



# Staff Report

PLANNING DIVISION  
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Planning Commission  
From: Kelsey Lindquist, Kelsey.lindquist@slcgov.com  
Date: April 26, 2017  
Re: PLNPCM2017-00058 Civil Enforcement Text Amendments

## ZONING TEXT AMENDMENT

**PROPERTY ADDRESS:** N/A  
**PARCEL ID:** N/A  
**MASTER PLAN:** N/A  
**ZONING DISTRICT:** All Zoning Districts

### REQUEST:

The Civil Enforcement Department within the Building Service Division has requested that Chapter 21A.20 be amended to coincide with State noticing requirements. The proposed amendments to Title 21A.20 will bring the requirements for service of a notice of a zoning violation in line with the service requirements of court documents under the Utah Rules of Civil Procedure. The amendments also clarify the process for recovering the costs the City incurs for services it provides when abating zoning violations. The amendments proposed to Chapter 21A.20 will affect all zoning districts throughout Salt Lake City.

Civil Enforcement is also incorporating additional amendments to Title 9.16 and Title 18, which will be included within Chapter 21A.20 at the transmittal stage of the process.

**RECOMMENDATION:** Based on the analysis and findings in this staff report and the factors to consider for zoning text amendments, Planning Staff recommends that the Planning Commission forward a positive recommendation to the City Council regarding petition number PLNPCM2017-00058.

**RECOMMENDED MOTION:** Based on the analysis and findings in the staff report, written comments and testimony presented during the public hearing, I move that the Planning Commission forward a positive recommendation regarding PLNPCM2017-00058 to the City Council.

### ATTACHMENTS:

- A. Petition to Initiate
- B. Clean Ordinance
- C. Proposed Amendments
- D. Analysis of Standards
- E. Public Process and Comments
- F. Dept. Comments
- G. Motions

**PROJECT DESCRIPTION:**

This is a request by the Salt Lake City Department of Civil Enforcement within the Building Services Division, to update Chapter 21A.20. Sections of this Chapter are being amended to coincide with amendments that have occurred to the State Code pertaining to Enforcement, Civil Fee Collection, and Noticing. The scope of the updates includes additional and applicable definitions that relate directly to the text within Chapter 21A.20. Additionally, the update gives the Civil Enforcement Department the ability to issue tax liens through the Salt Lake County Recorder's and Treasurer's Office. Tax liens are to ensure the cost of abatement is collected. Additional updates include; clearer language on the noticing of City's intent to abate zoning violations, collection of the costs of abatement, the appeals process, and the duties and roles of the Fines Hearing Officer, have been included.

Building Services is also processing amendments to Title 9.16, this will accompany the proposed amendment to Chapter 21A.20 at the City Council Briefing, but is not required to receive a recommendation from Planning Commission

**KEY ISSUES:**

The key issues listed below have been identified through the analysis of the project, neighbor and community input and department review comments.

1. Issue 1. Language Clarity  
The existing language within Chapter 21A.20 isn't clear as to the process, appeals process and the individuals who have the authority to issue citations. The proposed amendments will provide clear language that complies with the State's regulations. There are no foreseen impacts to the community.
  
2. Issue 2. Community Benefit  
A majority of the Master Plans stipulate an enforcement policy to aid against illegal conversions and unpermitted projects, to better ensure neighborhood safety. The existing enforcement policy is not being amended. However, the noticing amendments will provide the Housing and Zoning Enforcement Officers the ability to notice and issue liens, in order to collect the costs of abatement, further ensuring compliance with the zoning regulations.

**DISCUSSION:**

The proposal complies with the standards for zoning text amendments. After analyzing the proposal and the applicable standards, Planning Staff is of the opinion that a positive recommendation should be forwarded to the City Council for this request.

**NEXT STEPS:**

The Planning Commission's recommendation for these proposed zoning text amendments will be forwarded to the City Council for their action. The City Council is the decision-making body for zoning text amendments.

# ATTACHMENT A: PETITION TO INITIATE

PLN/PCM 2017-00058



## Petition Initiation Request

Planning Division  
Community & Economic Development Department

To: Mayor Biskupski

From: Nick Norris, Planning Director *N.N.*

Date: January 24, 2017

CC: Patrick Leary, Chief of Staff; Mike Reberg, CAN Dir  
Deputy Director; Orion Goff, Building Services and  
Director; Darby Whipple, Building Services Manag

Re: Initiate Petition to modify sections of the City Code relating to Civil Enforcement

01-037



*Accela  
Folder  
Nick N*

The Building Services Division is requesting that you initiate a petition directing the Planning Division to analyze the appropriateness of amending portions of the Salt Lake City Code relating to Civil Enforcement. Current regulations in both Chapter 9, Health and Safety, and 21A, Zoning, need to be updated to comply with State Statutes and legal requirements relating to levying fines and enforcement processes relating to weed and zoning violations.

The Planning Division will follow the regular public review process for this petition including obtaining early public input and conducting hearings with the Planning Commission and City Council.

If you have any questions, please contact me.

Thank you.

**Concurrence to initiate the zoning text amendment petition as noted above.**

*Patrick W Leary*

Jackie Biskupski, Mayor

*January 24, 2017*

Date

## **ATTACHMENT B: CLEAN ORDINANCE**

---

Based upon the analysis provided in the Key Issues section, including the issue of language clarity, staff suggests the following ordinance changes to Section 21A.20 of the Zoning Ordinance:

### SALT LAKE CITY ORDINANCE No. \_\_\_\_ of 2017

(Collection of abatement costs through tax liens.)

An ordinance amending Chapter 21A.20 of the Salt Lake City Code to provide for the use of tax liens to collect costs incurred abating certain zoning violations.

WHEREAS, Salt Lake City Corporation (the “City”) has enacted City ordinances providing for resolution of zoning violations through various means up to and including abatement actions conducted by the City; and

WHEREAS, Chapter 10-11 of the Utah Code authorizes municipalities to file tax liens against properties in order to recover costs incurred abating certain zoning violations; and

WHEREAS, the city desires to further articulate the processes and procedures the city utilizes to pursue collection of abatement costs through tax liens; and

WHEREAS, the Salt Lake City Planning Commission held a public hearing on \_\_\_\_\_, 2017 to consider a request made by Salt Lake City Mayor Jackie Biskupski (Petition No. PLNPCM2017-00058) to amend the text of Chapters 21A.06 (Zoning: Decision Making Bodies and Officials), 21A.34 (Zoning: Overlay Districts), and 21A.20 (Zoning: Enforcement) of the *Salt Lake City Code* to provide further clarity and efficiency in land use regulation.

