
Administrative Code Enforcement

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CHAPTER 15.1 GENERAL PROVISIONS AND DEFINITIONS

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15.1.101. **SHORT TITLE.**

This Title shall be known as the “Administrative Code Enforcement.” This Title shall also be known as Title 15, Sanpete County Ordinance. It may be cited and pleaded under either designation.

15.1.102. **DECLARATION OF PURPOSE.**

The County Commissioners of Sanpete County find that the enforcement of the County Ordinances and applicable state codes throughout the County is an important public service. Code enforcement is vital to the protection of public health, safety, and quality of life. The Commissioners recognize that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative code enforcement hearings and judicial proceedings. The Commissioners further find that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with these regulations. Failure to comply with an administrative code enforcement action may require the County Attorney to file a judicial action to gain compliance.

15.1.103. **SCOPE.**

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

15.1.104. **EXISTING LAW CONTINUED.**

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

15.1.105. **CRIMINAL PROSECUTION RIGHT.**

The County has sole discretion in deciding whether to file a civil or criminal case for the violation of any of its ordinances. The County may choose to file both, or one or the other. The enactment of this administrative remedy shall in no way interfere with the County’s right to prosecute County ordinance violations as criminal offenses. The County may use any of the remedies available under the law in both civil and criminal prosecution. If the County chooses to file both civil and criminal charges for the same day of violation, no civil penalties may be assessed, but all other remedies are available.

15.1.106. EFFECT OF HEADING.

Title, chapter, part and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any title, chapter, part, or section hereof.

15.1.107. VALIDITY OF TITLE – SEVERABILITY.

If any section, subsection, sentence, clause, phrase, portion, or provision of this Title is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Title. The Commissioners of this County hereby declare that it would have adopted this Title and each section, subsection, sentence, clause, phrase, portion, or provision thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, portions, or provisions be declared invalid or unconstitutional. This Section shall apply to all amendments heretofore or hereafter made to this Title.

15.1.108. NO MANDATORY DUTY – CIVIL LIABILITY.

It is the intent of the Commissioners that in establishing performance standards or establishing an obligation to act by a County officer or employee, these standards shall not be construed as creating a mandatory duty for purposes of tort liability if the officer or employee fails to perform his or her directed duty or duties.

15.1.109. GENERAL RULES OF INTERPRETATION OF ORDINANCES.

- (1) For purposes of this Title:
 - (2) Any gender includes the other gender.
 - (3) “Shall” is mandatory; “may” is permissive.
 - (4) The singular number includes the plural and the plural the singular.
 - (5) Words used in the present tense include the past and future tense, and vice versa.
 - (6) Words and phrases used in this Title and not specifically defined shall be construed according to the context and approved usage of the language.
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15.1.110. DEFINITIONS APPLICABLE TO TITLE GENERALLY.

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 County may take on public or private property and any adjacent property as may be necessary to remove or alleviate a violation, including, but not limited to, demolition, removal, repair, boarding, and securing or replacement of property.
 - (2) “Administrative Code Enforcement Order” means an order issued by the Commissioners. 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.
 - (3) “County” means the area within the territorial city limits of Sanpete County, and such territory outside of this County over which the County has jurisdiction or control by virtue of any constitutional or incorporated provisions of any law.
 - (4) “Commissioners” means the Sanpete County Commissioners.
 - (5) “Code Enforcement Lien” means a lien recorded to collect outstanding civil penalties, administrative fees, and costs.
 - (6) “Code Enforcement Performance Bond” means a bond posted by a responsible person to ensure compliance with the County Ordinance, applicable state titles, a judicial action, or an administrative code enforcement order.
 - (7) “Enforcement Official” means any person authorized to enforce violations of the County Ordinance or applicable state codes.
 - (8) “Financial Institution” means any person that holds a recorded mortgage or deed of trust on a property.
 - (11) “Good Cause” means incapacitating illness, death; lack of proper notice; unavailability due to unavoidable, unpreventable, or extenuating emergency or circumstance; if a required act causes an imminent and irreparable injury; and acts of nature adverse to performing required acts.
 - (12) “Imminent Life Safety Hazard” means any condition that creates a present, extreme, and immediate danger to life, property, health, or public safety.
 - (13) “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 instruments that are recorded with the County Recorder.
 - (14) “Notice of Compliance” means a document issued by the County, representing that a property complies with the requirements outlined in the notice of violation.
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(15) “Notice of Satisfaction” means a document or form approved by the County Commission or their designee, which indicates that all outstanding civil penalties and costs have been either paid in full, or that the County 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.

