice of violation or administrative enforcement order, the administrative code enforcement hearing officer Administrative Law Judge may modify the civil penalties on a finding of good cause.~~
- ~~b. Civil penalties may be waived or modified by the hearing officer Administrative Law Judge upon if there is a finding of good cause based on the responsible person's claim of nonconforming use or conditional use and:~~
 - ~~c. the City's need to verify the claim; or~~
 - ~~d. the responsible person's filing of an application for either use before expiration of the date to correct.~~

Failure to Pay Penalties. The failure of any person to pay civil penalties assessed within the specified time may result in the Ordinance Enforcement Administrator's City pursuing any legal remedy to collect the civil penalties as provided in the law.

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

20.05.0302. Abatement of Violation.

1. Authority to Abate.

- a. ~~The Ordinance Enforcement Administrator is Code Enforcement Officer is~~ authorized to enter upon any property or premises to abate the violation of the City Code and ~~applicable state codes~~ City ordinances.
- b. ~~The Ordinance Enforcement Administrator is 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 abatements ~~are~~ 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 ~~completed~~ 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 ~~a~~ private contractor s may enter upon private property in a reasonable manner to abate the ordinance violation as specified in the notice of violation or ~~administrative code enforcement order~~ 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 code enforcement order~~ Administrative Law Judge Order, a the Code Enforcement Officer ~~Ordinance Enforcement Administrator~~ 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 ~~Ordinance Enforcement Administrator~~. 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 ~~Ordinance Enforcement Administrator~~ shall serve the notice of costs and the itemized bill of costs ~~by registered mail to the last known address of the responsible person(s)~~ through any of the means in Section 20.01.09. The notice shall demand full payment within twenty days to the City Treasurer.
- f. ~~If requested in writing by any or all responsible persons, the Code Enforcement Coordinator~~ The Ordinance Enforcement Administrator shall schedule an itemized bill for costs of the hearing, if requested in writing by any or all responsible persons.

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

20.05.0403. 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 ~~enforcement officials~~ 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 ~~applicable state codes~~ 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 ~~applicable state codes~~ 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 ~~applicable state codes~~ City ordinances, a Code Enforcement Officer or Code Enforcement Coordinator ~~the Ordinance Enforcement Administrator~~ may assess costs against the responsible person.
- b. Once a notice of violation has been issued, the property ~~shall~~ will 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 shall ~~may~~ be provided ~~on~~in the notice of violation served to the responsible person(s).
- b. Reinspection fees assessed or collected pursuant to this ~~Part~~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 ~~Part~~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 ~~policy~~ordinances.

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

20.05.05. Administrative Fees.

The ~~Code Enforcement Officers and Code Enforcement Coordinator are~~Ordinance Enforcement Administrator or code enforcement hearing officer is authorized to assess administrative fees for costs incurred in the administration of the ~~city~~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~~Code Enforcement hearing officer has the authority to require any responsible persons to post a performance bond to ensure compliance with the City Code, ~~applicable state codes~~City ordinances, or any judicial action.

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

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(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 PartSection shall be used to complement existing administrative or judicial remedies that may be pursued to address violations of the City Code or applicable state codesCity ordinances.
2. **Tax Liens for Abatement Costs~~Procedures for Tax Liens Without a Judgment.~~**
 - a. Once the City has abated a property for weeds, garbage, refuse, or unsightly or deleterious objects or structures, the Code Enforcement Coordinator Ordinance Enforcement Administrator 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 Ordinance Enforcement Administrator shall send, by registered mail to the property owner's last known address, 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. **Procedures for Tax Liens With a for Judgment.** Once a judgment has been obtained from the appropriate court assessing imposing costs, fines, or fees against the responsible person(s), the Code Enforcement Coordinator Ordinance Enforcement Administrator may record a code enforcement tax lien against any real property owned by the responsible person(s).
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 Ordinance Enforcement Administrator 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 ~~Ordinance Enforcement Administrator~~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 ~~Ordinance Enforcement Administrator~~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)

~~**20.05.11. Allocation of Funds Collected Under Administrative Code Enforcement Hearing Program Abatement Superfund.**~~

~~**1. Establishment of Abatement Superfund.**~~

- ~~a. There is hereby established a revolving fund to be known as the "Abatement Superfund" to defray costs of administrative and judicial abatements.~~
- ~~b. The fund shall be reimbursed by collection from the property or property owner as specified in this Title and by the courts.~~
- ~~c. The Ordinance Enforcement Administrator shall establish accounting procedures to ensure proper account identification, credit, and collection.~~
- ~~d. This fund may be operated and used in conjunction with procedures ordered or authorized under the abatement provision of this Title.~~

~~**2. Repayment to Abatement Superfund.** All monies recovered from the sale or transfer of property or by payment for the actual abatement costs shall be paid to the City Treasurer, who shall credit the appropriate amount to the Abatement Superfund.~~

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

~~**20.05.12. Code Enforcement Administrative Fees and Cost Fund.**~~

~~Administrative fees and administrative costs, except for actual abatement costs, collected pursuant to this Title shall be deposited in the Code Enforcement Administrative Fees and Costs~~

~~Fund, as established by the Ordinance Enforcement Administrator for the enhancement of the City's code enforcement efforts and to reimburse City departments for investigative costs and costs associated with the hearing process. Fees and costs deposited in this fund shall be appropriated and allocated in a manner determined by the Ordinance Enforcement Administrator. The City auditor shall establish accounting procedures to ensure proper account identification, credit, and collection.~~

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

20.05.13. Allocation of Civil Penalties.

~~Civil penalties collected pursuant to this Part shall be deposited in the General Fund of the City. Civil penalties deposited in this fund shall be appropriated and allocated in a manner determined by the City. The City shall establish accounting procedures to ensure proper account identification, credit, and collection.~~

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