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. That Salt Lake City Code Chapter 21A.20 (Zoning: Enforcement) shall be, and hereby is, amended to read as follows:

**CHAPTER 21A.20  
ENFORCEMENT**

- 21A.20.010: DEFINED TERMS:**
- 21A.20.020: COMPLAINTS REGARDING VIOLATIONS:**
- 21A.20.030: PROCEDURES UPON DISCOVERY OF VIOLATIONS:**
- 21A.20.040: CIVIL FINES:**
- 21A.20.050: DAILY VIOLATIONS:**
- 21A.20.060: COMPLIANCE:**
- 21A.20.070: RECURRING VIOLATIONS:**
- 21A.20.080: APPEALING FINES TO A FINES HEARING OFFICER:**
- 21A.20.090: NOTICE OF CITY'S INTENT TO ABATE ZONING VIOLATIONS:**
- 21A.20.100: COLLECTION OF THE COSTS OF ABATEMENT:**

**21A.20.010: DEFINED TERMS:**

In this chapter, the words, terms, phrases and their derivatives shall have the meanings as stated and defined in this chapter.

**CITATION DEADLINE:** The date identified in the second notice of violation described in Section 21A.20.030.E, including any authorized extension of time.

**DIVISION:** Salt Lake City's Division of Building Services, or the successor Salt Lake City division authorized to perform civil enforcement functions.

**FIRST NOTICE:** The initial notice informing the person cited that a zoning violation exists.

**CIVIL ENFORCEMENT OFFICER:** An employee of Salt Lake City's Division of Building Services, or of the successor Salt Lake City Division authorized to perform civil enforcement functions, or any duly authorized agent, representative or designee.

**NOTICE OF COMPLIANCE:** A written notice informing the person cited that the violation has been cured.

PERSON CITED: The property owner, property owner's agent, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs or creates any situation that is contrary to the requirements of this title, and who received the notice of violation and is being held responsible for the violation.

PROPERTY OWNER: Any person who, alone or jointly or severally with others, holds legal title to the property at issue.

SECOND NOTICE: The notice informing the person cited of the date that civil fines will begin to accrue if the zoning violation is not corrected.

**21A.20.020: COMPLAINTS REGARDING VIOLATIONS:**

A civil enforcement officer may investigate any complaint alleging a violation of this title and take such action as is warranted in accordance with the procedures set forth in this chapter.

**21A.20.030: PROCEDURES UPON DISCOVERY OF VIOLATIONS:**

- A. If the civil enforcement officer finds that any provision of this title is being violated, the civil enforcement officer may provide a written notice to the property owner and any other person determined to be responsible for such violation. The written notice shall indicate the nature of the violation and order the action necessary to correct it. Additional written notices may be provided at the civil enforcement officer's discretion.
- B. The written notice shall state what action the division intends to take if the violation is not corrected. The written notice shall include information regarding the established warning period for the indicated violations and shall serve to start any warning periods provided in this chapter.
- C. Such written notice issued by the civil enforcement officer shall be deemed sufficient and complete when:
  - 1. A copy of the written notice is posted on the property where said violation(s) occur, and
  - 2. The written notice is either:
    - a. Mailed by certified mail or commercial courier service to the property owner at the last known address appearing on the records of the county recorder and any other person determined to be responsible for such violation, at their last known address, or
    - b. Personally served upon the property owner and any other person determined to be responsible for such violation.

- D. In cases when delay in enforcement would seriously threaten the effective enforcement of this title, or pose a danger to the public health, safety or welfare, the civil enforcement officer may seek enforcement without prior written notice by invoking any of the fines or remedies authorized in Section 21A.20.060 of this chapter.
- E. If the violation remains uncured within five (5) days of the expiration of the warning period set forth in the notice described in subsections A-C of this section, a second notice of violation shall be delivered by mailing, postage prepaid, addressed to the person cited at the last known address appearing on the records of the county recorder. The second notice shall identify the citation deadline and serve to start the civil fines.

**21A.20.040: CIVIL FINES:**

If the violations are not corrected by the citation deadline, civil fines shall accrue at twenty five dollars (\$25.00) a day per violation for those properties legally used for purposes that are solely residential uses, and one hundred dollars (\$100.00) a day per violation for those properties used for purposes that are not residential uses.

**21A.20.050: DAILY VIOLATIONS:**

Each day a violation continues after the citation deadline shall be considered a separate offense and give rise to a separate civil fine. Accumulation of fines for violations, but not the obligation for payment of fines already accrued, shall stop upon correction of the violation.

**21A.20.060: COMPLIANCE:**

The city may use such lawful means as are available to obtain compliance with the provisions of this title and to collect the fines that accrue as a result of the violation of the provisions of this title, including a legal action to obtain one or more of the following: an injunction, an order of mandamus, an order requiring the property owner or occupant to abate the violations, an order permitting the city to enter the property to abate the violations, and a judgment in the amount of the civil fines accrued for the violation, including costs and attorney fees.

Violations of the provisions of this title or failure to comply with any of its requirements are punishable as a class B misdemeanor upon conviction.

**21A.20.070: RECURRING VIOLATIONS:**

In the case where a violation, which had been corrected, reoccurs within six (6) months of the initial correction, the division will begin enforcement of said

recurring violation and fines will begin accruing after a ten (10) day warning period.