(16) “Notice of Violation” means a written notice prepared by an enforcement official that informs a responsible person of ordinance or code violations and orders them to take certain steps to correct the violations.

(17) “Oath” includes affirmations and oaths.

(18) “Ordinance Enforcement Administrator” means the Zoning Administrator, established in Title 14.16 of the Land Use Ordinance.

(19) “Person” means any 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.

(20) “Property Owner” means the record owner of real property based on the county assessor’s records.

(21) “Public Nuisance” 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. A public nuisance also has the same meaning as set forth in the Utah Code Annotated.

(22) “Responsible Person” means a person who is responsible for causing or maintaining a violation of the County Ordinance or applicable state codes. 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. In all cases, the property owner shall be considered a Responsible Person.

(23) “Written” includes handwritten, typewritten, photocopied, computer printed, or facsimile.

15.1.111. ACTS INCLUDE CAUSING, AIDING, AND ABETTING.

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

15.1.200P PART 2 – SERVICE REQUIREMENTS

15.1.201. SERVICE OF PROCESS.

(1) Whenever service is required to be given under this Title for enforcement purposes, the document shall be served by any of the following methods, unless different provisions are otherwise specifically stated to apply:

- 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 in (a) above. The form of the posted notice shall be approved by the Zoning Administrator or his or her designee;
- c. Personal service pursuant to Utah Rules of Civil Procedure Rule 4(d)(1) or rule 4(d)(5); or
- d. Published in a newspaper of general circulation where the identity or whereabouts of the person to be served is 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) Service by regular mail in the manner described above shall be deemed served on the third day after the date of mailing.

(3) 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.

(4) The failure to serve all responsible person(s) shall not affect the validity of any proceedings.

15.1.202. 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.

15.1.300P PART 3 – GENERAL AUTHORITY AND OFFENSES

15.1.301. GENERAL ENFORCEMENT AUTHORITY.

Whenever the Zoning Administrator or enforcement official finds that a violation of the County Ordinance or applicable state codes has occurred or continues to exist, the appropriate administrative enforcement procedure may be used as outlined in this Title. The Zoning Administrator or any designated enforcement official has the authority and power necessary to gain compliance with the provisions of the County Ordinance and applicable state codes. These powers include the power to issue notices of violation and administrative citations, inspect public and private property, abate public and private property, and use whatever judicial and administrative remedies are available under the County Ordinance or applicable state codes.

15.1.302. ADOPTION OF POLICY AND PROCEDURES.

The County Commissioners are authorized to develop policies and procedures relating to the hearing procedures, scope of hearings, subpoena powers, and other matters relating to the Administrative Code Enforcement.

15.1.303. AUTHORITY TO INSPECT.

The Zoning Administrator or any designated enforcement official is authorized to enter upon any property or premises to ascertain whether the provisions of the County Ordinance or applicable state codes are being obeyed and to make any examinations and surveys as may be necessary for the performance of the enforcement duties. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner based upon the cause.

15.1.304. POWER TO ARREST.

The Zoning Administrator or any designated enforcement official is authorized to arrest, without a warrant, any person whenever there is reasonable cause to believe that the person has committed a violation of the County Ordinance or applicable state codes in the enforcement official's presence. The Administrator or enforcement official can arrest a person only by issuing a citation or administrative citation.

15.1.305. 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 county employee when in the performance of his or her official duties under the provisions of this Title. A violation of this Section is a class C misdemeanor.

15.1.306. 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 violation. Failure to obey a subpoena constitutes contempt and may be prosecuted as a class B misdemeanor.

CHAPTER 15.2
ADMINISTRATIVE CODE ENFORCEMENT PROCEDURES

Sections:

- 15.2.101 Authority.
 - 15.2.102 Notice of Violation.
 - 15.2.103 Failure to Bring Property into Compliance.
 - 15.2.104 Inspections.

 - 15.2.200P Part 2 – Emergency Abatement

 - 15.2.201 Authority.
 - 15.2.202 Procedures.
 - 15.2.203 Notice of Emergency Abatement.

 - 15.2.300P Part 3 – Demolitions

 - 15.2.301 Authority.
 - 15.2.302 Procedures.

