



JAMES SORENSEN  
COMMUNITY DEVELOPMENT  
DIRECTOR

MONICA ZOLTANSKI  
MAYOR

SHANE E. PACE  
CHIEF ADMINISTRATIVE  
OFFICER

## Staff Report Memorandum October 8, 2024

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To: City Council

From: Community Development Department

Subject: Amendments to Title 1, and 19 of the Sandy City Code related to clarifying applicability of the City’s administrative code enforcement process to violations of local ordinances and State statutes. CA09032024-0006835

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**Public Hearing Notice:** This item has been noticed on the City Council agenda.

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### **Request**

The proposed Code Amendment would amend Title 1, “*The Code; Ordinances; Ethics*” and Title 19, “*Property Maintenance*”. The purpose of the code amendment is to make minor text amendments by adding “applicable state law” to a number of different sections in Title 1. There are a few other edits which include: removing the requirement to pay a “filing fee”; modifying the requirement that a hearing must be held within 35 days versus 21 days; adding that all “base fines” must be paid and cannot be reduced by the Hearing Officer; and some clarifying language about property abatements.

The amendment in Title 19 includes removing a section that outlines the process to have a hearing with the Hearing Officer. This is being removed because similar language is already outlined in Title 1.

We are also proposing to add fines to the fee schedule for violating sections of the Sandy City Code. The proposed fee schedule changes are included in the Resolution that the Finance Department has submitted, which is also on this Council agenda.

The specific amendments to the Sandy City Code are included as Exhibit “A” (clean and red-lined version).

### **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. 18-32	An ordinance amending Title 1 by adding a new Section Titled: "Administrative Code Enforcement" to the Sandy Municipal Code (10-26-2018)

The proposed changes are coordinated with the amendments to Title 21, which are also on this Council agenda.

**Public Notice**

The city issued the proper notice for this item by posting the agenda for the required time period prior to the meeting.

**Non-Conforming Uses**

These code amendments would not create any non-conforming situations.

**Recommendation**

Staff recommends that the City Council amend Title 1 and 19 of the Sandy City Code, related to clarifying applicability of the City’s administrative code enforcement process to violations of local ordinances and State statutes as shown in Exhibit “A”.



Brian McCuiston  
Assistant Community Development Director

Exhibits:

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

File Name: S:\USERS\PLN\STAFFRPT\2024\CA09032024-0006835 - HEARING OFFICER CHANGES FOR TITLE 1 and 19\STAFF REPORT.DOCX

Exhibit “A”  
(redlined and clean version of Title 1 and 19 changes)

**Sec 1-4-2. – Scope.**

The provisions of this chapter may be applied to all violations of the Sandy City Code [and applicable state law](#). It has been designed as an additional remedy for the City to use in achieving compliance with its ordinances.

**Sec 1-4-3. Definitions.**

(7) Cost, Administrative means costs incurred by the City, including without limitation wages, professional hearing officer services, supplies and overhead, to enforce compliance with the Sandy City Code [or applicable state law](#).

**Sec 1-4-7. Administrative Hearing.**

(a) A person has the right to request an administrative hearing if the ~~person pays a filing fee as established in the City's fee schedule and is~~ a responsible person ~~who~~ has received an administrative citation, itemized statement of costs, notice of emergency abatement, or if the responsible person received an administrative order and is requesting a determination of compliance.

(g) Upon receipt of a request for an administrative hearing ~~and payment of applicable filing fee~~, the administrative hearing officer shall:

- (1) Schedule a hearing to be held within ~~21~~[35](#) calendar days; and
- (2) Provide written notice to the responsible person and the City of the date, time and location of the hearing at least five business days before the scheduled hearing date.

**Sec 1-4-4. – 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 [or applicable state law](#). The City may choose to file both, or one or the other. 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. If the City chooses to file both civil and criminal charges for the same day of violation, no civil fines may be assessed, but all other remedies are available.

**Sec. 1-4-9. - Powers of Administrative Hearing Officer.**

(a) *Hearing.*

(2) An administrative hearing officer shall have authority to hold administrative hearings related to violations of the Sandy City Code [and applicable state law](#).

(6) An administrative hearing officer may assess civil fines and costs of abatement and administrative costs to a responsible person. An administrative hearing officer may reduce civil fines or costs upon a finding of good cause. The administrative hearing officer may reduce the fines to what is just and equitable under the circumstances. However, the administrative hearing officer shall not reduce and shall order the responsible person to pay: (1) all actual costs incurred by the City; and (2) all administrative costs [and base fines](#) as established in the City's fee schedule.

(b) *Administrative Orders.*

(7) An administrative hearing officer may issue an administrative order revoking or suspending a business license, a building permit, or permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of real property or a structure where a violation is located ~~as provided in the Sandy City Code~~.

(8) An administrative hearing officer may order any action reasonably necessary to obtain compliance with the applicable City ordinances [and state law](#).