**21A.20.080: APPEALING FINES TO A FINES HEARING OFFICER:**

- A. Powers and Duties of Fines Hearing Officer: The fines hearing officer, appointed pursuant to Section 21A.06.080 of this code, may hear and decide appeals of fines imposed pursuant to this chapter. As set forth in this section, the fines hearing officer may reduce civil fines and approve civil fine payment schedules.
- B. Right to Appear: Any person receiving a notice of violation may appear before a fines hearing officer to appeal the amount of the fine imposed by submitting a civil fine appeal on a form provided by the division. However, no party may appear before a fines hearing officer until violations identified have been corrected and a notice of compliance has been issued. Appeals to a fines hearing officer contesting the amount of the fine imposed, must be filed within thirty (30) days from the date of the notice of compliance.
- C. Responsibility: Commencement of any action to remove or reduce fines shall not relieve the responsibility of any person cited to cure the violation or make payment of subsequently accrued civil fines nor shall it require the city to reissue any of the notices required by this chapter.
- D. Civil fines may be reduced at the discretion of the fines hearing officer after the violation is cured and if any of the following conditions exist:
1. The violation pertains to landscaping, in which case the time for payment and correction of landscaping violations may be abated from October 15 through the next April 1, or such other times as caused by weather conditions adverse to successful landscaping;
  2. Strict compliance with the notice and order would have caused an imminent and irreparable injury to persons or property;
  3. The violation and inability to cure were both caused by a force majeure event such as war, act of nature, strike or civil disturbance;
  4. A change in the actual ownership of the property was recorded with the Salt Lake County Recorder's office after the first or second notice was issued and the new property owner is not related by blood, marriage or common ownership to the prior owner; or

5. Such other mitigating circumstances as determined by the fines hearing officer.

E. At the request of a person subject to civil fines governed by this chapter, the fines hearing officer may approve a payment schedule for the delayed or periodic payment of the applicable fine to accommodate the person's unique circumstances or ability to pay.

F. If a payment schedule has been developed by the fines hearing officer, the failure by a person owing civil fines to submit any two (2) payments as scheduled shall cause the entire amount of the original fine to become immediately due.

**21A.20.090: NOTICE OF CITY'S INTENT TO ABATE ZONING VIOLATIONS:**

A. If the city obtains a court order permitting entry on the property for the purpose of abating zoning violations, the division shall provide written notice of that order to the property owner of record at the address on file with the county recorder.

B. The notice shall: (1) identify the property owner of record according to the records of the county recorder; (2) describe the property and the violations the court order permits the division to enter the property to abate, (3) attach a copy of the court order, and (4) provide the property owner thirty (30) days from the date the notice is served to abate the violations the court order permits the division to enter the property to abate.

C. Notice may be delivered in person, or by certified mail, or by commercial courier service, if mailed to the last known address of the property owner according to the records of the county recorder.

D. If the zoning violations are not corrected by the property owner within thirty (30) days of receiving notice, as set forth in subsection B, then the division may employ any necessary assistance to enter the property and abate the zoning violations, as permitted by the court order.

**21A.20.100: COLLECTION OF THE COSTS OF ABATEMENT:**

A. If the division or an agent of the division enters a property to abate a violation pursuant to a court order, as set forth in Section 21A.20.090, the division may collect the cost of that abatement, by filing a property tax lien, as set forth in this section.

B. Upon completion of abatement work, the division shall prepare an itemized statement of costs and mail it to the property owner by certified mail, demanding payment within thirty (30) days of the date the statement is post marked.

C. The itemized statement of costs shall:

1. Include:
    - a. The address of the property at issue;
    - b. An itemized list of all expenses incurred by the division, including administrative costs;
    - c. A demand for payment; and
    - d. The address where payment is to be made;
  2. Notify the property owner:
    - a. That failure to timely pay the expenses described in the itemized statement may result in a lien on the property in accordance with this chapter and Utah Code Section 10-11-4 or its successor;
    - b. That the property owner may file a written objection to all or part of the statement within twenty (20) days of the date the statement is postmarked; and
    - c. Where the property owner may file the objection, including the name of the office and the mailing address.
- D. The itemized statement of costs described in subsection C of this section shall be deemed delivered when mailed by certified mail addressed to the last known address of the property owner, according to the records of the county recorder.
- E. If the property owner files a timely objection, the division will schedule a hearing in accordance with Title 52, Chapter 4 of the Utah Code (Open and Public Meetings Act), and will mail or deliver to the property owner prior to the hearing a notice stating the date, time, and location of the hearing.
- F. At the hearing described in subsection E, a fines hearing officer shall review and determine the actual cost of abatement incurred by the division in abating the property, including administrative costs. The property owner must pay any amount the fines hearing officer determines is due and owing to the Salt Lake City Treasurer at the address provided in the statement of costs within thirty (30) days of the date of the hearing.
- G. If the property owner fails to make payment of the amount set forth in the itemized statement within thirty (30) days of the date of the mailing of that statement, or to file a timely objection, then the division may certify the past due costs and expenses to the Salt Lake County Treasurer and the Treasurer will proceed as set forth in Utah Code Section 10-11-4 or its successor.

- H. If the property owner files a timely objection but fails to make payment of any amount found due and owing under subsection F within thirty (30) days of the date of the hearing, the inspector may certify the past due costs and expense to the Salt Lake County Treasurer and the Treasurer will proceed as set forth in Utah Code Section 10-11-4.
- I. After entry by the treasurer of the county, as set forth in subsections G and H the amount entered shall have the force and effect of a valid judgment of the district court, is a lien on the property, and shall be collected by the Salt Lake County Treasurer at the time of the payment of general taxes.
- J. Upon payment of the amount set forth in the itemized statement of costs or otherwise determined due and owing by the hearing officer in subsections E and F of this section, the judgment is satisfied, the lien is released from the property, and receipt shall be acknowledged upon the general tax receipt issued by the treasurer.
- K. Notwithstanding any other provision in this chapter to the contrary, where the property owner presents evidence demonstrating financial hardship to the satisfaction of the division, the division may waive some or all administrative fees and the actual costs incurred in abating the property if the property abated is the property owner's principal place of residence.

SECTION 2. Amending Section 21A.34.060.I.6 of the Salt Lake City

Code. That Subsection 21A.34.060.I.6 of the *Salt Lake City Code* (Zoning:

Overlay Districts: Groundwater Source Protection Overlay District:

Enforcement, Violation and Penalties) shall be, and hereby is, amended to

read as follows:

6. Administrative Fines:

- a. Notwithstanding any other section of this chapter, any regulated person found to have violated any provision of this section, or any order, rule or regulation issued or promulgated hereunder, may be fined in an amount not greater than ten thousand dollars (\$10,000.00) per day, as determined by the director in his reasonable discretion. Such fines shall be assessed on a per day, per violation basis. The city may also assess penalties as outlined in Sections 21A.20.050, 21A.20.060 and 21A.20.070 of this title.