 - 15.2.400P Part 4 – Administrative Citations

 - 15.2.401 Declaration of Purpose.
 - 15.2.402 Authority.
 - 15.2.403 Procedures.
 - 15.2.404 Contents of Administrative Citation.
 - 15.2.405 Civil Penalties Assessed.
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15.2.500P Part 5 – Administrative Code Enforcement Hearing Procedures

- 15.2.501 Declaration of Purpose.
- 15.2.502 Authority and Scope of Hearings.
- 15.2.503 Request for Administrative Code Enforcement Hearing.
- 15.2.504 Notification of Administrative Code Enforcement Hearing.
- 15.2.505 Powers of the Administrative Law Judge.
- 15.2.506 Procedures at Administrative Code Enforcement Hearing.
- 15.2.507 Failure to Attend Administrative Code Enforcement Hearing.
- 15.2.508 Administrative Code Enforcement Order.
- 15.2.509 Failure to Comply with Order.

15.2.600P Part 6 – Administrative Enforcement Appeals

- 15.2.601 Appeal of Administrative Code Enforcement Hearing Decision.

15.2.101. AUTHORITY.

Any condition caused, maintained, or permitted to exist in violation of any provisions of the County Ordinance or applicable state codes that constitute a violation may be abated by the County pursuant to the procedures set forth in this Part.

15.2.102. NOTICE OF VIOLATION.

(1) Whenever the Zoning Administrator or any designated enforcement official determines that a violation of the County Ordinance or applicable state codes has occurred or continues to exist, the Administrator or enforcement official may choose to proceed under the administrative abatement procedures. If this procedure is used, a notice of violation shall be issued to a responsible person. The notice of violation shall include the following information:

- a. Name of property owner;
 - b. Street address or parcel number of violation;
 - c. Date violation observed;
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- d. All ordinance sections violated and description of condition of the property that violates the applicable ordinances;
 - e. A statement explaining the type of remedial action required to permanently correct outstanding violations, which may include corrections, repairs, demolition, removal, or other appropriate action;
 - f. Specific date to correct the violations listed in the notice of violation, which date shall be at least ten days from the date of service;
 - g. Explanation of the consequences should the responsible person fail to comply with the terms and deadlines as prescribed in the notice of violation, which may include, but is not limited to, criminal prosecution; civil penalties; revocation of permits; recordation of the notice of violation; withholding of future county permits; abatement of the violation; costs; administrative fees; and any other legal remedies;
 - h. That civil penalties will begin to accrue immediately on expiration of the date to correct violations;
 - i. The amount of the civil penalty on each violation and 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 begin immediately upon any subsequent violations of the notice. The responsible person may request a hearing on the renewed violations by following the same procedure as provided for the original notice.
 - k. Procedures to request a hearing as provided in Section 15.2.503, and consequences for failure to request one.

(2) The notice of violation shall be served by one of the methods of service listed in Section 15.1.201 of this Title.

(3) More than one notice of violation may be issued against the same responsible person if it encompasses different dates or different violations.

15.2.103. FAILURE TO BRING PROPERTY INTO COMPLIANCE.

(1) 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 County for each and every subsequent day of violation.

(2) Failure to comply with the notice of violation is a class C misdemeanor.

15.2.104. INSPECTIONS.

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. Civil penalties accumulate daily until the property has been inspected and a notice of compliance is issued. Reinspection fees may be assessed if more than one inspection is necessary.

15.2.200P PART 2 – EMERGENCY ABATEMENT

15.2.201. AUTHORITY.

(1) Whenever the County Commission determines that an imminent life safety hazard exists that requires immediate correction or elimination, the Commission may exercise the following powers without prior notice to the responsible person:

- a. Order the immediate vacation of any tenants, and prohibit occupancy until all repairs are completed;
- b. Post the premises as unsafe, substandard, or dangerous;
- c. Board, fence, or secure the building or site;
- d. Raze and grade that portion of the building or site to prevent further collapse, and remove any hazard to the general public;
- e. Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or
- f. Take any other action appropriate to eliminate the emergency.

(2) The Zoning 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.

(3) 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.

15.2.202. PROCEDURES.

(1) The Commission shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard. Costs incurred by the County during the emergency abatement process

shall be assessed and recovered against the responsible person through the procedures outlined in the “Remedies” section of this Title.

(2) The Commission may also pursue any other administrative or judicial remedy to abate any remaining violations.

15.2.203. NOTICE OF EMERGENCY ABATEMENT.

After an emergency abatement, the County shall notify the owner or responsible person of the abatement action taken. This notice shall be served within ten days of completion of the abatement.

