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Staff Report Memorandum September 19, 2024

To: City Council via Planning Commission

From: Community Development Department

Subject: Amendments to Title 21 of the Land Development Code related to removing fines from the Land Development Code CA09032024-0006833

Public Hearing Notice: This item has been noticed on public websites, sent to affected entities and posted in three locations at least 10 days prior to the Public Hearing.

Request

The proposed Code Amendment would amend Title 21, *Land Development Code*, Chapter 11, *Special Use Standards*, Section 26, *Residential Short-Term Rental (STR)* and Chapter 15, *Sensitive Area Overlay Zone*, Section 7, *Violations, enforcement and penalties*. The purpose of the code amendment is to remove the fine amounts from the Land Development Code and relocate them within the city’s fee schedule. The proposed code amendments also include some minor text changes associated with removing the fines. The specific amendments to the Land Development Code are included as Exhibit “A” (red-lined version) and Exhibit “B” (clean version) to this report.

Background

In 2018 the Sandy City Council adopted Ordinance 18-32 which added provisions for “Administrative Code Enforcement”. This was adopted as a tool to help code enforcement throughout the city. Violations of City Code can be handled as either a civil or criminal case for the violation of any of its ordinances. The city may choose to file both, or one or the other. However, the city has never opted to hire a Hearing Officer until recently. The city is currently going through the process to contract for a Hearing Officer that can help enforce code violations.

Case History	
Case Number	Case Summary
Ord. No. 18-21	An ordinance creating regulations for Residential, Short-Term Rentals (STR). (8-30-2018)
Ord. No. 18-32	An ordinance amending Title 1 by adding a new Section Titled: “Administrative Code Enforcement” to the Sandy Municipal Code (10-26-2018)
Ord. No. 23-18 CODE-08242023-0006593	Code amendment to establish an administrative procedure and penalties for enforcement on violations within the Sensitive Area Overlay (SAO) zone. (10-10-2023)

In previous years the City Council adopted two ordinances (see case history below) that included specific fine amounts for violating regulations related to Residential Short-Term Rentals (STR) and the Sensitive Area Overlay Zone. The proposed code amendment is intended to remove the fine amounts from the Land Development Code and place them within the city's fee schedule.

Public Notice

The city issued notice of the public hearing for the proposed code amendments on public websites, mailed notice to affected entities and posted in three public locations at least 10 days prior to the Planning Commission public hearing in accordance with the Land Development Code Sec. 21-36-1 and the Utah Code § 10-9a-205.

Analysis

There are Municipal Code Sections that include specific fine amounts for violating the regulations for STR's (21-11-26(g)) and the Sensitive Area Overlay Zone (21-15-7(e)). Staff is proposing to remove the fine amounts from the Land Development Code and include those fines within the city's fee schedule (found within the budget). Every year the City Council reviews and approves updates to the current fee schedule. By locating the fines within the fee schedule, the city will be able to make updates without doing amendments to the Land Development Code. Consolidating fine amounts into one fee schedule also provides improved organization for consistent administration of the code. The proposed code amendments also include some minor text changes associated with removing the fines.

Non-Conforming Uses

This code amendment would not create any non-conforming situations.

Land Development Code Purpose Compliance

The Sandy City Land Development Code in 21-1-3 lists the criteria explaining the intent and purpose of the Ordinance. The purpose is:

21-1-3 Purpose

This Code is adopted to implement Sandy City's General Plan and to promote public health, safety, convenience, aesthetics, welfare; efficient use of land; sustainable land use and building practices; transportation options and accessibility; crime prevention; timely citizen involvement in land use decision making; and efficiency in development review and land use administration. Specifically, this Code is established to promote the following purposes:

1. General

- a. *To facilitate the orderly growth and development of Sandy City.*
- b. *To facilitate adequate provision for transportation, water, sewage, schools, parks, and other public requirements.*
- c. *To stabilize property values.*
- d. *To enhance the economic well-being of Sandy City and its inhabitants.*

2. Implementation of General Plan

To coordinate and ensure the implementation of the City's General Plan through effective execution of development review requirements, adequate facility and services review and other goals, policies, or programs contained in the General Plan.

3. Comprehensive, Consistent and Equitable Regulations

To establish a system of fair, comprehensive, consistent and equitable regulations, standards and procedures for review and approval of all proposed land development within the City.