- b. The city may charge a regulated person for the costs of preparing administrative enforcement actions, such as notices and orders, which charge may be assessed whether or not a fine under subsection 1.6.a of this section is also imposed.
- c. Assessments for fines and/or administrative costs may be added to the regulated person's next scheduled water service charge, and the director shall have such other collection remedies as may be available for other service charges and fees.
- d. Unpaid charges, fines, assessments and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance. Thereafter, interest on any unpaid balances, including penalties, shall accrue at a rate of one percent (1%) per month. A lien against the individual regulated person's property will be sought for unpaid charges, fines, and penalties.
- e. Regulated persons desiring to dispute such fines or assessments must file a written request for the director to reconsider the fine or assessment, along with full payment thereof within thirty (30) days of being notified of the fine or assessment. The director shall convene a hearing on the matter within fourteen (14) days of receiving the request from the regulated person. In the event the regulated person's appeal is successful, any amounts paid by the regulated person to the city shall be returned to the regulated person, without interest.
- f. The imposition of an administrative fine, assessment or other charge shall not be a prerequisite for taking any other action against the regulated person.

SECTION 3. Adopting Section 21A.06.080 of Salt Lake City Code. That Chapter 21A.06 of the *Salt Lake City Code* (Zoning: Decision Making Bodies and Officials), shall be, and hereby is, amended to adopt a new Section 21A.06.080, which shall read as follows:

21A.06.080: FINES HEARING OFFICER:

- A. Creation: The position of fines hearing officer is created pursuant to the enabling authority granted by the municipal land use, development, and management act, Section 10-9a-701 of the Utah Code.

- B. Jurisdiction and Authority: The fines hearing officer shall have the powers and duties set forth in Chapter 21A.20 of this title.
- C. Qualifications: The fines hearing officer shall be appointed by the mayor with the advice and consent of the city council. The mayor may appoint more than one fines hearing officer, but only one fines hearing officer shall consider and decide upon any matter properly presented for fines hearing officer review pursuant to Chapter 21A.20 of this title. The fines hearing officer may serve terms of four (4) years each, which may be renewed at the mayor's discretion. The fines hearing officer shall either be law trained or have significant experience with the requirements and operations of administrative hearing processes.
- D. Conflict of Interest: The fines hearing officer shall not participate in any appeal in which the fines hearing officer has a conflict of interest prohibited by Title 2, Chapter 2.44 of this code.
- E. Removal of the Fines Hearing Officer: The fines hearing officer may be removed by the mayor for violation of this title, any relevant policies and procedures or any relevant provision of state law following receipt by the mayor of a written complaint filed against the fines hearing officer. If requested by the fines hearing officer, the mayor shall provide the fines hearing officer with a public hearing conducted by a hearing officer appointed by the mayor.

SECTION 4. Effective Date. This Ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this \_\_\_\_ day of -  
\_\_\_\_\_ 2017.

\_\_\_\_\_  
CHAIRPERSON

ATTEST:

\_\_\_\_\_  
CITY RECORDER

Transmitted to Mayor on \_\_\_\_\_.

Mayor's Action: \_\_\_\_\_ Approved. \_\_\_\_\_ Vetoed.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

(SEAL)

Bill No. \_\_\_\_\_ of 2017.

Published: \_\_\_\_\_

**APPROVED AS TO  
FORM**  
Salt Lake City  
Attorney's Office

Date: \_\_\_\_\_

HB\_ATTU-#59230-v5-Zoning\_Enforcement\_Lien\_Ordinance.doc

# **ATTACHMENT C: PROPOSED AMENDMENTS**

## SALT LAKE CITY ORDINANCE No. \_\_\_\_ of 2017

(Collection of abatement costs through tax liens.)

An ordinance amending Chapter 21A.20 of the Salt Lake City Code to provide for the use of tax liens to collect costs incurred abating certain zoning violations.

WHEREAS, Salt Lake City Corporation (the “City”) has enacted City ordinances providing for resolution of zoning violations through various means up to and including abatement actions conducted by the City; and

WHEREAS, Chapter 10-11 of the Utah Code authorizes municipalities to file tax liens against properties in order to recover costs incurred abating certain zoning violations; and

WHEREAS, the city desires to further articulate the processes and procedures the city utilizes to pursue collection of abatement costs through tax liens; and

WHEREAS, the Salt Lake City Planning Commission held a public hearing on \_\_\_\_\_, 2017 to consider a request made by Salt Lake City Mayor Jackie Biskupski (Petition No. PLNPCM2017-00####) to amend the text of Chapters 21A.06 (Zoning: Decision Making Bodies and Officials), 21A.34 (Zoning: Overlay Districts), and 21A.20 (Zoning: Enforcement) of the *Salt Lake City Code* to provide further clarity and efficiency in land use regulation; and

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. That Salt Lake City Code Chapter 21A.20 (Zoning:

Enforcement) shall be, and hereby is, amended to read as follows:

**CHAPTER 21A.20  
ENFORCEMENT**

**21A.20.010: DEFINED TERMS:**

**21A.20.020: COMPLAINTS REGARDING VIOLATIONS:**

**21A.20.030: PROCEDURES UPON DISCOVERY OF VIOLATIONS:**

~~21A.20.040: FINES FOR VIOLATIONS:~~

~~21A.20.0450: CIVIL FINES:~~

~~21A.20.0560: DAILY VIOLATIONS:~~

~~21A.20.0670: COMPLIANCE:~~

~~21A.20.0780: RECURRING VIOLATIONS:~~

~~21A.20.080: APPEALING FINES TO A FINES HEARING OFFICER:~~

~~21A.20.090: NOTICE OF CITY'S INTENT TO ABATE ZONING VIOLATIONS:~~

~~21A.20.100: COLLECTION OF THE COSTS OF ABATEMENT:~~

~~21A.20.090: APPEARANCE BEFORE A HEARING OFFICER:~~

~~21A.20.100: APPEAL OF ADMINISTRATIVE DECISION:~~

~~21A.20.110: HEARING OFFICER DUTIES:~~

~~21A.20.120: DISMISSAL CRITERIA:~~

~~21A.20.130: ACCEPTANCE OF HEARING OFFICER DECISION:~~

~~21A.20.140: ABATEMENT FOR CORRECTION AND PAYMENT:~~

**21A.20.010: DEFINED TERMS:**

In this chapter, the words, terms, phrases and their derivatives shall have the meanings as stated and defined in this chapter.