15.2.300P PART 3 – DEMOLITIONS

15.2.301. AUTHORITY.

Whenever the Commission, Building Official, or Fire Inspector determines that a property or building requires demolition, any one of them may demolish or remove the offending structure, or exercise any or all of the powers listed in Section 15.2.201 once appropriate notice has been given to a responsible person pursuant to the Uniform Abatement of Dangerous Buildings Code or Uniform Fire Codes as required under state law. The responsible person shall be liable for all costs associated with the demolition. Costs may be recovered pursuant to this Title.

15.2.302. PROCEDURES.

Once the Commission has determined that the County Building Official or the Fire Marshal has complied with all of the notice requirements of the applicable laws, the property will be abated pursuant to the abatement remedy. Other applicable remedies may also be pursued.

15.2.400P PART 4 – ADMINISTRATIVE CITATIONS

15.2.401. DECLARATION OF PURPOSE.

The Commissioners find that there is a need for an alternative method of enforcement for minor violations of the County Ordinance and applicable state codes. The Commissioners further find that an appropriate method of enforcement is an administrative citation program.

The procedures established in this Part shall be in addition to criminal, civil, or any other legal remedy established by law that may be pursued to address violations of the County Ordinance or applicable state codes.

15.2.402. AUTHORITY.

- (1) Any person violating any minor provision of the County Ordinance or applicable state codes may be issued an administrative citation by an enforcement official as provided in this Part.
- (2) A civil penalty shall be assessed by means of an administrative citation issued by the enforcement official, and shall be payable directly to the County Treasurer's Office.
- (3) Penalties assessed by means of an administrative citation shall be collected in accordance with the procedures specified in the remedies section of this Title.

15.2.403. PROCEDURES.

- (1) Upon discovering any violation of the County Ordinance or applicable state codes, an enforcement official may issue an administrative citation to a responsible person in the manner prescribed in this Part or as prescribed in Section 15.1.201. The administrative citation shall be issued on a form approved by the Commissioners.
 - (2) If the responsible person is a business, the enforcement official shall attempt to locate the business owner and issue an administrative citation to the business owner. If the enforcement official 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 15.1.201 of this Title.
 - (3) Once the responsible person has been located, the 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
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administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.

(4) If the 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 15.1.201 of this Title.

(5) 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 by Section 15.1.201 of this Title.

(6) The administrative citation shall also contain the signature of the enforcement official.

(7) 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.

15.2.404. CONTENTS OF ADMINISTRATIVE CITATION.

(1) The administrative citation shall refer to the date and location of the violations and the approximate time the violations were observed.

(2) The administrative citation shall refer to the Ordinance sections violated and the titles of those sections.

(3) The administrative citation shall state the amount of penalty imposed for the violations.

(4) The administrative citation shall explain 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.

(5) The citation shall contain the signature of the enforcement official and the signature of the responsible person, if he or she can be located, as outlined in Section 15.2.403 of this Title.

15.2.405. CIVIL PENALTIES ASSESSED.

(1) The Commissioners shall establish policies to assist in the assessment of civil penalties for administrative citations.

(2) Civil penalties shall be assessed immediately for each violation listed on the administrative citation. The penalties shall be those established in the Consolidated Fee Schedule, found at the County Zoning office.

(3) Payment of the penalty shall not excuse the failure to correct the violations, nor shall it bar further enforcement action by the County.

15.2.500P PART 5 – ADMINISTRATIVE CODE ENFORCEMENT HEARING
PROCEDURES

15.2.501. DECLARATION OF PURPOSE.

The Commissioners find that there is a need to establish uniform procedures for administrative code enforcement hearings conducted pursuant to the County Ordinance. It is the purpose and intent of the County Commissioners 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, 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.

15.2.502. AUTHORITY AND SCOPE OF HEARINGS.

Enforcement of County Ordinance violations may be conducted through the Administrative Enforcement Program, presided over by the County Commissioners. The Commissioners shall develop policies and procedures to regulate the hearing process for any violation of the County Ordinance and applicable state codes that are handled pursuant to the administrative abatement procedures, the emergency abatement procedures, the demolition procedures, or the administrative citation procedures.

15.2.503. REQUEST FOR ADMINISTRATIVE CODE ENFORCEMENT
HEARING.

(1) A person served with one of the following documents or notices has the right to request an administrative code enforcement hearing, if the request is filed within ten calendar days from the date of service of one of the following notices:

- a. Notice of violation;
- b. Notice of itemized bill for costs;
- c. Administrative citation;
- d. Notice of emergency abatement;

(2) The request for hearing shall be made in writing and filed with the County Clerk. The request shall contain the case number, the address of the violation, and the signature of the responsible party.

