

**ORDINANCE NO. 2020-\_\_\_\_\_**

**AN ORDINANCE OF THE SOUTH SALT LAKE CITY COUNCIL AMENDING CHAPTER 3.11 AND TITLE 5 OF THE SOUTH SALT LAKE CITY CODE, REPEALING AND REPLACING TITLE 8 OF THE SOUTH SALT LAKE CITY CODE, AND REVISING SECTION 17.11.090 OF THE SOUTH SALT LAKE CITY CODE AS PART OF AN ONGOING EFFORT TO COMPREHENSIVELY REMOVE ERRANT AND CONFLICTING LAND USE PROVISIONS, REORGANIZE REGULATIONS, CODIFY PLAIN LANGUAGE, MODERNIZE PROVISIONS, AND CONFORM THE SOUTH SALT LAKE CITY CODE WITH RECENT MANDATES IN STATE LAW.**

**WHEREAS**, the City Council is authorized by law to enact ordinances for the protection of the health, safety and welfare;

**WHEREAS**, the City is authorized by law to enact and amend ordinances establishing land use regulations, including regulations more commonly referred to as business licensing, nuisance, and code enforcement regulations;

**WHEREAS**, the state legislature expects all local governments to regularly update their land use regulations to reflect all amendments to relevant state law;

**WHEREAS**, the City's nuisance regulations, fees, and enforcement systems are dispersed throughout four chapters of the Municipal Code in a manner that can be confusing to citizens, staff, and property owners;

**WHEREAS**, by revising these regulations, as a comprehensive whole, the City can foster community harmony, promote efficiency in government, and facilitate quality, sustainable redevelopment;

**WHEREAS**, on May 26, 2020, the Planning Commission held a legally noticed public hearing to consider the provisions of this ordinance;

**WHEREAS**, the Planning Commission found that the proposed ordinance would promote efficiency, add clarity, stabilize neighborhoods and enable the quiet enjoyment of public and private property and the beneficial development and redevelopment within the City and recommended City Council approval;

**WHEREAS**, the City Council finds that the proposed ordinance supports and promotes the City's goals in the General Plan; and

**WHEREAS**, the City Council finds that the recommended provisions of this ordinance will facilitate desirable development and use of land within the City;

**NOW THEREFORE, BE IT ORDAINED**, by the City Council of the City of South Salt Lake as follows:

**SECTION I: Chapter 3.11, Consolidated Fee Schedule**, is revised as follows:

**SECTION II: Chapter 5.01 - Definitions** is revised, as follows:

**TITLE 5 – BUSINESS LICENSING**

**Chapter 5.01 – DEFINITIONS.**

For the purpose of this Title the following terms shall have their prescribed meanings:

"Adult Bookstore, Adult Video store, or Adult Device Store" means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of Specified Sexual Activities, Specified Anatomical Areas, or Sexual Devices as defined in this Title. A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

- A. At least thirty (30) percent of the establishment's displayed merchandise consists of said items;
- B. At least thirty (30) percent of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items;
- C. At least thirty (30) percent of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items;
- D. The establishment maintains at least thirty (30) percent of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items);
- E. The establishment maintains at least five hundred (500) square feet of its floor space for the display, sale, and/or rental of said items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items);
- F. The establishment regularly offers for sale or rental at least two thousand (2,000) of said items;
- G. The establishment regularly features said items and regularly advertises itself or holds itself out, in any medium, by using "adult," "adults-only," "XXX," "sex," "erotic," or substantially similar language, as an establishment that caters to adult sexual interests; or
- H. The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting Specified Sexual Activities or Specified Anatomical Areas.

"Act of Violence" means the use of physical force or power, threatened or actual, that either results in or has a high likelihood of resulting in injury, death, psychological harm, or property damage.

"Adult Cabaret" means a business that regularly features live conduct characterized by Semi-Nudity. No establishment shall avoid classification as an Adult Cabaret by offering or featuring Nudity.

"Adult Motion Picture Theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions characterized by their emphasis upon the display of Specified Sexual Activities or Specified Anatomical Areas are regularly shown to more than five persons for any form of consideration.

"Amusement Device" means any machine, device, or contrivance, not prohibited or declared unlawful by the City or the state of Utah, designed or intended to be operated or used for amusement or the playing of a game upon or in exchange for paying a fee or inserting a coin or token.

"Auction" means a competitive sale of property by outcry or signal to the highest bidder.

"Auctioneer" means any Person who conducts an auction.

"Auction House" means a permanent Place of Business where auctions are conducted, and personal property is sold at auction.

"Business Activity" means any pursuit within City limits carried on ~~by a Person Engaged in Business for the purpose of economic gain or profit, excluding the acts of an employee rendering service to their employer within the scope of their employment contract, unless otherwise proscribed.~~

"Business Owner" means the Person or Persons Engaged in Business within South Salt Lake City.

"Change in Ownership" means (1) for a sole proprietorship: when the proprietor sells or transfers the business to any other individual, group, or entity; (2) for a partnership: when there is a change in the controlling percentage of the partnership, as compared to the partnership that existed at the time of the initial application; (3) for a corporation: when there is a change in any officer or director, or a change in any individual or entity holding twenty (20) percent or more of the shares of stock from the time of the initial application; and (4) for a limited liability company: when there is a change in the limited liability company's management or a change in any individual or entity owning twenty (20) percent or more of the company from the time of the initial application.

"Charitable Group" means any group, organization, association, or other entity that holds itself out to be a benevolent, educational, voluntary, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, civic, or public safety, law enforcement, or firefighter organization which is located or has members residing in the City of South Salt Lake.

"City Event" means any City-planned festival, celebration, function, or gathering within the City limits, including but not limited to the Fourth of July Celebration, Huck Finn Day, Halloween, or the "City Night Out."

"Coin Dealer" means any Person Engaged in the Business of buying or selling coins having numismatic value.

~~"Criminal Conduct" means any of the following offenses that has the Place of Business as its locus, and can be reasonably linked to a patron, invitee, Manager, owner or employee of the business, or a resident or occupant of the Place of Business (all references are to the Utah Code): any offense designated as a felony under Utah law; the unlawful sale, manufacture, service, storage, distribution, dispensing or acquisition of any controlled substance, precursor, paraphernalia or analog specified in Title 58, Chapter 37, Controlled Substances, Chapter 37a, Paraphernalia; Chapter 37b, Imitation Controlled Substances, Chapter 37c, Precursors or Chapter 37d, Clandestine Labs; an offense involving~~

~~any form of abuse of a child or violence or the threat of violence against any person as defined in Title 76, Chapter 5, Offenses Against the Person; an offense involving intentional damage to property as defined in Title 76, Chapter 6, Part 1, an offense relating to burglary of a vehicle or possession of burglary tools as defined in Title 76, Chapter 6, Part 2; an offense involving any form of theft as defined in Title 76, Chapter 9, Part 4; riot or failure to disperse as defined in Title 76, Chapter 9, Part 1; an offense involving any form of animal fighting as defined in Title 76, Chapter 9, Part 3; an offense involving lewdness or voyeurism as defined in Title 76, Chapter 9, Part 7; an offense involving a dangerous weapon as defined in Title 76, Chapter 10, Part 5; an offense involving a nuisance as defined in Title 76, Chapter 10, Part 8; any offense prohibited by Title 9; gambling permitted to be played, conducted or dealt as prohibited in Title 76, Chapter 10, Part 11, Gambling; or prostitution or promotion of prostitution carried on by one or more persons as provided in Title 76, Chapter 10, Part 13, Prostitution.~~

"Dealer" means a Person Engaged in the Business of buying or selling goods.

"Disqualifying History" means a Person convicted of— including pleas of guilty, no contest, nolo contendere, or any other plea whereby punishment may be imposed upon the defendant, and including a plea which is held in abeyance, regardless of whether it was ultimately dismissed—(1) a felony under federal law or state law; (2) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product within the preceding ten (10) years; (3) a crime involving Moral Turpitude within the preceding ten (10) years; or (4) on two or more occasions within the preceding five (5) years, any offense listed under Subsection 41-6a-501(2)(a) of the Utah Code, as amended.