**CITATION DEADLINE:** The date identified in the second notice of violation described in Section 21A.20.030.E, including any authorized extension of time.

**DIVISION:** Salt Lake City's Division of Building Services, or the successor Salt Lake City division authorized to perform civil enforcement functions.

**FIRST NOTICE:** The initial notice informing the person cited that a zoning violation exists.

**CIVIL ENFORCEMENT OFFICER:** An employee of Salt Lake City's Division of Building Services, or of the successor Salt Lake City Division authorized to perform civil enforcement functions, or any duly authorized agent, representative or designee.

NOTICE OF COMPLIANCE: A written notice informing the person cited that the violation has been cured.

PERSON CITED: The property owner, property owner's agent, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs or creates any situation that is contrary to the requirements of this title, and who received the notice of violation and is being held responsible for the violation.

PROPERTY OWNER: Any person who, alone or jointly or severally with others, holds legal title to the property at issue.

SECOND NOTICE: The notice informing the person cited of the date that civil fines will begin to accrue if the zoning violation is not corrected.

#### **21A.20.020: COMPLAINTS REGARDING VIOLATIONS:**

~~The supervisor of zoning enforcement or designee~~ A civil enforcement officer may investigate any complaint alleging a violation of this title and take such action as is warranted in accordance with the procedures set forth in this chapter.

#### **21A.20.030: PROCEDURES UPON DISCOVERY OF VIOLATIONS:**

- E. If the ~~supervisor of zoning enforcement~~ civil enforcement officer finds that any provision of this title is being violated, the ~~supervisor of zoning enforcement~~ civil enforcement officer may provide a written notice to the property owner and any other person determined to be responsible for such violation. The written notice shall indicate the nature of the violation and order the action necessary to correct it. Additional written notices may be provided at the civil enforcement officer's ~~supervisor of zoning enforcement's~~ discretion.
- F. The written notice shall state what action the ~~supervisor of zoning enforcement~~ division intends to take if the violation is not corrected. The written notice shall include information regarding the established warning period for the indicated violations and shall serve to start any warning periods provided in this chapter.
- G. Such written notice issued by the civil enforcement officer ~~supervisor of zoning enforcement~~ shall be deemed sufficient and complete when ~~served upon the owner or occupant~~:

3. A copy of the written notice is posted on the property where said violation(s) occur, and

4. The written notice is either:

- c. Mailed by 1. Personally by the inspector or his or her representative; or by mailing, postage prepaid, by certified mail or commercial courier service, return receipt requested, addressed to the property owner at the last known address appearing on the records of the county recorder and any other person determined to be responsible for such or occupant at violation, at their last known address, appearing on the records of the county recorder; or and
- d. Personally served upon the property owner and any other person determined to be responsible for such violation.

2. By posting notice on the property where said violation(s) occur.

- H. In cases when delay in enforcement would seriously threaten the effective enforcement of this title, or pose a danger to the public health, safety or welfare, the civil enforcement officer supervisor of zoning enforcement may seek enforcement without prior written notice by invoking any of the fines or remedies authorized in Section 21A.20.0560 of this chapter.
- E. If the violation remains uncured within five (5) days of the expiration of the warning period set forth in the notice described in subsections A-C of this section, a second notice of violation shall be delivered by mailing, postage prepaid, addressed to the person cited at the last known address appearing on the records of the county recorder. The second notice shall identify the citation deadline and serve to start the civil fines.

**21A.20.040: FINES FOR VIOLATIONS:**

- A. Violations of the provisions of this title or failure to comply with any of its requirements shall be punishable as a class B misdemeanor upon conviction.
- B. This title may also be enforced by injunction, mandamus, abatement, civil fines or any other appropriate action in law or equity.
- C. Each day that any violation continues after the citation deadline shall be considered a separate offense for purposes of the fines and remedies available to the city.
- D. Accumulation of fines for violations, but not the obligation for payment of fines already accrued, shall stop upon correction of the violation.

~~E. Any one or more of the fines and remedies identified herein may be used to enforce this title.~~

#### **21A.20.0450: CIVIL FINES:**

If the violations are not corrected by the citation deadline, civil fines shall accrue at twenty five dollars (\$25.00) a day per violation for those properties legally used for purposes that are solely residential uses, in residential zoning districts and one hundred dollars (\$100.00) ~~per a~~ day per violation for those properties used for purposes that are not residential uses, in nonresidential zoning districts.

#### **21A.20.0560: DAILY VIOLATIONS:**

Each day a violation continues after the citation deadline shall be considered a separate offense and give rise to a separate civil fine. Accumulation of fines for violations, but not the obligation for payment of fines already accrued, shall stop upon correction of the violation.

#### **21A.20.0670: COMPLIANCE:**

The city may use such lawful means as are available to obtain compliance with the provisions of this title and to collect the ~~amount of any fines~~ that accrued as a result of the violation of the provisions of this title, including a legal action to obtain one or more of the following: an injunction, an order of mandamus, an order requiring the property owner or occupant to abate the violations, an order permitting the city to enter the property to abate the violations, and a judgment in the amount of the civil fines accrued for the violation, including costs and attorney fees.

Violations of the provisions of this title or failure to comply with any of its requirements are punishable as a class B misdemeanor upon conviction.

#### **21A.20.0780: RECURRING VIOLATIONS:**

In the case where a violation, which had been corrected, reoccurs within six (6) months of the initial correction, the ~~city~~ division will begin enforcement of said recurring violation and fines will begin accruing after a ten (10) day warning period.