(3) As soon as practicable after receiving the written notice of the request for hearing, the County Clerk 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.

15.2.504. NOTIFICATION OF ADMINISTRATIVE CODE ENFORCEMENT HEARING.

(1) Written notice of the day, time, and place of the hearing shall be served to a 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 Commissioners.

(3) The notice of hearing shall be served by any of the methods of service listed in Section 15.1.201 of this Title.

15.2.505. POWERS OF THE COUNTY COMMISSION.

(1) The Commissioners have the authority to hold hearings, determine if violations of county ordinances exist, order compliance with county ordinances, and enforce compliance as provided in this Title on any matter subject to the provisions of the Title.

(2) The Commissioners may continue a hearing based on good cause shown by one of the parties to the hearing. The Commissioners must enter on the record the good cause on which a continuance is granted.

(3) The Commissioners, at the request of any party to the hearing, may sign subpoenas for witnesses, documents, and other evidence where the attendance of the witness for the admission of evidence 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 Commissioners 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.

(4) The Commissioners have continuing jurisdiction over the subject matter of an administrative code enforcement hearing for the purposes of granting a continuance; ordering compliance by issuing an administrative code enforcement order using any remedies available under the law; ensuring compliance of that order, which includes the right to authorize the County to enter and abate a violation; modifying an administrative code enforcement order; or, where extraordinary circumstances exist, granting a new hearing.

(5) The Commissioners have the authority to require a responsible person to post a code enforcement performance bond to ensure compliance with an administrative code enforcement order.

15.2.506. 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 must be in writing. Failure to request discovery shall not be a basis for a continuance. Complainant information is protected and shall not be released unless the complainant is a witness at the hearing. The procedure and format of the administrative hearing shall follow the procedures promulgated by the Commissioners.

(2) The County bears the burden of proof at an administrative code enforcement hearing to establish the existence of a violation of the County Ordinance or applicable state codes.

(3) The standard of proof to be used by the Commissioners in deciding the issues at an administrative hearing is whether the preponderance of the evidence shows that the violations exist.

(4) Each party shall have the opportunity to cross-examine witnesses 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. Testimony may be given by telephone or other electronic means.

(5) All hearings are open to the public. They shall be recorded by audio tape. Hearings may be held at the location of the violation.

(6) 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 County at least one day prior to the hearing. If notice is not given, the hearing may be continued at the County's request, and all costs of the continuance assessed to the responsible person.

(7) No new hearing shall be granted, unless the Commissioners determine that extraordinary circumstances exist which justify a new hearing.

15.2.507. 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 waive the right to a hearing, and will result in a default judgment for the County, provided that proper notice of the hearing has been provided.

15.2.508. ADMINISTRATIVE CODE ENFORCEMENT ORDER.

- (1) The parties may enter into a stipulated agreement, which must be signed by both parties. This agreement shall be entered as the administrative code enforcement order. Entry of this agreement shall constitute a waiver of the right to a hearing and the right to appeal.
- (2) Once all evidence and testimony are completed, the Commissioners shall issue an administrative code enforcement order that affirms, modifies or rejects the notice or citation. The Commissioners may increase or decrease the total amount of civil penalties and costs that are due pursuant to the County's fee schedule and the procedures in this Title.
- (3) The Commissioners may order the County to enter the property and abate all violations, which may include removing animals kept in violation of the County Ordinance.
- (4) The Commissioners may revoke a kennel permit, an animal license, or the right to possess animals as provided in the County Ordinance.
- (5) As part of the administrative code enforcement order, the Commissioners may condition the total or partial assessment of civil penalties on the responsible person's ability to complete compliance by specified deadlines.
- (6) The Commissioners 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.
- (7) The Commissioners may order the responsible person to post a performance bond to ensure compliance with the order.
- (8) The administrative code enforcement order shall become final on the date of the signing of the order.
- (9) The administrative code enforcement order shall be served on all parties by any one of the methods listed in Section 15.1.201 of this Title.