"Employ, Employee, or Employment" means any Person who performs any service on the premises of a business, on a full time, part time, or contract basis, regardless of whether the Person is denominated as an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a Person exclusively on the premises for repair or maintenance of the premises or for delivery of goods to the premises.

"Employee, Full-Time" means an Employee who is employed for at least thirty (30) hours per week and shall include temporary or seasonal Employees where such Employees are employed for two (2) months or more per year and all corporate officers, owners, or partners.

"Employee, Part-Time" means a Person who works for an employer less than thirty (30) hours per week and shall include temporary or seasonal employees, even if working more than thirty (30) hours per week, if such Person is employed for less than two months (2) per year.

"Engage in Business / Engaged in the Business" means to conduct, manage, or carry on any activity as owner, officer, agent, Manager, employer, servant, or lessee.

"Establish a Sexually Oriented Business (SOB)" means any of the following:

- A. The opening or commencement of any Sexually Oriented Business, as defined in the Chapter as a new business;
- B. The conversion of an existing business, whether or not a Sexually Oriented Business, to any Sexually Oriented Business; or
- C. The addition of any Sexually Oriented Business to any other existing Sexually Oriented Business.

"Event" means, for purposes of Chapter 5.04 of this Code, a convention, civic, or community gathering whether held for profit, nonprofit, or charitable purposes, occurring for a limited or fixed duration that impacts the City by requiring City licensing or services beyond the scope of normal business and/or alcoholic beverage regulations, as set forth in this Code, or involving the use of City property, impacting public vehicle or pedestrian flow, generating public safety demands beyond their normal scope, or involving outdoor or temporary activities that do not normally occur as a component of the venue's Permitted Use or Conditional Use, as defined in Title 17 of the Code.

"Event Support Fee" means any fee charged by the City for the cost of providing police protection, park maintenance, or other required City services.

"Exchange Access Services" means telephone exchange lines or channels, and services provided in connection with them, that are necessary to provide access from the premises of a subscriber to the local switched public telecommunications network of the public utility to effect communication or the transfer of information. Exchange Access Services do not include: (1) private line services; (2) long distance toll services; (3) carrier access services; (4) telephonic services that are not regulated by the Utah Public Service Commission; and (5) services that emulate functions available in customer premises equipment.

"Floor Space" means the floor area inside an establishment that is visible or accessible to patrons for any reason, excluding restrooms.

"Gross Sales" means the sum total of all the monies received from the sale of goods, wares, merchandise, or services rendered within a given calendar year, excluding the net Utah state sales tax and any direct federal tax levied on goods or services sold. Gross Sales as used in this Title shall be synonymous with gross receipts.

"Gross Revenue" means the total revenue derived from the sale and use of public utility services within South Salt Lake City, provided that Gross Revenue as applied to the telephone utility shall be construed to mean Basic Local Exchange Services revenue.

"Hearing Officer" means the South Salt Lake City Administrative Law Judge.

"Hotel or Motel" means any facility that provides, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed linens, telephone and desk service, and is in current possession of a long-term or short-term lodging business license from the City.

"Influential Interest" means any of the following: (1) the actual power to operate a Sexually Oriented Business, control the operation, management, or policies of any Sexually Oriented Business, or the legal entity that operates any Sexually Oriented Business, (2) ownership of a financial interest of at least twenty (20) percent of a Sexually Oriented Business or of any class of voting securities of a business, or (3) holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity that operates a Sexually Oriented Business.

"Junk Collector" means any Person, that does not have a fixed Place of Business in Salt Lake County, who goes from place to place gathering, collecting, buying, selling, or otherwise dealing in old rags, papers, metals, or other articles commonly known as junk.

"Junk Dealer" means any Person who engages in buying or selling old metals (other than precious metals), glass, rags, rubber, paper, or other junk from a fixed Place of Business.

"Manager" means any individual employed or operating in a supervisory, managerial, decision-making, agent, or similar capacity for the entity.

"Metal Processor" means any Person who engages in refining or otherwise altering the form of precious metals not found in a natural state (i.e. raw ore).

"Moral Turpitude" means an act or behavior done contrary to community standards of honesty, good morals, or justice or which has an element of fraud, theft, or intent to harm another individual or property.

~~"Neighboring Resident or Business Owner" means a Person or corporation, respectively, residing in a home, owning property, or maintaining a business premises within three hundred (300) feet of the property line of the parcel on which the business that is the subject of the complaint is located.~~

"Nudity" means the showing of human genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

"Nuisance Conduct" includes both Criminal Conduct and Objectionable Conditions, as those terms are defined in ~~this~~ Title 8.

~~"Objectionable Conditions" means any condition that is disruptive to the quiet enjoyment of neighboring residential or business uses, or the harassment of patrons of other businesses or other passers-by, including, but not limited to: disturbance of the peace, intoxication, drinking in public, harassment of passers-by, gambling, prostitution, public urination, lewd conduct, gang activity, drug trafficking, extensive littering, unlawful discharges of hazardous materials, rodent harborage, parking violations, unlawful accumulation of solid waste, fouling of the air with offensive odors or contaminants, excessive dust, or excessive loud noise.~~

"Organizer" means the Person responsible for event arrangements and payment of support fees.

"Owner" means, for purposes of Chapter 5.04 of this Code, a sole proprietor or in the case of a partnership, corporation, or limited liability company: a partner, managing agent, Manager, officer, or director thereof; a stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or a member who owns at least 20% of the limited liability company.

~~"Pattern of Criminal Conduct" means the commission of five (5) or more crimes within a six (6) month period:~~

- ~~A. Which crimes involve drug manufacturing or distribution, prostitution, or gambling under state or federal law;~~
- ~~B. Which share a similar basis in facts; or~~
- ~~C. Which are all committed by members of a street gang or other association of individuals who gather for a criminal purpose.~~

"Pawnbroker" means any Person who loans money on deposit of personal property or deals in the purchase, exchange, or possession of personal property on condition of selling the same back again to the pledgor or depositor, or who loans or advances money on personal property by taking chattel mortgage security thereon and takes or receives such personal property into his possession, and who sells the unredeemed pledges, together with such new merchandise as will facilitate the sale of same.

"Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, limited liability company, corporation, association, legal entity, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

"Place of Business" means a location maintained or operated by a Person within the city of South Salt Lake from which a Person Engaged in Business. Place of Business includes a parking lot owned or leased by the business, parking areas traditionally used by patrons or Employees of the business, and the public rights-of-way adjacent to the business premises as it is used by Persons attracted to the business.

"Premises" means the real property upon which a Sexually Oriented Business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee.

"Private Security Staff" means either: (1) a permanent Employee of the business whose chief responsibility is to provide security for the Premises; (2) an individual provided by a contract security company that is currently licensed by the State of Utah; or (3) an off-duty peace officer holding a current state certificate, lawfully employed at the location.

~~"Property Owner" means the record owner of the real property as listed on the records of the Salt Lake County recorder or assessor's office. A Property Owner who has entered into a contract for management services shall, nonetheless, remain directly responsible for the management of the property.~~

"Public Portion of Premises" means the area around the exterior of the premises where the activities of patrons collide with the activities of the greater public, including all outdoor portions of the property upon which the premises is located, including parking areas, public sidewalks, streets immediately adjacent to the premises, and extending to parking areas off the premises, whether on public property or private property of another, used by patrons of the establishment based either upon agreement or custom.

"Receives" means acquiring possession, control, or title or lending on the security of the property.

"School Group" means any club, group, organization, or association of any school located in or having students that reside in this City which seeks to raise money for a school-sanctioned activity or project.

"Secondhand Dealer" means any Person who keeps a store, office, or Place of Business for the purchase, barter or exchange or sale of any secondhand merchandise of value, or who Engages in the Business of dealing in secondhand goods. A secondhand dealer does not include any Person who deals in the purchase, barter, exchange, or sale of used motor vehicles and trailers, or buys or sells fewer than five (5) firearms per year.

"Secondhand Precious Metal Dealer/Processor and/or Precious Gem Dealer" means any Person who engages in buying, selling, or processing gold, silver, platinum, other precious metal, secondhand articles containing any of such metals, secondhand precious gems or any articles containing any precious gems.