4. Efficiently and Effectively Managed Procedures

- a. *To promote fair procedures that are efficient and effective in terms of time and expense.*
- b. *To be effective and responsive in terms of the allocation of authority and delegation of powers and duties among ministerial, appointed, and elected officials.*
- c. *To foster a positive customer service attitude and to respect the rights of all applicants and affected citizens.*

The proposed code amendment is consistent with the purpose of the Land Development Code because the proposal promotes the fair procedures that are efficient and effective in terms of time and expense; and is consistent with the Sandy

City General Plan.

General Plan Compliance

The Sandy City General Plan encourages appropriate development standards for all uses and zoning categories within the city. The proposed code amendment furthers that goal and objective by establishing appropriate land development standards for all uses and zoning categories within Sandy City.

Recommendation

Staff recommends that the Planning Commission forward a positive recommendation to the City Council to amend Title 21 (Chapters 11 and 15), of the Sandy Municipal Code, related to removing fines from the Land Development Code as shown in Exhibit “A”, based on the following findings:

Findings:

1. The City Council may amend land use ordinances consistent with the purposes of the Sandy Land Development Code, the Sandy City General Plan, and the Utah Code, Municipal Land Use, Development, and Management Act per Title 21 Chapter 5 of the Sandy Municipal Code.
2. The proposal is reviewed by the Planning Commission and City Council in accordance with the requirements of Title 21 Chapter 5 of the Sandy Municipal Code.
3. The proposal complies with the purpose of the Land Development Code under Section 21-1-03 by promoting fair procedures that are efficient and effective in terms of time and expense.
4. The proposal complies with the Goals and Policies of the General Plan by establishing appropriate development standards for all uses and zoning categories within Sandy City.

Planner:



Brian McCuiston
Assistant Community Development Director

Exhibits:

- A. Proposed code amendments (red-lined version)
- B. Proposed code amendments (clean version)

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Exhibit “A”

Title 21 Chapter 11 Special Use Standards, and Chapter 15 Sensitive Area Overlay Zone, is amended as follows:

CHAPTER 21-11. SPECIAL USE STANDARDS

21-11-26 Residential Short-Term Rental (STR)

(g) *Enforcement and Fines.* Upon a determination that a violation exists, the Community Development Director, or designee, ~~will~~ **shall** contact the owner requiring such owner to halt, eradicate, destroy, remove, or otherwise cure the violation within 48 hours, or such later time the Director, or designee, may determine.

~~(1) Each day that a violation occurs or continues is a separate violation.~~

~~(2)~~ (1) For any violation of this section, the issuing officer may issue a written citation or notice of violation to the owner, specifying the violation and the penalty to be imposed.

~~a. For the first violation within any 12-month period, the penalty shall be \$500.00~~

~~b. For a second violation within any 12-month period, the penalty shall be \$750.00.~~

~~c. For a third violation within any 12-month period, the penalty shall be \$1,000.00 and automatic revocation of the STRL and special use permit. The owner shall be ineligible for a STR special use permit and a STRL for a period of two years from the date of the third notice of violation.~~

~~d. For any violation within any 12-month period following the third violation, the penalty shall be \$1,000.00 and the STR owner shall be banned from receiving a STR special use permit and a STRL.~~

(2) Fines shall be assessed and accrued pursuant to the current fee schedule and as outlined in Title 1, Chapter 4 of this Code.

CHAPTER 21-15. SENSITIVE AREA OVERLAY ZONE

21-15-7 Violation, enforcement and penalties.

(e) *Fines.* Violations of this Chapter shall result in ~~administrative~~ **civil** fines pursuant to Title 1, Chapter 4 of this Code and the current fee schedule Table 1 shown below. ~~Base fines shall be assessed for the initial violation and daily fines shall accrue in accordance with Title 1, Chapter 4 of this Code.~~ The following periods of time shall not be assessed a daily fine:

(1) The number of days under City review and processing of a complete permit application.

(2) Seasonal conditions such as snow, excessive moisture, or environmental factors that would prevent the physical remediation of the violation, as determined by the Director, or designee.

Table 1		
	Base Fine	Daily Fine (additional to base fine)
Minor Violation – encroachment less than 2560 sq ft of affected area	\$1,000 <u>See fee schedule</u>	\$10 <u>See fee schedule</u>
Intermediate Violation – Encroachment between 250 sq ft and 1,000 sq ft of affected area	\$3000 <u>See fee schedule</u>	\$18 <u>See fee schedule</u>
Major Violation – Encroachment greater than 1,000 sq ft of affected area	\$5000 <u>See fee schedule</u>	\$25 <u>See fee schedule</u>

(f) *Abatement of Daily Fines for Correction and Payment.* The base fine shall not be forgiven or abated. The total daily fine amount may be partially abated after the violation is cured and inspected and approved by the City.