15.2.509. FAILURE TO COMPLY WITH ORDER.

- (1) Upon the failure of the responsible person to comply with the terms and deadlines set forth in the administrative code enforcement order, the County may use all appropriate legal means to recover the civil penalties and administrative costs to obtain compliance.
 - (2) After the Commissioners issue an administrative code enforcement order, the Zoning Administrator shall monitor the violations and determine compliance.
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15.2.600P PART 6 – ADMINISTRATIVE ENFORCEMENT APPEALS

15.2.601. APPEAL OF ADMINISTRATIVE CODE ENFORCEMENT HEARING DECISION.

(1) Any person adversely affected by any decision made in the exercise of the provisions of this Chapter may file a petition for review of the decision or order by the district court within 30 days after the decision is rendered.

(2) No person may challenge in district court an administrative code enforcement hearing decision until that person has exhausted his or her administrative remedies.

(3) 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 County 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.

a. 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 Commissioners 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 to be clarified.

(4) 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.

(5) The courts shall:

a. Presume that the administrative code enforcement hearing decision and orders are valid; and

b. Review the record to determine whether or not the decision was arbitrary, capricious, or illegal.

CHAPTER 15.3
ADMINISTRATIVE AND JUDICIAL REMEDIES

Sections:

15.3.100P Part 1 –Recordation of Notices of Violation

- 15.3.101 Declaration of Purpose.
- 15.3.102 Authority.
- 15.3.103 Procedures for Recordation.
- 15.3.104 Service of Notice of Recordation.
- 15.3.105 Failure to Request.
- 15.3.106 Notice of Compliance – Procedures.
- 15.3.107 Prohibition against Issuance of County Permits.
- 15.3.108 Cancellation of Recorded Notice of Violation.

15.3.200P Part 2 – Administrative Civil Penalties

- 15.3.201 Authority.
- 15.3.202 Procedures for Assessing Civil Penalties.
- 15.3.203 Determination of Civil Penalties.
- 15.3.204 Modification of Civil Penalties.
- 15.3.205 Failure to Pay Penalties.

15.3.300P Part 3 – Abatement of Violation

- 15.3.301 Authority to Abate.
- 15.3.302 Procedures for Abatement.

15.3.400P Part 4 – Costs

- 15.3.401 Declaration of Purpose.
- 15.3.402 Authority.
- 15.3.403 Notification of Assessment of Reinspection Fees.
- 15.3.404 Failure to Timely Pay Costs.

15.3.500P Part 5 – Administrative Fees

- 15.3.501 Administrative Fees.

15.3.600P Part 6 – Injunctions

- 15.3.601 Civil Violations – Injunctions.
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15.3.700P Part 7 – Performance Bonds

15.3.701 Performance Bond.

15.3.100P PART 1 –RECORDATION OF NOTICES OF VIOLATION

15.3.101. DECLARATION OF PURPOSE.

The Commissioners find that there is a need for alternative methods of enforcement for violations of the County Ordinance and applicable state codes that are found to exist on real property. The Commissioners further find that an appropriate method of enforcement for these types of violations is the issuance and recordation of notices of violation.

The procedures established in this Part shall be in addition to criminal, civil, or any other remedy established by law that may be pursued to address the violation of the County Ordinance or applicable state codes.

15.3.102. AUTHORITY.

Whenever the Commissioners determine that a property or violation has not been brought into compliance as required in this Title, the Commissioners have the authority to record the notice of violation or administrative code enforcement order with the Recorder's Office of Sanpete County.

15.3.103. PROCEDURES FOR RECORDATION.

- (1) Once the Commissioners have issued a notice of violation to a responsible person, and the property remains in violation after the deadline established in the notice of violation, the Commissioners shall record a notice of violation with the Recorder's Office of Sanpete County.
 - (2) 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 or order.
 - (3) The recordation does not encumber the property, but merely places future interested parties on notice of any continuing violation found upon the property.
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15.3.104. 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 15.1.201 of this Title.

15.3.105. 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.

15.3.106. NOTICE OF COMPLIANCE – PROCEDURES.

- (1) When the violations have been corrected, the responsible person or property owner may request an inspection of the property from the Zoning Administrator.
- (2) Upon receipt of a request for inspection, the Zoning Administrator or enforcement official shall reinspect the property as soon as practicable to determine whether the violations listed in the notice of violation or the order have been corrected, and whether all necessary permits have been issued and final inspections have been performed.
- (3) The Zoning Administrator shall serve a notice of compliance to the responsible person or property owner in the manner provided in Section 15.1.201 of this Title, if the Zoning Administrator determines that:
 - a. All violations listed in the recorded notice of violation or order has been corrected;
 - b. All necessary permits have been issued and finalized;
 - c. All civil penalties assessed against the property have been paid or satisfied; and
 - d. The party requesting the notice of compliance has paid all administrative fees and costs.
- (4) If the Zoning Administrator denies a request to issue a notice of compliance, upon request the Zoning Administrator shall serve the responsible person with a written explanation setting forth the reasons for the denial. The written explanation shall be served by any of the methods of service listed in Section 15.1.201 of this Title.