"Semi-Nude or Semi-Nudity" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

"Semi-Nude Model Studio" means a place where Persons regularly appear in a state of Semi-Nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other Persons. This definition does not apply to any place where Persons appearing in a state of Semi-Nudity did so in a class operated:

- A. By a college, junior college, or university supported entirely or partly by taxation;
- B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- C. In a structure:
  - 1. That has no sign visible from the exterior of the structure and no other advertising that indicates a Semi-Nude Person is available for viewing; and
  - 2. Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class.

"Sexual Device" means any three-dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Sexual Device does not include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

"Sexually Oriented Business or SOB" means an "Adult Bookstore, Adult Video Store, or Adult Device Store," an "Adult Cabaret," an "Adult Motion Picture Theater," or a "Semi-Nude Model Studio."

"Specified Anatomical Areas" means and includes:

- A. Less than completely and opaquely covered: human genitals; pubic region; buttock; and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Single Episode" means all conduct that is closely related in time and is incident to an attempt or an accomplishment of a single objective, or which results in a single citation.

"Sexually Oriented Business Licensee" means a Person in whose name a license to operate a Sexually Oriented Business has been issued, as well as any individual or individuals listed on the application for a Sexually Oriented Business license. In the case of an "Employee," it shall mean the Person in whose name the Sexually Oriented Business employee license has been issued.

"Sexually Oriented Business Operator" means any Person on the Premises of a Sexually Oriented Business who manages, supervises, or controls the business or a portion thereof. A Person may be found to be an operator regardless of whether such Person is an owner, part owner, or licensee of the business.

"Special Event" means an event occurring out of the ordinary course of neighborhood functions; such as races, runs, walks, parades, block parties (in excess of thirty (30) homes), entertainment programs, filming of movies, and similar events, which are primarily for the purpose of entertainment or fund raising and attract participants and/or observers and are conducted in or affect public facilities and/or public streets.



"Specified Criminal Activity" means any of the following specified crimes for which less than five (5) years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

- A. Prostitution or promotion of prostitution;
- B. Dissemination of obscenity or illegal pornographic materials; sale, distribution or display of harmful material to a minor;
- C. Sexual abuse; sexual abuse of a child; sexual exploitation of children; sexual performance by a child;
- D. Possession or distribution of child pornography;
- E. Sexual assault; sexual battery; rape;
- F. Indecent exposure; indecency with a child; molestation of a child;
- G. Distribution of a controlled substance;
- H. The crimes of criminal pandering, tax violations, embezzlement, or racketeering, if such crimes are directly related to the operation of a Sexually Oriented Business;
- I. Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
- J. Any offense in another jurisdiction that, had the predicate act(s) been committed in Utah, would have constituted any of the foregoing offenses.

"Specified Sexual Activity" means any of the following:

- A. Intercourse, oral copulation, masturbation, or sodomy; or
- B. Excretory functions as a part of or in connection with any of the activities described in (A) above.

"Telephone Service" means exchange access services, extended area service, customer access line charges and any service for which a tax or other charge was being paid pursuant to this Chapter.

"Transfer (Assignment) of Ownership or Control" of a business means any of the following:

- A. The sale, lease, or sublease of the business;
- B. The transfer of securities which constitute an Influential Interest in the business, whether by sale, exchange, or similar means;
- C. A Change in Ownership; or
- D. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the Person possessing the ownership or control.

"Transient Auction House" means any place, whether indoors or outdoors, located within South Salt Lake where any goods, wares, merchandise, or articles of value are offered for sale at auction and which is neither the permanent Place of Business for auction sales nor a permanent business which has an auction sale to dispose of its inventory, furnishings, and business equipment as it goes out of business.

"Use" has the definition assigned in Chapter 17.01 of this Code.

"Vendor" means any Person, group, organization, firm, or company which sells or offers to sell to the public any type of product, service, food, or drink at a City Event.

"Viewing room" means the room, booth, or area where a patron of a Sexually Oriented Business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.

**SECTION III:** Section **5.02.100 -Denial, Suspension, and Revocation of Business Licenses** is revised, as follows:

**5.02.100 - Denial, Suspension, and Revocation of Business Licenses.**

An application for a new business license, or for renewal of an existing business license, may be denied, or an existing business license may be revoked, for the following reasons:

- A. The applicant or licensee, or his or her business, does not meet zoning or other requirements set forth in this Code;
- B. False or incomplete information was provided on a business license application;
- C. The licensee or applicant has violated, or is violating, any provision of this Title, Chapter 8.08 – Nuisances, or any other provision of the City Code, state or federal statutes, or other regulations relating to or governing the applicant's or licensee's business;
- D. The licensee has obtained, the applicant has attempted to obtain, or the licensee or applicant has aided another Person to obtain, a license by fraud or deceit;
- E. The applicant for a renewal, or licensee, has failed to pay Salt Lake County ad valorem property taxes and/or personal property taxes, or City of South Salt Lake utility service charges, sales tax, or any other fee or fine owed to the City;
- F. The applicant or licensee has refused to allow authorized representatives of the City to make a lawful inspection of the business or has interfered with such representatives while in the lawful performance of their duty in making such an inspection;
- G. The applicant or licensee is not complying with a requirement or condition established by the Planning Commission or Community Development Department, if applicable, under a conditional use permit, by the land use authority, if applicable, the conditions of a variance or special exception, or by other agreement with the City;
- H. Violation of this Title by the agents or employees of a licensee or applicant, and violations of other laws by the agents or employees of the applicant or licensee while acting as an agent or employee of the licensee or applicant; or any other reason expressly provided for in this Title.

**SECTION IV:** Repeal and replace **Title 8 HEALTH AND SAFETY** as follows:

**TITLE 8 – HEALTH and SAFETY, NUISANCE, CODE ENFORCEMENT**

**Chapter 8.01 – DEFINITIONS**

"Abandoned" or "Idle Construction Site" means a site or building(s) where construction has begun but where construction has ceased, the building permit has expired for more than three months, and where exposed foundations, footings, rebar, framing, construction waste, large holes, piles of soil, sand, rock, and/or other open excavation exists.

"Administrative Citation" means a citation issued to a responsible person, which gives notice of a violation and the civil fee for such violation.

"Administrative Costs" means a fee established in the consolidated fee schedule, representing the proportional cost to the City of administering its code enforcement program, in addition to the actual cost of an abatement.

"Administrative Hearing" means a hearing held pursuant to the procedures established by Chapter 2.22 of this Code.

"Administrative Law Judge" means the person appointed by the Mayor or the Mayor's designee to preside over Administrative Hearings.

"Administrative Order" means an order issued by an Administrative Law Judge. The order may include an order to enter upon private property to abate a violation of this Code or state statute, to pay civil fees and Administrative Costs, to reverse or modify decisions of City officials as provided elsewhere in this Code or take any other action as authorized or required by state law, this Chapter, or applicable codes.

"Alarm Business" means any Person Engaged in the Business of selling, installing, planning the installations, assisting in planning, servicing, maintaining, monitoring, repairing, replacing, moving or removing Alarm Systems in the City.

"Alarm Administrator" means the individual designated by the chief of police to issue permits and enforce the provisions of this Title.

"Alarm Dispatch Request" means a notification to the police by the Alarm Business that an alarm, either manual or automatic, has been activated at a particular site.

"Alarm, Duress" means an alarm signal generated by the manual activation of a device intended to signal a crisis situation requiring police response.

"Alarm, False" means the activation of an Alarm System, which results in an arrival at the Alarm Site by the police department, when an Emergency does not exist. False Alarms include an alarm signal caused by conditions of nature, that are normal for that area and subject to control by the Alarm Business operator or Alarm User. A False Alarm does not include an alarm signal caused by extraordinarily violent conditions of nature such as tornados, floods, and earthquakes not reasonably subject to control.

"Alarm, Holdup" means an alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

"Alarm, Local" means any alarm device audible at the Alarm Site.

"Alarm, One Plus Duress" means the manual activation of a silent alarm signal by entering at a keypad a code that adds one to the last digit of the normal arm/disarm code. (Normal code = 1234; One plus duress code = 1235)

"Alarm Site" means a single premise or location served by an Alarm System or systems. Each tenancy, if served by a separate Alarm System in a multi-tenant building or complex, shall be considered a separate Alarm Site.