#### **21A.20.080: APPEALING FINES TO A FINES HEARING OFFICER:**

- G. Powers and Duties of Fines Hearing Officer: The fines hearing officer, appointed pursuant to Section 21A.06.080 of this code, may hear and decide appeals of fines imposed pursuant to this chapter. As set forth in this section, the fines hearing officer may reduce civil fines and approve civil fine payment schedules.
- H. Right to Appear: Any person receiving a notice of violation may appear before a fines hearing officer to appeal the amount of the fine imposed by submitting a civil fine appeal on a form provided by the division. However, no party may appear before a fines hearing officer until violations identified have been corrected and a notice of compliance has been issued. Appeals to a fines hearing officer contesting the amount of the fine imposed, must be filed within thirty (30) days from the date of the notice of compliance.
- I. Responsibility: Commencement of any action to remove or reduce fines shall not relieve the responsibility of any person cited to cure the violation or make payment of subsequently accrued civil fines nor shall it require the city to reissue any of the notices required by this chapter.
- J. Civil fines may be reduced at the discretion of the fines hearing officer after the violation is cured and if any of the following conditions exist:
5. The violation pertains to landscaping, in which case the time for payment and correction of landscaping violations may be abated from October 15 through the next April 1, or such other times as caused by weather conditions adverse to successful landscaping;
  6. Strict compliance with the notice and order would have caused an imminent and irreparable injury to persons or property;
  7. The violation and inability to cure were both caused by a force majeure event such as war, act of nature, strike or civil disturbance;
  8. A change in the actual ownership of the property was recorded with the Salt Lake County Recorder's office after the first or second notice was issued and the new property owner is not related by blood, marriage or common ownership to the prior owner; or
  5. Such other mitigating circumstances as determined by the fines hearing officer.
- K. At the request of a person subject to civil fines governed by this chapter, the fines hearing officer may approve a payment schedule for the delayed or periodic payment of the applicable fine to accommodate the person's unique circumstances or ability to pay.

L. If a payment schedule has been developed by the fines hearing officer, the failure by a person owing civil fines to submit any two (2) payments as scheduled shall cause the entire amount of the original fine to become immediately due.

**21A.20.090: APPEARANCE BEFORE A HEARING OFFICER:**

- ~~A. Right To Appear: Any person cited may appear before a hearing officer to appeal the amount of the fine imposed. However, no party may appear before a hearing officer until violations identified have been corrected and a notice of compliance has been issued. Appeals to the hearing officer contesting the amount of the fine imposed, must be filed within thirty (30) days from the date of the notice of compliance.~~
- ~~B. Defense: The burden to prove any defense shall be upon the person raising such defense.~~
- ~~C. Responsibility: Commencement of any action to remove or reduce fines shall not relieve the responsibility of any person cited to cure the violation or make payment of subsequently accrued civil fines nor shall it require the city to reissue any of the notices required by this chapter.~~

**21A.20.090: NOTICE OF CITY'S INTENT TO ABATE ZONING VIOLATIONS:**

- E. If the city obtains a court order permitting entry on the property for the purpose of abating zoning violations, the division shall provide written notice of that order to the property owner of record at the address on file with the county recorder.
- F. The notice shall: (1) identify the property owner of record according to the records of the county recorder; (2) describe the property and the violations the court order permits the division to enter the property to abate, (3) attach a copy of the court order, and (4) provide the property owner thirty (30) days from the date the notice is served to abate the violations the court order permits the division to enter the property to abate.
- G. Notice may be delivered in person, or by certified mail, or by commercial courier service, if mailed to the last- known address of the property owner according to the records of the county recorder.
- H. If the zoning violations are not corrected by the property owner within thirty (30) days of receiving notice, as set forth in subsection B, then the division may employ any necessary assistance to enter the property and abate the zoning violations, as permitted by the court order.

## 21A.20.100: COLLECTION OF THE COSTS OF ABATEMENT:

- E. If the **division** or an agent of the **division** enters a property to abate a violation pursuant to a court order, as set forth in **Section 21A.20.090**, the **division** may collect the cost of that abatement, by filing a property tax lien, as set forth in this section.
- F. Upon completion of abatement work, the **division** shall prepare an itemized statement of costs and mail it to the property owner by certified mail, demanding payment within thirty (30) days of the date the statement is post marked.
- G. The itemized statement of costs shall:
1. Include:
    - a. The address of the property at issue;
    - b. An itemized list of all expenses incurred by the **division**, including administrative costs;
    - c. A demand for payment; and
    - d. The address where payment is to be made;
  2. Notify the property owner:
    - a. That failure to timely pay the expenses described in the itemized statement may result in a lien on the property in accordance with this chapter and Utah Code **Section 10-11-4** or its successor;
    - b. That the property owner may file a written objection to all or part of the statement within twenty (20) days of the date the statement is postmarked; and
    - c. Where the property owner may file the objection, including the name of the office and the mailing address.
- H. The itemized statement of costs described in subsection C of this section shall be deemed delivered when mailed by certified mail addressed to the last known address of the property owner, according to the records of the county recorder.
- E. If the property owner files a timely objection, the **division** will schedule a hearing in accordance with Title 52, Chapter 4 of the Utah Code (Open and Public Meetings Act), and will mail or deliver to the property owner prior to the hearing a notice stating the date, time, and location of the hearing.
- F. At the hearing described in subsection E, a **finer** hearing officer shall review and determine the actual cost of abatement incurred by the **division** in abating the property, including administrative costs. The property owner

must pay any amount the fines hearing officer determines is due and owing to the Salt Lake City Treasurer at the address provided in the statement of costs within thirty (30) days of the date of the hearing.