15.3.107. PROHIBITION AGAINST ISSUANCE OF COUNTY PERMITS.

The County 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 any permits pertaining to the use and development of the real property or the structure. The County may withhold permits until a notice

of satisfaction has been issued by the Zoning Administrator. The County may not withhold permits that are necessary to obtain a notice of satisfaction or that are necessary to correct serious health and safety violations.

15.3.108. CANCELLATION OF RECORDED NOTICE OF VIOLATION.

The Zoning Administrator or responsible person shall record the notice of satisfaction with the County Recorder's Office. Recordation of the notice of satisfaction shall have the effect of canceling the recorded notice of violation.

15.3.200P PART 2 – ADMINISTRATIVE CIVIL PENALTIES

15.3.201. AUTHORITY.

- (1) Any person violating any provision of the County Ordinance or applicable state codes may be subject to the assessment of civil penalties for each violation.
- (2) Each and every day a violation of any provision of the County Ordinance or applicable state codes exists is a separate violation subject to the assessment of civil penalties.
- (3) 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.
- (4) Interest shall be assessed per County policy on all outstanding civil penalties balances until the case has been paid in full.
- (5) Civil penalties for violations of any provision of the County Ordinance or applicable state codes shall be assessed pursuant to the Consolidated Fee Schedule.

15.3.202. PROCEDURES FOR ASSESSING CIVIL PENALTIES.

- (1) 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 County for each and every subsequent day of violation.
 - (2) Civil penalties are assessed and owing immediately for any violation of the County Ordinance or applicable state codes for an administrative citation.
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15.3.203. DETERMINATION OF CIVIL PENALTIES.

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

15.3.204. MODIFICATION OF CIVIL PENALTIES.

- (1) Upon completion of the notice of violation or administrative enforcement order, the Commissioners may modify the civil penalties on a finding of good cause.
- (2) Civil penalties may be waived or modified by the Commissioners if there is a finding of good cause based on the responsible person's claim of nonconforming use or conditional use and:
 - a. The County's need to verify the claim; or
 - b. The responsible person's filing of an application for either use before expiration of the date to correct.

15.3.205. FAILURE TO PAY PENALTIES.

The failure of any person to pay civil penalties assessed within the specified time may result in the Commissioners pursuing any legal remedy to collect the civil penalties as provided in the law.

15.3.300P PART 3 – ABATEMENT OF VIOLATION

15.3.301. AUTHORITY TO ABATE.

The Commissioners are authorized to enter upon any property or premises to abate the violation of the County Ordinance and applicable state codes. The Commissioners are authorized to assess all costs for the abatement to the responsible person and use any remedy available under the law to collect the costs. If additional abatements are necessary within two years, treble costs may be assessed against the responsible person(s) for the actual abatement.

15.3.302. PROCEDURES FOR ABATEMENT.

- (1) Once the procedures set forth in this Title have been completed, the violation may be abated by County personnel or by a private contractor acting under the direction of the County.
- (2) County personnel or a private contractor 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.
- (3) If the responsible person abates the violation before the County performs the actual abatement pursuant to a notice of violation or administrative code enforcement order, and the Commissioners may still assess all costs incurred by the County against the responsible person.
- (4) 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 Zoning Administrator. The report shall contain the names and addresses of the responsible persons of each parcel, and the tax parcel number.
- (5) The Zoning 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). The notice shall demand full payment within 20 days to the County Treasurer.
- (6) The Zoning Administrator shall schedule an itemized bill for costs hearing, if requested in writing by any or all responsible persons.

15.3.400P PART 4 – COSTS

15.3.401. DECLARATION OF PURPOSE.

- (1) The Commissioners find that there is a need to recover costs incurred by enforcement officials and other County personnel who spend considerable time inspecting and reinspecting properties throughout the County in an effort to ensure compliance with the County Ordinance or applicable state codes.
 - (2) The Commissioners further find 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 County for each individual case. The assessment and collection of costs shall not preclude the imposition of any administrative or judicial civil penalties or fines for violations of the County Ordinance or applicable state codes.
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15.3.402. AUTHORITY.