"Alarm System" means any mechanism, equipment, or device that is designated to detect an unauthorized entry into any building or onto any property, or to direct attention to a robbery, burglary, or other emergency in progress, and to signal the above occurrences either by a local or audible alarm or by a silent or remote alarm. The following devices do not constitute Alarm Systems within the meaning of this subsection:

1. Devices that do not register alarms that are audible, visible, or perceptible outside the protected premises;
2. Devices that are not installed, operated or used for the purpose of reporting an emergency to the police department;
3. Alarm devices affixed to motor vehicles, unless the vehicle is permanently affixed to the real property at the Alarm Site; and
4. Alarm devices installed on a temporary basis by the police department.

"Alarm User" means the Person in control of any building, structure, or facility or portion thereof wherein an Alarm System is maintained.

"Apartment Complex" means any building or group of buildings containing two or more rental dwelling units.

"Automatic Dialing Device" means an Alarm System that automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message indicating the existence of an emergency situation that the Alarm System is designed to detect.

"Boarded Building" means a building in which all or some of the utilities have been disconnected in which some or all windows or doors are boarded to prevent entry at the ground and second level (if a second level exists).

"Boarding" means the secured covering of openings to a building or structure to prevent entrance pursuant to the provisions and standards of this Chapter.

"Business Owner" means the Person or Persons Engaged in Business within South Salt Lake City.

"Central Station" means an office that alarm systems are connected to, where operators supervise the circuits on a continuous basis and the relay live messages to the police department.

"Certificate of Noncompliance" means an official document or form identifying the existence of one or more violations of the codes adopted in Chapter 8.10 of this Code.

"City" means the city of South Salt Lake, Utah, including the Mayor and all other employees of the administrative branch of the City.

"Closed to Occupancy" means a building in which no person may eat, sleep, live, or otherwise reside or occupy the building or any portion thereof for any purpose. Buildings closed to occupancy may only be entered by the owner, owner's agent, or other authorized persons to do repair or remediation work.

"Criminal Conduct" means any criminal offense at a property or a Place of Business that can be reasonably linked to a patron, invitee, Manager, owner, or employee of the business, a resident or occupant of the property or Place of Business, or any person in the case of vacant property.

"Dilapidated" means: (1) a building or structure or part thereof that by reason of inadequate maintenance, structural deterioration, or abandonment is unsafe, unsanitary, or constitutes a hazard and is no longer fit for use as originally intended; or (2) a building in which no legitimate human occupancy is occurring, as determined by the City, and where any of the following exist: (i) the utilities have been disconnected; (ii) windows are missing; (iii) windows are open or broken; (iv) doors are open, missing, or broken; or (v) the interior of the building is in such a condition due to of lack of utilities, the presence of vermin, structural defects, electrical and plumbing defects, or filth, that the building is not habitable.

"Emergency" means the commission or attempted commission of a robbery, burglary, or other criminal action.

"Emergency Conditions" means one or more conditions that exist in a building or on a property that create the likelihood of imminent danger to the life or safety of anyone who enters or occupies the property or building.

"Employee" means any Person who is employed by an Alarm Business and who sells, installs, services, maintains, repairs, or replaces Alarm Systems in the City.

"Enforcement Official" means any person authorized by the City to enforce violations of state law or the South Salt Lake City Code, including, but not limited to, zoning officers, police officers, code enforcement officers, building inspection officials, fire marshals, and animal control officers.

"Engage in Business / Engaged in the Business" means to conduct, manage, or carry on any activity as owner, officer, agent, Manager, employer, servant, or lessee.

"Fireworks" are those designated as "Class C common state-approved explosives" by the state of Utah pursuant to Utah Code 53-7-202 and 53-7-220 through 53-7-225 and any subsequent amendments and/or revisions. Fireworks also include sparklers of any length or size.

"Habitable Building" means a building fit for human habitation, or in non-residential buildings, immediate occupancy, without any additional repairs or rehabilitation and for which utility meters and service lines are in place, although they may be locked off. All windows are in place, securely closed and glazed, and all exterior doors are securely closed by means of a lock. Buildings that have any condition rendering them dilapidated are not habitable buildings.

"Imminent Life Safety Hazard" means any condition that creates a serious and immediate danger to life, property, health, or public safety.

"Intrusion Alarm System" means an Alarm System signaling an entry or attempted entry into the area protected by the system.

"Indoor Sales" means sales conducted inside a permanent structure located in areas properly zoned for retail sales or sales from a vehicle or trailer.

"Itemized Statement of Costs" means a written notice to a Responsible Person, itemizing the City's actual and administrative cost of abating a state law or City Code violation.

"Municipal Action" means a Notice of Violation and Summons, an Administrative Citation, an Itemized Statement of Costs, a Notice of Emergency Abatement, Notice of Noncompliance, or other notice of any other adverse municipal decision for which the right to an Administrative Hearing is specifically provided by ordinance.

"Neighboring Resident or Business" means a Person or corporation, respectively, residing in a home, owning property, or maintaining a business within 300 feet of the property line of the parcel that is the subject of the complaint.

"Notice and Order" means a written notice issued by the City to the Property Owner stating the reason(s) why a building/property must be secured, the date by which it must be secured, the method(s) for securing the building, and the appeal process.

"Notice of Compliance" means a document or form approved by the Director of Urban Livability that indicates that a property complies with the requirements outlined in a Notice of Violation and Summons.

"Notice of Emergency Abatement" means a written notice issued by the City that informs a Responsible Person of emergency abatement actions taken by the City and provides an itemized statement of costs for those actions.

"Notice of Noncompliance" means a written notice issued by the City that informs a Responsible Person of one or more violations of the codes adopted in Chapter 8.10 of this Code, sets a date by which the violation(s) must be remedied, informs the Responsible Person that a Certificate of Noncompliance will be recorded on the property if the violation(s) is not remedied by the date therein, contains a draft Certificate of Noncompliance, and provides notice of a right to appeal.

"Notice of Violation and Summons" means a written notice that informs a Responsible Person of Code violations, orders certain steps to correct the violations, demands appearance at an Administrative Hearing, and sets forth a date and time for the hearing.

"Nuisance Conduct or Conditions" includes both Criminal Conduct and Objectionable Conditions.

"Objectionable Conditions" means any single condition that is disruptive to the public safety of the community, the quiet enjoyment of neighboring uses, or results in the harassment of patrons or other persons, including, but not limited to: the negligent spread of COVID-19 or any other disease implicated in a declaration of a public health emergency, disturbance of the peace, intoxication, drinking in public, harassment of passers-by, gambling, prostitution, public urination, lewd conduct, gang activity, drug trafficking, excessive littering, unlawful discharges of hazardous materials, rodent harborage, parking violations, unlawful accumulation of solid waste, fouling of the air with offensive odors or contaminants, excessive dust, or excessive loud noise.

"Outdoor Sales" means sales conducted in a temporary and moveable stand erected for the primary purpose of selling Fireworks.

"Permanent Structure" means a non-moveable building that is permanently affixed to the ground.

"Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, limited liability company, corporation, association, legal entity, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

"Permittee" means the Person to whom an Alarm User permit is issued.

"Place of Business" means a location maintained or operated by a Person within the City from which that Person Engages in Business. Place of Business includes a parking lot owned or leased by the business, parking areas traditionally used by patrons or employees of the business, and the public rights-of-way adjacent to the business premises as it is used by Persons attracted to the business.

"Property Owner" means the record owner of real property as shown on the records of the Salt Lake County Recorder.

"Rehabilitation" means the correction of conditions that render the property/building unfit or Dilapidated or Unsecured.

"Responsible Person" means the person(s) determined by the City who is responsible for causing, maintaining, or allowing the continuation of a violation of the City Code. Responsible Person shall include, but is not limited to, a Property Owner, agent, tenant, lessee, occupant, architect, builder, contractor, Business Owner, or other person who individually or together with another person is responsible for causing, maintaining, or allowing the continuation of a violation of any provision of the City Code.

"Unsecured Building" means a Vacant Building where one or more window(s) and/or door(s) or other openings that are or can be reasonably used for entry into a building are missing, broken or are not otherwise secured against unauthorized persons entering the building.