**Sec 1-4-15. Abatement.**

- (a) Any condition caused, maintained, or permitted to exist in violation of any provision of the Sandy City Code or applicable state law may be abated by the City pursuant to the procedures set forth in this chapter.
- (b) An enforcement official is authorized to enter upon any property or premises to ~~abate any violation of the Sandy City Code~~ perform abatement pursuant to an administrative order or as authorized by the Director with the approval of the Chief Administrative Officer. The administrative hearing officer may assess all actual and administrative costs incurred by the City for the abatement to the responsible persons, and the City may pursue any and all remedies available under the law to collect such costs. If additional abatements for the same or substantially similar violations are necessary within one year of a final administrative order, the administrative hearing officer may assess additional costs against the responsible persons for the subsequent abatements.

#### Sec 1-4-18. Civil Fines.

(a) Assessment.

- (1) Any person violating any provision of the Sandy City Code or applicable state law may be subject to assessment of civil fines for each violation, except civil fines shall not be assessed when a criminal case has been filed for the same violation.

#### Sec 1-4-19. Recovery of Fines and Costs.

(a) Purpose.

- (1) The City Council finds that there is a need to recover actual and administrative costs incurred by the City to enforce compliance with the Sandy City Code and applicable state law.

(e) The City Council finds that recordation of code enforcement tax liens will assist in the collection of fines and costs and otherwise achieve compliance with Sandy City Code and applicable state law. The City Council further finds that collection of civil fines and costs is important in deterring future violations and maintaining the integrity of the Sandy City Code. The procedures established in this title shall be used to complement existing administrative or judicial remedies that may be pursued to address violations of the Sandy City Code and applicable state law.

### Title 19

#### Sec. 19-1-7. - Abatement of Weeds, Garbage or Refuse.

- (a) *Failure to Remove Violation.* If any owner or occupant of property described in the notice provided in this title shall fail to eradicate or destroy and remove such weeds, garbage or refuse in accordance with such notice, the Director or his designee is authorized to act in accordance with U.C.A. 1953, § 10-11-3, as amended, or its successor.

~~(b) *Hearing.* If a property owner files an objection in accordance with U.C.A. 1953, § 10-11-3(1)(b)(ii), as amended, or its successor, the City shall hold a hearing in accordance with U.C.A. 1953, § 10-11-3(3), as amended, or its successor.~~

~~(1) *Hearing Officer.* The Mayor shall appoint a Hearing Officer to review and determine the actual cost of the abatement after appropriate notice is given.~~

~~(2) *Notice.* Notice of the hearing shall be given:~~

- ~~a. In accordance with the Open and Public Meetings Act (U.C.A. 1953, § 52-4-101 et seq.); and  
b. Not less than ten calendar days before the hearing, the property owner making such objection by mail addressed to:~~

~~1. The address to which the Notice of Violation was served; or~~

~~2. The address set forth on the written objection (if different from the address in Subsection (b)(2)b.1 of this section).~~

(Clean version of Title 1 and 19 changes)

**Sec 1-4-2. – Scope.**

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

**Sec 1-4-3. Definitions.**

(7) Cost, Administrative means costs incurred by the City, including without limitation wages, professional hearing officer services, supplies and overhead, to enforce compliance with the Sandy City Code or applicable state law.

**Sec 1-4-7. Administrative Hearing.**

(b) A person has the right to request an administrative hearing if the responsible person ~~who~~ has received an administrative citation, itemized statement of costs, notice of emergency abatement, or if the responsible person received an administrative order and is requesting a determination of compliance.

(g) Upon receipt of a request for an administrative hearing, the administrative hearing officer shall:

- (1) Schedule a hearing to be held within 35 calendar days; and
- (2) Provide written notice to the responsible person and the City of the date, time and location of the hearing at least five business days before the scheduled hearing date.

**Sec 1-4-4. – 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 or applicable state law. The City may choose to file both, or one or the other. The enactment of this administrative remedy shall in no way interfere with the City's right to prosecute violations as criminal offenses. The City may use any of the remedies available under the law in both civil and criminal prosecution. If the City chooses to file both civil and criminal charges for the same day of violation, no civil fines may be assessed, but all other remedies are available.

**Sec. 1-4-9. - Powers of Administrative Hearing Officer.**

(c) *Hearing.*

(2) An administrative hearing officer shall have authority to hold administrative hearings related to violations of the Sandy City Code and applicable state law.

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(d) *Administrative Orders.*

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(8) An administrative hearing officer may order any action reasonably necessary to obtain compliance with the applicable City ordinances and state law.

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applicable state law may be abated by the City pursuant to the procedures set forth in this chapter.

(b) An enforcement official is authorized to enter upon any property or premises to perform abatement pursuant to an administrative order or as authorized by the Director with the approval of the Chief Administrative Officer. The administrative hearing officer may assess all actual and administrative costs incurred by the City for the abatement to the responsible persons, and the City may pursue any and all remedies available under the law to collect such costs. If additional abatements for the same or substantially similar violations are necessary within one year of a final administrative order, the administrative hearing officer may assess additional costs against the responsible persons for the subsequent abatements.

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(b) Assessment.

(2) Any person violating any provision of the Sandy City Code or applicable state law may be subject to assessment of civil fines for each violation, except civil fines shall not be assessed when a criminal case has been filed for the same violation.

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(b) Purpose.

(2) The City Council finds that there is a need to recover actual and administrative costs incurred by the City to enforce compliance with the Sandy City Code and applicable state law.

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Title 19

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