(1) The ~~Hearing Officer~~ **Director, or designee, may shall** reduce the total daily fine amount for promptly curing the violation pursuant to the following schedule:

Table 2	Length of Time to Cure	Reduction to Total Daily Fine Amount
Minor and Intermediate Violations	30 days	100%
	60 Days	75%
	120 Days	50%
	180 Days	25%
	Over 180 Days	0%
Major Violations	90 Days	75%
	180 Days	50%
	365 Days	25%
	Over 365 Days	0%

(g) *Final Assessment.* The final assessment of the daily fine will be determined by the ~~Director, or designee,~~ Hearing Officer and issued to the responsible party upon the earlier of the following to occur:

- (1) Final approval of the corrective work by the City; or
- (2) Expiration of the time for correction as set forth in the citation.

~~(h) *Payment and Collection.* The City will give written notice to the responsible party of each assessed fine. Payment must be made within 30 days. Thereafter the City will take all lawful action to collect the assessed amount.~~

~~(h) *Appeal*~~ *Administrative Hearing.* A person may request an administrative hearing pursuant to Title 1 Chapter 4 of this Code.

Exhibit “B”

Title 21 Chapter 11 Special Use Standards, and Chapter 15 Sensitive Area Overlay Zone, is amended as follows:

CHAPTER 21-11. SPECIAL USE STANDARDS

21-11-26 Residential Short-Term Rental (STR)

(g) *Enforcement and Fines.* Upon a determination that a violation exists, the Community Development Director, or designee, shall contact the owner requiring such owner to halt, eradicate, destroy, remove, or otherwise cure the violation within forty-eight (48) hours, or such later time the Director, or designee, may determine.

(1) For any violation of this section, the issuing officer may issue a written citation or notice of violation to the owner, specifying the violation and the penalty to be imposed.

a. Upon a third violation within any twelve (12) month period, in addition to the civil fine, the STRL and STR special use permit shall be automatically revoked. The owner shall be ineligible for a STR special use permit and a STRL for a period of two (2) years from the date of the third notice of violation.

b. For any violation within any twelve (12) month period following the third violation, the penalty shall be a civil fine and the owner shall be banned from receiving a STR special use permit and a STRL.

(2) Fines shall be assessed and accrued pursuant to the current fee schedule and as outlined in Title 1, Chapter 4 of this Code.

CHAPTER 21-15. SENSITIVE AREA OVERLAY ZONE

21-15-7 Violation, enforcement and penalties.

(e) *Fines.* Violations of this Chapter shall result in civil fines pursuant to Title 1, Chapter 4 of this Code and the current fee schedule. The following periods of time shall not be assessed a daily fine:

(1) The number of days under City review and processing of a complete permit application.

(2) Seasonal conditions such as snow, excessive moisture, or environmental factors that would prevent the physical remediation of the violation, as determined by the Director, or designee.

	Base Fine	Daily Fine (additional to base fine)
Minor Violation – encroachment less than 2560 sq ft of affected area	See fee schedule	See fee schedule
Intermediate Violation – Encroachment between 250 sq ft and 1,000 sq ft of affected area	See fee schedule	See fee schedule
Major Violation – Encroachment greater than 1,000 sq ft of affected area	See fee schedule	See fee schedule

(f) *Abatement of Daily Fines for Correction and Payment.* The base fine shall not be forgiven or abated. The total daily fine amount may be partially abated after the violation is cured and inspected and approved by the City.

(1) The Hearing Officer shall reduce the total daily fine amount for promptly curing the violation pursuant to the following schedule:

	Length of Time to Cure	Reduction to Total Daily Fine Amount
Minor and Intermediate Violations	30 days	100%
	60 Days	75%
	120 Days	50%
	180 Days	25%
	Over 180 Days	0%
Major Violations	90 Days	75%

	180 Days	50%
	365 Days	25%
	Over 365 Days	0%

- (g) *Final Assessment.* The final assessment of the daily fine will be determined by the Hearing Officer and issued to the responsible party upon the earlier of the following to occur:
- (1) Final approval of the corrective work by the City; or
 - (2) Expiration of the time for correction as set forth in the citation.
- (h) Administrative Hearing. A person may request an administrative hearing pursuant to [Title 1](#) Chapter 4 of this Code.