"Vacant Building" means a habitable building unoccupied by the Property Owner or tenants for a period longer than 60 days.

"Vacant Building, Compromised" means a Vacant Building for which the City has received evidence that unlawful entry has been made. Compromised Vacant Building also includes any building that is unsecured.

"Vacant Building, Maintained" means a Vacant Building that maintains the appearance of occupancy, including the following indicators: maintained landscaping, including watering and timely vegetation management; well-maintained exterior appearances of facades, roofs, windows, doors, and paint; securely locked and glazed windows, with appropriate window coverings; securely locked doors; and yards free from refuse or debris. Maintained Vacant Buildings do not have any boarded windows or doors.

"Vacant Building, Nuisance" means a property containing a Vacant Building for which three or more enforcement actions have occurred within a one-year period.

"Vermin" means rats, mice, cockroaches, bedbugs, feral cats, mosquitoes, or any other pest as determined by the City to be harmful to life, health, or welfare.

"Verification" means an attempt by the Alarm Business, or its representative, to contact the Alarm Site by telephonic or other electronic means, whether or not actual contact with a person is made, before requesting a police dispatch, in an attempt to avoid an unnecessary Alarm Dispatch Request.

"Visual Obscuring Device" means an Alarm System or device that emits or produces real or simulated smoke, fog, vapor, or any like substance that obscures vision.

## **Chapter 8.08 - NUISANCES**

### **8.08.010 - Purpose and Intent.**

Business Owners and Property Owners shall properly manage their businesses and properties to prevent them from becoming a nuisance to public safety personnel, Neighboring Residents or Businesses, or deteriorating into havens for crime or the spread of disease to the degree that Nuisance Conduct or Conditions are created. This Chapter creates a system to initiate administrative actions to abate Nuisance Conduct or Conditions, to encourage mediation and creative problem-solving to abate Nuisance Conduct or Conditions, and to impose civil fines or other penalties if a Business Owner or a Property Owner fails to take reasonable actions to address the identified Nuisance Conduct or Conditions.

### **8.08.020 - Existing Law Continued.**

The provisions of this Chapter shall not invalidate any other title, chapter, or ordinance of this Code, but shall be read in conjunction with those titles, chapters, and ordinances and shall be used as an additional remedy for enforcement of violations thereof.

### **8.08.030 - Criminal or Civil Prosecution.**

**A.** The City shall have sole discretion in deciding whether to pursue remedies to address Nuisance Conduct or Conditions under this Chapter, file a civil nuisance action under this Chapter or under state law, to bring criminal charges, order suspension or revocation of business licenses, order immediate

action to terminate or abate Nuisance Conduct or Conditions, pursue administrative enforcement actions for the violation of any of its ordinances or applicable Code requirements, or any combination thereof. City officials are permitted to exercise executive discretion in determining which course of enforcement to pursue, taking into consideration the severity of an incident, the culpability of involved parties, the history of the involved property, and whether other exigent circumstances exist that exacerbate the public impact of the Nuisance Conduct or Conditions.

**B.** The enforcement of the provisions of this Chapter does not prevent the City from pursuing other remedies for specific violations, including fines, abatement, suspension, revocation, injunctions, or other penalties. Specific violations may be considered Nuisance Conduct or Conditions under this Chapter, even if the Business Owner or Property Owner has already incurred civil or criminal penalties for that offense.

#### **8.08.040 - Effect of Headings.**

Title, chapter, 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 this Chapter.

#### **8.08.050 - Severability.**

If any section, subsection, sentence, clause, phrase, portion, or provision of this Chapter is, for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have adopted this Chapter 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 made to this Chapter.

#### **8.08.060 - Civil Liability.**

By establishing performance standards or by establishing obligations to act, it is the intent of the City Council that South Salt Lake City employees and officers are exercising discretionary authority in pursuit of an essential governmental function and that any such standards or obligations shall not be construed as creating a ministerial duty for purposes of tort liability.

#### **8.08.070 - Acts Include Causing, Attempting, Aiding, and Abetting.**

**A.** Whenever an act, condition, or omission is referred to or made unlawful in this Chapter, it shall include causing, attempting to cause, permitting, aiding, or abetting such act, condition, or omission.

**B.** Each unlawful act, condition, or omission under this Chapter is a separate Class B misdemeanor.

#### **8.08.080 - City Alcoholic Beverage Licensees' Duties Under Code Remain in Effect.**

The provisions of this Chapter do not overrule or excuse a City alcoholic beverage licensee from the duties imposed by the provisions of Chapter 5.04, Alcoholic Beverages. The provisions of this Chapter supplement penalties imposed through other enforcement mechanisms in the Code and are



required due to the unique public nuisance created as a consequence of repeated underlying conditions or offenses.

#### **8.08.090 - Duty to Properly Manage.**

Every owner shall have a duty to properly manage the property to prevent the creation of a nuisance to neighboring businesses, residents, passers-by, or the public, that results from Nuisance Conduct or Conditions by patrons, guests, employees, occupants, or those who frequent the business premises or the property, regardless of whether the persons are owners, invitees, or trespassers.

#### **8.08.100 - Nuisance Declared.**

Pursuant to Title 10, Chapter 8, Section 60 of the Utah Code, the City of South Salt Lake's City Council declares that the quiet enjoyment of property and the general health, safety, and welfare of the community are intolerably impaired—and a public nuisance exists—when Nuisance Conduct or Conditions occurs at any property or Place of Business. The provisions of this Chapter are intended to supplement other penalties imposed through other enforcement mechanisms and are required due to the unique public nuisance created as a consequence of the repeated nature of the underlying conditions or offenses.

#### **8.08.110 - Per Se Nuisance Due to Criminal Activity.**

- A. A Business Owner or Property Owner (as applicable) has created a Nuisance Conduct or Condition if, within 180 consecutive days, not less than three (3) separate incidents of Criminal Conduct occur at or within the property or Place of Business.
- B. The provisions of this Section do not apply to apartment complexes, as defined in Section 4.04.020, which are governed by Chapter 4.20, Apartment Nuisances. The provisions of this Section apply to all other rental housing that does not fit the definition of an apartment complex.
- C. The provisions of this Section apply to a mobile home park only if the Nuisance Conduct or Conditions occurs in areas of the park that are accessible to both guests and residents of the park.

#### **8.08.120 - Objectionable Conditions.**

- A. A Business Owner or Property Owner has created Nuisance Conduct or Conditions if it is determined that Objectionable Conditions exist at a property two or more times within a 180-day period.
- B. A condition is not an Objectionable Condition if the Business Owner or Property Owner promptly corrects the condition upon receipt of notification of the condition pursuant to this Chapter.

#### **8.08.130 - Declaration of Nuisance Conduct or Conditions.**

The City may declare the existence of Nuisance Conduct or Conditions, as described under Section 8.08.110 and/or Section 8.08.120 of this Code, at a property at any time. A Property or Business Owner shall have ten (10) days to appeal a City declaration of Nuisance Conduct or Conditions in accordance with the provisions of Chapter 2.22 of this Code.

#### **8.08.140 - Request for Nuisance Determination Action by Neighboring Resident or Business.**

- A.** A Neighboring Resident or Business may request a determination action for Nuisance Conduct or Conditions described under Section 8.08.120, as set forth below.
- B.** A Neighboring Resident or Business may submit a written request for a determination of Objectionable Conditions to the Community Development Department on a form provided by the City.
- C.** All relevant and available information and documentary evidence of the Objectionable Conditions must accompany the request for determination.
- D.** Once a request for determination of Objectionable Conditions is submitted to the Community Development Department, the request will be assessed for sufficiency to proceed to mediation or administrative hearing. A request shall be sufficient if credible, objective evidence of the Objectionable Conditions is presented. If the request is deemed insufficient, the Department shall provide a written response to the requester explaining its decision.