- G. If the property owner fails to make payment of the amount set forth in the itemized statement within thirty (30) days of the date of the mailing of that statement, or to file a timely objection, then the division may certify the past due costs and expenses to the Salt Lake County Treasurer and the Treasurer will proceed as set forth in Utah Code Section 10-11-4 or its successor.
- H. If the property owner files a timely objection but fails to make payment of any amount found due and owing under subsection F within thirty (30) days of the date of the hearing, the inspector may certify the past due costs and expense to the Salt Lake County Treasurer and the Treasurer will proceed as set forth in Utah Code Section 10-11-4.
- I. After entry by the treasurer of the county, as set forth in subsections G and H the amount entered shall have the force and effect of a valid judgment of the district court, is a lien on the property, and shall be collected by the Salt Lake County Treasurer at the time of the payment of general taxes.
- J. Upon payment of the amount set forth in the itemized statement of costs or otherwise determined due and owing by the hearing officer in subsections E and F of this section, the judgment is satisfied, the lien is released from the property, and receipt shall be acknowledged upon the general tax receipt issued by the treasurer.
- K. Notwithstanding any other provision in this chapter to the contrary, where the property owner presents evidence demonstrating financial hardship to the satisfaction of the division, the division may waive some or all administrative fees and the actual costs incurred in abating the property if the property abated is the property owner's principal place of residence.

#### **~~21A.20.100: APPEAL OF ADMINISTRATIVE DECISION:~~**

~~The decision of the supervisor of zoning enforcement regarding the existence of a zoning violation shall be deemed an administrative decision which may be appealed to the appeals hearing officer within thirty (30) days of the date of the first notice.~~

#### **~~21A.20.110: HEARING OFFICER DUTIES:~~**

~~A. The mayor, or his/her designee, shall appoint such hearing officers as the mayor, or his/her designee, deems appropriate to consider matters relating to the violation of this title. The hearing officer shall have the authority to hear evidence relating to mitigating circumstances and to make such equitable adjustments as he/she deems appropriate, as set forth below:~~

- ~~1. The hearing officer may adjust, reduce or eliminate fines or create payment plans relating to fines accrued by the person cited. In the administration of this duty, the hearing officer may reduce or eliminate fines based upon any circumstance or other equitable consideration the hearing officer finds to be applicable. In cases where the administrative process has not been followed by the division, the hearing officer has the authority to reduce or eliminate fines.~~
- ~~2. Payment plans may be created by the hearing officer. Although the hearing officer has the ultimate authority in establishing the payment schedule, the minimum payment schedule provided by the department of community and neighborhoods should be followed.~~

#### **~~21A.20.120: DISMISSAL CRITERIA:~~**

~~A. If the hearing officer finds that no violation occurred and/or a violation occurred but one or more of the defenses set forth in this section is applicable, the hearing officer may dismiss the notice of violation. Such defenses are:~~

- ~~1. At the time of the receipt of the notice of violation, compliance would have violated the criminal laws of the state;~~
- ~~2. Compliance with the subject ordinances would have presented an imminent and irreparable injury to persons or property.~~

#### **~~21A.20.130: ACCEPTANCE OF HEARING OFFICER DECISION:~~**

~~If the hearing officer finds that a violation of this title occurred and no applicable defense exists, the hearing officer may, in the interest of justice and on behalf of the city, enter into an agreement for the timely or periodic payment of the applicable fine. The person cited has fourteen (14) days in which to accept the decision of the hearing officer. If the person cited does not accept the decision of the hearing officer, any agreement to modify the fine or set up a payment schedule by the hearing officer is void and the city will attempt to collect the original amount of the fine.~~

#### **~~21A.20.140: ABATEMENT FOR CORRECTION AND PAYMENT:~~**

- ~~B. Civil fines may be partially abated after the violation is cured and at the discretion of a hearing officer if any of the following conditions exist:~~
- ~~1. The violation includes landscaping in which case the time for payment and correction of landscaping violations may be abated from October 15 through the next April 1 or such other times as caused by weather conditions adverse to successful landscaping.~~
  - ~~2. Strict compliance with the notice and order would have caused an imminent and irreparable injury to persons or property.~~
  - ~~3. The violation and inability to cure were both caused by a force majeure event such as war, act of nature, strike or civil disturbance.~~
  - ~~4. A change in the actual ownership of the property was recorded with the Salt Lake County recorder's office after the first or second notice was issued and the new owner is not related by blood, marriage or common ownership to the prior owner.~~
  - ~~5. Such other mitigating circumstances as may be approved by the city attorney or designee.~~
- ~~B. If the hearing officer finds that the noticed violation occurred and no applicable defense applies, the hearing officer may, in the interest of justice and on behalf of the city, enter into an agreement for the delayed or periodic payment of the applicable fine.~~
- ~~C. Once a payment schedule has been developed by the hearing officer, and agreed to by the person cited, failure to submit any two (2) payments as scheduled would require payment of the entire amount of the original fine immediately~~

SECTION 2. Amending Section 21A.34.060.1.6 of the Salt Lake City

Code. That Subsection 21A.34.060.1.6 of the *Salt Lake City Code* (Zoning:

Overlay Districts: Groundwater Source Protection Overlay District:

Enforcement, Violation and Penalties) shall be, and hereby is, amended to

read as follows:

6. Administrative Fines:
  - a. Notwithstanding any other section of this chapter, any regulated person found to have violated any provision of this section, or any order, rule or regulation issued or promulgated hereunder, may be fined in an amount not greater than ten thousand dollars (\$10,000.00) per day, as determined by the director in his reasonable discretion. Such fines shall be assessed on a per day, per violation basis. The

city may also assess penalties as outlined in ~~sections~~ Sections 21A.20.0540, 21A.20.060 and 21A.20.0750 of this title.

- b. The city may charge a regulated person for the costs of preparing administrative enforcement actions, such as notices and orders, which charge may be assessed whether or not a fine under subsection 1.6.a of this section is also imposed.
- c. Assessments for fines and/or administrative costs may be added to the regulated person's next scheduled water service charge, and the director shall have such other collection remedies as may be available for other service charges and fees.
- d. Unpaid charges, fines, assessments and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance. Thereafter, interest on any unpaid balances, including penalties, shall accrue at a rate of one percent (1%) per month. A lien against the individual regulated person's property will be sought for unpaid charges, fines, and penalties.
- e. Regulated persons desiring to dispute such fines or assessments must file a written request for the director to reconsider the fine or assessment, along with full payment thereof within thirty (30) days of being notified of the fine or assessment. The director shall convene a hearing on the matter within fourteen (14) days of receiving the request from the regulated person. In the event the regulated person's appeal is successful, any amounts paid by the regulated person to the city shall be returned to the regulated person, without interest.
- f. The imposition of an administrative fine, assessment or other charge shall not be a prerequisite for taking any other action against the regulated person.