(1) Whenever actual costs are incurred by the County on a property to obtain compliance with provisions of the County ordinance and applicable state codes, the County Commission assess costs against the responsible person.

(2) Once a notice of violation has been issued, the property will be inspected one time. Any additional inspections shall be subject to reinspection fees pursuant to the County fee schedule.

15.3.403. NOTIFICATION OF ASSESSMENT OF REINSPECTION FEES.

(1) Notification of reinspection fees shall be provided on the notice of violation served to the responsible person(s).

(2) Reinspection fees assessed or collected pursuant to this Part shall not be included in any other costs assessed.

(3) 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.

15.3.404. 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 County policy.

15.3.500P PART 5 – ADMINISTRATIVE FEES

15.3.501. ADMINISTRATIVE FEES.

The Commissioners are authorized to assess administrative fees for costs incurred in the administration of this program, such as investigation of violations, preparation for hearings, hearings, and the collection process. The fee assessed shall be the amount set in the County fee schedule.

15.3.600P PART 6 -- INJUNCTIONS

15.3.601. CIVIL VIOLATIONS – INJUNCTIONS.

In addition to any other remedy provided under the County Ordinance or state codes, including criminal prosecution or administrative remedies, any provision of the County Ordinance may be enforced by injunction issued in the Third District Court upon a suit brought by the County.

15.3.700P PART 7 – PERFORMANCE BONDS

15.3.701. PERFORMANCE BOND.

- (1) As part of any notice, order, or action, the Commissioners have the authority to require responsible persons to post a performance bond to ensure compliance with the County Ordinance, applicable state codes, or any judicial action.
- (2) If the responsible person fails to comply with the notice, order, or action, the bond will be forfeited to the County. The bond will not be used to offset the other outstanding costs and fees associated with the case.

CHAPTER 15.4

RECOVERY OF CODE ENFORCEMENT PENALTIES AND COSTS

Sections:

- 15.4.100P Part 1 – Code Enforcement Tax Liens
- 15.4.101 Declaration of Purpose.
 - 15.4.102 Procedures for Tax Liens without a Judgment.
 - 15.4.103 Procedures for Tax Liens with a Judgment.
 - 15.4.104 Cancellation of Code Enforcement Tax Lien.
- 15.4.200P Part 2 – Writ of Execution

15.4.201 Recovery of Costs by Writ of Execution.

15.4.300P Part 3 – Writ of Garnishment

15.4.301 Recovery of Costs by Writ of Garnishment.

15.4.100P PART 1 – CODE ENFORCEMENT TAX LIENS

15.4.101. DECLARATION OF PURPOSE.

The Commissioners find 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. The Commissioners further find 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 County's code enforcement system. The procedures established in this Part shall be used to complement existing administrative or judicial remedies that may be pursued to address violations of the County Ordinance or applicable state codes.

15.4.102. PROCEDURES FOR TAX LIENS WITHOUT A JUDGMENT.

- (1) Once the County has abated a property for weeds, garbage, refuse, or unsightly or deleterious objects or structures, the Zoning 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 County Treasurer within 10 days after completion of the work of removing the violations.
 - (2) The Zoning Administrator shall send, by registered mail to the property owner's last known address, 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 20 calendar days from the date of mailing.
 - (3) Upon receipt of the Itemized Statement of costs, the County Treasurer shall record a Code Enforcement Tax Lien against the property with the County Recorder's office.
 - (4) 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.
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15.4.103. PROCEDURES FOR TAX LIENS WITH A JUDGMENT.

Once a judgment has been obtained from the appropriate court assessing costs against the responsible person(s), the Commission may record a code enforcement tax lien against any real property owned by the responsible person(s).

15.4.104. CANCELLATION OF CODE ENFORCEMENT TAX LIEN.

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 Commission shall either record a notice of satisfaction of judgment or provide the property owner or financial institution with the notice of satisfaction of judgment so that it can record this notice with the county recorder's office. The notice of satisfaction of judgment shall include the same information as provided for in the original code enforcement tax lien. Such notice of satisfaction of judgment shall cancel the code enforcement tax lien.

15.4.200P PART 2 – WRIT OF EXECUTION

15.4.201. RECOVERY OF COSTS BY WRIT OF EXECUTION.

After obtaining a judgment, the Commission 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.

15.4.300P PART 3 – WRIT OF GARNISHMENT

15.4.301. RECOVERY OF COSTS BY WRIT OF GARNISHMENT.

After obtaining a judgment, the Commission 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.