#### **8.08.150 - Mediation of Request by Neighboring Resident or Business Before Hearing.**

- A.** Before referring the request for determination of Objectionable Conditions to the Administrative Law Judge, the Community Development Department shall contact or attempt to contact the Property Owner or Business Owner and shall offer to mediate the dispute between the parties.
- B.** A Property Owner or Business Owner that does not respond within five (5) business days to the City's contact under Subsection (A) above, waives the opportunity for mediation under this Section, and the request for determination of Objectionable Conditions shall be submitted to the Administrative Law Judge for a hearing.
- C.** Mediation shall be conducted at City Hall, and provided by City staff; alternatively, an independent third party may mediate the dispute if both the action requester and the Property Owner or Business Owner agree on the mediator and agree on how the costs of the mediator will be shared among themselves.
- D.** Mediation may take place over multiple sessions in order for the parties to gather additional information and to consider remedies to the Objectionable Conditions.
- E.** If the parties are able to reach a resolution that includes remediation of the conditions that are the subject of the action request, then an agreement shall be entered between the Property Owner or the Business Owner and the City in which the owner agrees to promptly mitigate the Objectionable Conditions under a corrective action plan. The corrective action plan shall impose timelines and provide for penalties in the event the owner does not complete the mitigation actions.
- F.** Failure to comply with a corrective action plan shall result in the matter being submitted to the Administrative Law Judge for enforcement of the corrective action plan.
- G.** If the parties are not able to reach an agreement that resolves the requester's concerns within thirty (30) days from the beginning of mediation, then the request for a determination of Objectionable Conditions shall be forwarded to the Administrative Law Judge.

#### **8.08.160 - Notice.**

A. Notice to the Property Owner, Business Owner, or Responsible Person (as applicable) of a request for or initiation of a Nuisance Conduct or Conditions determination shall be complete upon:

1. in the case of a Property Owner, by mailing notice to the owner of record on file with the County Recorder's office; or

2. In the case of a Business Owner, by:

i. providing personal service to a Person in control of the business premises during regular business hours;

ii. depositing a letter for delivery via regular mail, addressed to the address provided on the business license records of the City; or

iii. if mail is returned as undeliverable, by posting a copy of the notice in a prominent location at the business, such as at an entrance or gate.

3. In the case of a Responsible Person, by personal service.

B. Notice of a hearing before the Administrative Law Judge shall be in conformance with Section 2.22.050 of this Code, and shall be provided to the Property Owner or the Business Owner (as applicable), and the requester if the request for determination of Objectionable Conditions was initiated by a party other than the City.

C. Failure to notify the requesters shall result in the hearing being rescheduled.

#### **8.08.170 – Hearing Before Administrative Law Judge.**

A. At a hearing on whether a business is a *per se* nuisance due to Criminal Conduct, the administrative law judge shall consider evidence of the violations.

1. Police reports, witness statements, and other evidence in the police department's case file shall be accepted and considered by the administrative law judge in rendering its decision.

2. A conviction for an offense listed as Criminal Conduct that arises out of an incident that occurred at the business premises conclusively establishes that the crime of conviction occurred. A plea in abeyance or reduction of the offense to an attempted offense is considered a conviction for purposes of this Chapter. The form of a plea such as guilty, no contest, Alford, nolo contendere, etc., shall not invalidate a conviction for purposes of this Chapter.

3. The Property or Business Owner (as applicable) shall have the opportunity to present evidence, cross-examine witnesses who testify at the hearing, and present argument.

B. At a hearing on whether a Property Owner or a Business Owner has permitted or contributed to Objectionable Conditions, the administrative law judge shall consider evidence provided by all parties. The parties shall have the opportunity to present evidence, cross-examine witnesses who testify at the hearing, and present argument.

C. At a hearing on a failure to comply with a corrective action plan entered pursuant to Section 8.08.150, the Administrative Law Judge shall consider the steps taken by the owner and determine whether the owner has fulfilled its obligations under the corrective action plan.

1. The City shall present evidence that the owner has failed to comply with its obligations under the corrective action plan.

2. The owner may present evidence of steps taken to comply with the corrective action plan.
3. Either party shall have the opportunity to cross-examine any witnesses who testify at the hearing, and present argument.
4. During a hearing reviewing a failure to comply with a corrective action plan, the Administrative Law Judge does not consider whether the request for determination was appropriate, that issue having been waived by the owner who entered the agreement.
5. In the event the Administrative Law Judge finds that the owner has failed to comply with any obligation under the corrective action plan, the Administrative Law Judge shall impose the penalties as set forth in the corrective action plan.
- D. The burden of proof for all proceedings in these matters, including affirmative defenses, shall be a preponderance of the evidence.
- E. Notwithstanding Section 8.08.180, a nuisance determination is a final, appealable order.

#### **8.08.180 - Continuing Supervision.**

- A. When the administrative court has entered a finding of Nuisance Conduct or Conditions, the owner is subject to the continued supervision of the administrative court for six (6) months. During that time, the administrative court may schedule review hearings to track the owner's compliance with the administrative order, impose previously suspended penalties, or convene a new hearing based upon newly alleged incidents of Nuisance Conduct or Conditions.
- B. Before imposing any new penalty for subsequent Nuisance Conduct or Conditions, the Administrative Law Judge shall ensure that due process is afforded to the owner through the opportunity for a hearing in compliance with Section 8.08.170.
- C. The finding of a subsequent incident of Nuisance Conduct or Conditions, that occurs within the six-month (6) supervision period is subject to new penalties and shall restart the six-month (6) supervision period.
- D. Each new incident that results in additional penalties may be appealed. Such appeals are limited to a review of that new incident and may not address previous determinations by the Administrative Law Judge that were not timely appealed.

#### **8.08.190 – Administrative Penalties.**

- A. A business or property that is found to have Nuisance Conduct or Conditions is subject to penalties that include: a one-time fine, a daily fine, license suspension, license revocation, physical abatement, or demolition. Administratively imposed penalties shall be proportional to the severity, taking into consideration the totality of the circumstances, including:
  1. severity of the nuisance;
  2. duration of the nuisance;
  3. impact of the nuisance on the public and Neighboring Residents and Businesses;
  4. history of the nuisance at the property or business;
  5. owner's attempts at mitigating the nuisance; and

- 6. cost of nuisance mitigation.
- B. A penalty may be stayed or reduced if the owner:
  - 1. abates the nuisance within a time period established by the Administrative Law Judge; or
  - 2. adopts and implements additional principles of Crime Prevention Through Environmental Design (CPTED), if and as required and approved by the administrative law judge.
- C. The Administrative Law Judge may additionally enter an order of abatement that requires the owner to correct nuisance conditions and authorizes the City to abate the nuisance, including through order of demolition, if the owner does not timely perform the abatement.
- D. In the event the City proves that a nuisance poses a danger to human health or human life, unabated, the Administrative Law Judge shall order the abatement or demolition as requested by the City.

#### **8.08.200 - Defenses.**

For purposes of this Chapter, an act of Criminal Conduct shall not accrue against the owner if the owner proves that it took all reasonable steps, including implementation of any recommendations issued in writing by the Police Chief or designee, to prevent reoccurrence of the Criminal Conduct.

#### **8.08.210 - Determination to Follow Business Owner and Property Location.**

A determination of Nuisance Conduct or Conditions follows the Business Owner and/or runs with the property. A determination of Nuisance Conduct or Conditions is not eliminated by transferring the property or the business to another Person or entity, changing the name of the business, or moving the business to a new location.

#### **8.08.220 – Appeals.**

A party may appeal a determination of Nuisance Conduct or Conditions or a penalty imposed by the Administrative Law Judge under this Chapter to the District Court.

#### **8.08.230 – Emergency Abatement to Protect Public Health.**

Nothing in this Chapter shall prevent the City from abating Nuisance Conduct or Conditions that denigrate the public health and welfare in a declared emergency.

#### **8.08.240 – Noise Abatement.**

- A. No undeveloped land in South Salt Lake City that is adjacent to a state highway shall be developed for any purpose incompatible with a noisy environment, unless the development of said property shall include appropriate noise abatement measures determined necessary by the City and consistent with the UDOT's noise impact criteria in effect at the time.
- B. Violation of this Section shall constitute a Class B misdemeanor.