SECTION 3. Adopting Section 21A.06.080 of Salt Lake City Code.

That Chapter 21A.06 of the *Salt Lake City Code* (Zoning: Decision Making Bodies and Officials), shall be, and hereby is, amended to adopt a new Section 21A.06.080, which shall read as follows:

21A.06.080: FINES HEARING OFFICER:

- A. Creation: The position of fines hearing officer is created pursuant to the enabling authority granted by the municipal land use, development, and management act, Section 10-9a-701 of the Utah Code.
- B. Jurisdiction and Authority: The fines hearing officer shall have the powers and duties set forth in Chapter 21A.20 of this title.
- C. Qualifications: The fines hearing officer shall be appointed by the mayor with the advice and consent of the city council. The mayor may appoint more than one fines hearing officer, but only one fines hearing officer shall consider and decide upon any matter properly presented for fines hearing officer review pursuant to Chapter 21A.20 of this title. The fines hearing officer may serve terms of four (4) years each, which may be renewed at the mayor's discretion. The fines hearing officer shall either be law trained or have significant experience with the requirements and operations of administrative hearing processes.
- D. Conflict of Interest: The fines hearing officer shall not participate in any appeal in which the fines hearing officer has a conflict of interest prohibited by Title 2, Chapter 2.44 of this code.
- E. Removal of the Fines Hearing Officer: The fines hearing officer may be removed by the mayor for violation of this title, any relevant policies and procedures or any relevant provision of state law following receipt by the mayor of a written complaint filed against the fines hearing officer. If requested by the fines hearing officer, the mayor shall provide the fines hearing officer with a public hearing conducted by a hearing officer appointed by the mayor.

SECTION 4. Effective Date. This Ordinance shall become effective on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this \_\_\_\_ day of -  
\_\_\_\_\_ 2017.

\_\_\_\_\_  
CHAIRPERSON

ATTEST:

\_\_\_\_\_  
CITY RECORDER

Transmitted to Mayor on \_\_\_\_\_.

Mayor's Action: \_\_\_\_\_ Approved. \_\_\_\_\_ Vetoed.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

(SEAL)

Bill No. \_\_\_\_\_ of 20177.  
Published: \_\_\_\_\_

<p><b>APPROVED AS TO FORM</b></p> <p>Date: _____</p> <p>_____</p> <p>_____</p>
--

HB\_ATTYY-#59230-v4-Zoning\_Enforcement\_Lien\_Ordinance.doc

# ATTACHMENT D: ANALYSIS OF STANDARDS

## ZONING TEXT AMENDMENTS

**21A.50.050:** A decision to amend the text of this title or the zoning map by general amendment is a matter committed to the legislative discretion of the city council and is not controlled by any one standard. In making a decision concerning a proposed text amendment, the City Council should consider the following:

Factor	Finding	Rationale
<p><b>1. Whether a proposed text amendment is consistent with the purposes, goals, objectives, and policies of the city as stated through its various adopted planning documents;</b></p>	<p><b>Complies</b></p>	<p>The majority of Master Plans discuss the importance of utilizing zoning and code enforcement to combat deterioration of housing, property maintenance, and to ensure safe and comfortable neighborhoods. The clarification of language and reorganization of 21A.20 is in line with the adopted and utilized Master Plans and additional adopted planning documents, and is considered a vital segment of the stability of neighborhoods.</p>
<p><b>2. Whether a proposed text amendment furthers the specific purpose statements of the zoning ordinance;</b></p>	<p><b>Complies. The proposed amendment furthers the specific statements of the zoning ordinance.</b></p>	<p>The amendment provides the needed updates to comply with State code regulations. Additionally, the amendment offers much needed clarification on the process, fines, and the ability to issue tax liens in order to recoup costs of abatement.</p>
<p><b>3. Whether a proposed text amendment is consistent with the purposes and provisions of any applicable overlay zoning districts which may impose additional standards;</b></p>	<p><b>Not applicable.</b></p>	<p>The proposed text amendment is citywide and is not tied directly to any property or specific geographic location within the City. Therefore, the amendment would not be subject to any overlay zoning district standards.</p>
<p><b>4. The extent to which a proposed text amendment implements best current, professional practices of urban planning and design.</b></p>	<p><b>Complies. The proposed amendment is in keeping with the best and current professional practices of urban planning and design.</b></p>	<p>The proposed changes are intended to update the Salt Lake City Zoning Ordinance, Chapter 21A.20: Enforcement, with state requirements. All of these elements are in keeping with best and current professional practices of urban planning and design.</p>
<p><b>NOTES:</b></p>		

## **ATTACHMENT D: PUBLIC PROCESS AND COMMENTS**

**Open House:** On February 16, 2017, a community wide Open House was held regarding the proposed text amendment. No one signed in and no comments were received. Overall, there was not a lot of interest in the proposal.

**Public Hearing Notice:** A notice of the public hearing for this text amendment includes:  
Public hearing notice published in the newspaper on April 12, 2017.  
Public hearing notice emailed to the Planning Division listserv on April 12, 2017.

**Public Comments:** At the time of the publication of this staff report, there had been no additional public comments. Any comments received will be forwarded to the Planning Commission.

## **ATTACHMENT E: MOTIONS**

---

Based on the findings listed in the staff report, it is the Planning Staff's opinion that the project meets the applicable standards for zoning text amendments and therefore recommends that the Planning Commission forward a positive recommendation to the City Council.

### **Consistent with Staff Recommendation:**

Based on the findings in the staff report, Planning Staff finds the proposed amendment adequately meets the standards for general text amendments and therefore recommends the Planning Commission transmit a positive recommendation for PLNPCM2017-00058 to the City Council to adopt the proposed zoning ordinance text amendment related to civil enforcement.

### **Not Consistent with Staff Recommendation:**

Based on the findings made at this meeting, I find that the proposed amendment does not adequately meet the standards for general text amendments and therefore recommends the Planning Commission transmit a negative recommendation for PLNPCM2017-00058 to the City Council to adopt the proposed zoning ordinance text amendment related to civil enforcement.