## **Chapter 8.10 – BUILDING AND CONSTRUCTION CODES ADOPTED**

### **8.10.010 – International Building Code and International Residential Code Adopted.**

The International Building Code and International Residential Code, as adopted by the State of Utah and published by the International Code Council (ICC), establishing rules and regulations for the design, construction quality of materials, use and occupancy, location and maintenance of building and structures are hereby adopted as the Building Code of South Salt Lake City, together with Rule R156-56 of the Utah Administrative Code, and the following Amendments:

**A.** Appendix J of the 2012 International Building Code is adopted and incorporated herein with the following amendment: Except as specified in Section J103 of this section, no person shall do any grading, removing or grubbing of existing vegetation without first obtaining a grading permit from the Building Official.

**B.** Appendix P of the 2006 International Residential Code is adopted and incorporated herein.

**C.** Building Permit Fees. A fee for each building permit shall be paid to the City as set forth in the consolidated fee schedule as adopted by the South Salt Lake City Council.

**D.** Section 901.2 AUTOMATIC FIRE EXTINGUISHING SYSTEMS is hereby amended by adding the following wording:

PURPOSE. The purpose of this section is to establish minimum standards to safeguard life, health, property, public welfare, and to protect the owners and occupants of structures within South Salt Lake City by regulating and controlling the design and construction of buildings and structures.

**E.** Except when they are in conflict with the provisions of Title 15A of the state code, and the technical codes adopted therein, the following technical codes are adopted by reference as ordinances of the City of South Salt Lake.

### **8.10.020 – International Fire Code Adopted.**

The International Fire Code, as adopted by the State of Utah and published by the International Code Council is hereby adopted as the Fire Code of the South Salt Lake City. Appendix D of the International Fire Code is also adopted and incorporated herein.

**A.** Removal of Debris. All debris created from a fire shall be removed and the property restored to normal condition within 90 days after the fire or as soon as the property is released by the Fire Marshal, the South Salt Lake City Building Official, or insurance adjuster, whichever is later. In the event the debris is not cleared, such debris shall be declared a nuisance and removed by the City at the expense of the Property Owner.

**B.** Required Permits. All applications for permits required by the Fire Code shall be submitted to the Building Official in such form and detail as the City shall prescribe. All applications for permits shall be accompanied by plans required by the City and fees paid as set forth in the City's consolidated fee schedule.

### **8.10.030 – Automatic Fire Extinguishing Systems Adopted.**

All newly constructed structures or buildings used for or to be used for human occupancy shall have an automatic fire extinguishing system installed in conformity with the requirements of the International Fire Code Section 903.1.

**8.10.040 – Mechanical Code and Fuel Gas Code Adopted.**

The International Mechanical Code and International Fuel Gas Code, as adopted by the State of Utah and published by the International Code Council, establishing rules and regulations for the design, installation, maintenance, alterations, and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings. Similarly, the International Fuel Gas Code applies to the installation of fuel-gas piping systems, fuel gas appliances, gaseous hydrogen systems, and related accessories are hereby adopted as the Mechanical Code of South Salt Lake City.

**8.10.050 – Uniform Housing Code Adopted.**

The Uniform Housing Code, 1997 edition, printed as code in book form, and adopted by the International Conference of Building Officials, providing minimum requirements for the protection of life, limb, health, safety and welfare of the general public and the owners and occupants of residential buildings is hereby adopted as the Housing Code of South Salt Lake City.

- A. Application.** The provisions of the Housing Code shall apply to all buildings or portions thereof used, designed for or intended to be used for human habitation. Occupancies in existing buildings may be continued as provided in Chapter 34 of the International Building Code, except as to those structures found to be substandard as defined in the Housing Code.
- B. Violations.** It shall be unlawful for any Person whether as owner, lessee, sublessee, or occupant to erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises or cause or permit the same to be done, contrary to or in violation of any of the provisions of the Housing Code or any order issued by the Building Official pursuant thereto.
- C. Permits and Inspections.** It shall be unlawful for any Person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, or cause or permit the same to be done, without first obtaining a separate building permit for each such building or structure from the Building Official in the manner and according to the applicable conditions prescribed in the Housing Code.

**8.10.060 – Uniform Administrative Code Adopted.**

South Salt Lake City hereby adopts the Uniform Administrative Code as published by the International Conference of Building Officials. Chapters on fees shall only be utilized to the extent they do not conflict with the provisions of this Code.

**8.10.070 – International Plumbing Code Adopted.**

The International Plumbing Code, as adopted by the State of Utah and published by the International Code Council, is hereby approved and adopted as the code of the City of South Salt Lake. Sections 106.1 and 107.1 of the 2012 International Plumbing Code are amended as follows:

**A.** Plumbing Permits. No new construction, alterations, or additions to existing plumbing shall be installed without first obtaining a permit and a fee paid according to the City's consolidated fee schedule.

**B.** Plumbing Inspections. The Building Official shall perform all functions of plumbing inspection and shall, among other things, inspect the construction, installation, and repair of all plumbing fixtures, appliances, and apparatus connected with a plumbing system that are installed within the limits of South Salt Lake City and shall require that they conform to the provisions of the Plumbing Code.

#### **8.10.080 – National Electrical Code Adopted.**

The National Electrical Code, as adopted by the National Fire Protection Association and the State of Utah, printed as a code in book form is hereby approved and adopted as the Electrical Code of South Salt Lake City, including all City and state amendments that are incorporated herein by this reference.

**A.** Electrical Inspection. The Building Official shall perform all functions of electrical inspection and shall, among other things, inspect the construction, installation, and repair of all electrical light or power wiring, fixtures, appliances, or apparatus installed within the limits of the City and shall require that they conform to the provisions of the Electrical Code. The Building Official shall follow the same enforcement standards as are established and currently adopted by the State of Utah.

**B.** Permits, Inspections, and Fees. No alterations or additions shall be made in existing wiring, nor shall any new wiring or any apparatus that generates, transmits, transforms, or utilizes any electricity be installed without first obtaining a permit therefor. All permit applications for electrical work shall be made in writing. The fee for electrical permits is set forth in the City's consolidated fee schedule.

#### **8.10.090 – Uniform Code for Building Conservation Adopted.**

The city of South Salt Lake does hereby adopt the Uniform Code for Building Conservation as published by the International Conference of Building Officials together with all appendices. All references to codes replaced by other codes shall mean the replacement codes.

#### **8.10.100 – Uniform Code for the Abatement of Dangerous Buildings Adopted.**

The Uniform Code for the Abatement of Dangerous Buildings, 1997 edition, printed as a code in book form and published by the International Conference of Building Officials, providing for a just, equitable and practicable method whereby buildings or structure which from any cause endanger the life, limb, health, morals property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated, or demolished, is hereby adopted as the Abatement of Dangerous Buildings Code for the City of South Salt Lake.

#### **8.10.110 – Enforcement.**

**A.** The Building Official or his/her designee is authorized and responsible for enforcement of all building related codes adopted by this Chapter. The Fire Marshal or designee shall be the principal enforcement officer with respect to the fire codes.

**B.** It shall be a Class B misdemeanor for any Person to fail to comply with the provisions of this Chapter and all codes referred to herein. In addition to any criminal prosecution, the City may pursue



any other legal remedy to ensure compliance with this Chapter including, but not limited to, injunctive relief.

C. In addition to the other remedies provided under the Code, The Building Official or his/her designee, may record through the Salt Lake County Recorder's Office a Certificate of Noncompliance on a property when a Notice of Noncompliance has been served on a Responsible Person and violations have not been remedied by the date specified in the Notice of Noncompliance and such Notice of Noncompliance has not been appealed pursuant to South Salt Lake Municipal Code Chapter 2.22.

## **Chapter 8.14 - CODE ENFORCEMENT PROGRAM**

### **8.14.010 - Short Title.**

This Chapter shall be known as the "Code Enforcement Program." This Chapter shall also be known as Title 8, Chapter 14 of the South Salt Lake City Code. It may be cited and pleaded under either designation.

### **8.14.020 - Purpose.**

The enforcement of state law and the South Salt Lake City Code is essential to the peace, quality of life, health, safety, and morals of the community. Code enforcement is effective when done quickly and fairly. An enforcement system that allows for a combination of emergency, judicial, and administrative remedies is effective for correcting violations.

### **8.14.030 - Scope.**

The provisions of this Chapter may be applied to all violations of state law and the South Salt Lake City Municipal Code that occur within City limits. This Chapter establishes procedures and remedies that may be used by the City to achieve compliance with applicable codes, including procedures that may be used to curtail an emergency. This Chapter also provides an appeal procedure from civil enforcement actions.

### **8.14.040 - Existing Law Continued.**

The provisions of this Chapter shall not invalidate any other title, chapter, or ordinance of the City, but shall be read in conjunction with those titles, chapters, and ordinances and shall be used as an additional remedy for enforcement of violations thereof.

### **8.14.050 - Criminal Prosecution Right.**

The City shall have sole discretion in deciding whether to file a civil and/or criminal case or pursue an administrative enforcement action for the violation of state law or any of the City's ordinances or requirements. The enactment of this Chapter shall not be construed to limit the City's right to prosecute any violation as a criminal offense.

### **8.14.060 - Effect of Headings.**

Title, chapter, 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 this Chapter.

**8.14.070 - Severability.**

If any section, subsection, sentence, clause, phrase, portion, or provision of this Chapter 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 Chapter. The City Council declares that it would have adopted this Chapter 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 made to this Chapter.

**8.14.080 - Civil Liability.**

By establishing performance standards or obligations to act, it is the intent of the City that South Salt Lake City employees and officers are exercising discretionary authority in pursuit of an essential governmental function and that any such standards or obligations shall not be construed as creating a ministerial duty for purposes of tort liability.

**8.14.090 - General Rules of Interpretation.**

For purposes of this Chapter:

- A. Any gender includes the other gender;
- B. "Shall" is mandatory; "may" is permissive;
- C. The singular number includes the plural, and the plural the singular;
- D. Words used in the present tense include the past and future tense, and vice versa;
- F. Words and phrases used in this Chapter and not specifically defined shall be construed according to the context and ordinary usage of the language;
- G. Unless otherwise specified, the terms "hereof," "herein," and similar terms refer to this Chapter as a whole.

**8.14.110 - Acts Include Causing, Aiding, and Abetting.**

Whenever any act or omission is made unlawful in this Chapter, the act or omission shall also include the causing, permitting, aiding, or abetting such act or omission.

**8.14.120 - Service of Notice Requirements.**

- A. Whenever notice is required under this Chapter, the notice shall be served by one of the following methods, unless different provisions are otherwise specifically stated to apply:
  - 1. Upon a Property Owner:

- a. Service by sending a copy of the notice by mail to the address of the Property Owner as listed on the rolls of the Salt Lake County Recorder; or
- b. Personal service.
- 2. Upon a tenant of real property:
  - a. Service by sending a copy of the notice by mail addressed to "resident", business owner, or the name of the tenant, if known, at the address of the property that is the subject of the code enforcement proceeding; or
  - b. Personal service.
- 3. Upon a Business Owner:
  - a. Service by sending a copy of the notice by mail to the address on file with the Community Development Department; or
  - b. Personal service
- 4. Notwithstanding any other Code provision, personal service upon any Responsible Person shall be sufficient to meet the service of notice requirements of the Code.
- B. Failure of a Responsible Person to actually receive notice shall not affect the validity of any action taken hereunder if notice has been served in the manner set forth in subsection A(1), (2), or (3) of this Section.
- C. Service by mail in the manner set forth in Subsection (A) shall be deemed served on the third day after the notice is sent.
- D. As long as a Responsible Person is served, the failure to serve any other Responsible Person with notice in accordance with this Section shall not affect the validity of any proceeding taken hereunder.
- E. Whenever a document is recorded with the County Recorder as authorized or required by this Chapter or applicable state codes, recordation shall provide constructive notice to the public of the information contained in the recorded documents.

#### **8.14.130 - General Enforcement Authority.**

Whenever an Enforcement Official finds that a violation of state law or the South Salt Lake City Municipal Code has occurred or continues to exist, the official may undertake any of the procedures herein. The director of Urban Livability or any designated Enforcement Official shall have the authority to obtain compliance with the provisions of this Code subject to the provisions of this Chapter. Such authority shall include the power to issue Notices of Violation and Summons and Administrative Citations, inspect public and private property, abate nuisances on public and private property, and to use any remedy available under this Chapter or at law.

#### **8.14.140 - Hearing and Review Authority.**

The Administrative Law Judge is the default arbiter for review of code violations charged by Administrative Citation or Notice of Violation and Summons. The Administrative Law Judge shall have the authority to make final administrative determinations in administrative proceedings, may assess civil fines, may order the abatement of violations, may assess costs of abatement to a Responsible Person, and may conduct any other form of administrative review as designated by ordinance.

**8.14.150 - Adoption of Policy and Procedures.**

The Mayor or the Mayor’s designee shall establish policies and procedures relating to the enforcement of City ordinances, maintaining records, and other administrative functions.

**8.14.160 - Choice of Remedies.**

The Enforcement Official shall have the choice of which remedies to pursue for a given violation. Abatement does not have to be preceded by a citation, nor is there any necessity to hold a hearing prior to any remedy, unless stated by this Chapter.

**8.14.170 - Authority to Inspect.**

Enforcement Officials are authorized, in accordance with applicable law, to enter upon any property or premises to ascertain whether the provisions of this Code are being obeyed and to make any reasonable examination or survey necessary to determine compliance with this Code, in a manner that is consistent with the Fourth Amendment to the United States Constitution and the Constitution of the State of Utah. 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.

**8.14.180 - False Information or Refusal Prohibited.**

It is unlawful for any Person to willfully make a false statement or refuse to give his/her name or address with intent to deceive or interfere with the performance of an Enforcement Official’s duties under the provisions of this Code. A violation of this Section shall be a Class B misdemeanor.

**8.14.190 - Failure to Obey a Subpoena.**

It is unlawful for any person to willfully refuse or fail to obey a subpoena issued for an Administrative Hearing. A violation of this Section shall be a Class B misdemeanor.

**8.14.200 - Administrative Citation.**

**A.** Upon discovering a violation of state law or the South Salt Lake City Municipal Code, an Enforcement Official may serve an Administrative Citation on a Responsible Person.

**B.** The Administrative Citation shall be served in the manner prescribed in Section 8.14.120 of this Chapter.

**8.14.210 - Contents of Citation.**

Each Administrative Citation shall contain the following information:

- A.** The name and address (if known) of the Responsible Person;
- B.** The date and location of each violation;
- C.** The Code sections violated;

- D. The amount of the civil fee imposed for each violation;
- E. An explanation of how the civil fee shall be paid, the time period in which the civil fee shall be paid, and the consequences of failure to pay the civil fee when due;
- F. Identification of the right to and the procedures for requesting an Administrative Hearing as set forth in Section 2.22.040 of this Code; and
- G. The signature of the Enforcement Official and, if possible, the signature of the Responsible Person.

**8.14.220 - Civil Fees Assessed.**

- A. Civil fees shall be due and payable immediately upon service of an Administrative Citation.
- B. The civil fee for each violation listed on the Administrative Citation shall be established in the City's consolidated fee schedule and shall be paid within ten days of service.
- C. Civil fees shall be double if paid after ten days but within 20 days of service.
- D. Civil fees shall be triple if paid after 20 days but within 30 days of service.
- E. A timely request for an Administrative Hearing shall stay the doubling or tripling of fees.
- F. Civil fees not paid after 30 days shall be subject to collection costs, including, but not limited to, administrative fees, attorney fees, interest and other expenses, and any statutory maximum in this Code or state law; as well as the initial treble fee set out by subsection D of this Section.
- G. Payment of any civil fee shall not excuse a failure to correct a violation or any reoccurrence of the violation, nor shall it bar further enforcement action by the City.
- H. Civil fees shall be paid to the City of South Salt Lake at:  
City of South Salt Lake  
C/O City Attorney's Office  
220 E Morris Ave  
South Salt Lake, UT 84115

**8.14.230 - Administrative Citation Hearing.**

- A. A Responsible Person that has received an Administrative Citation shall have the right to contest the citation at an Administrative Hearing. A request for Administrative Hearing shall comply with the requirements set forth in Section 2.22.040 of this Code.
- B. Failure to timely request an Administrative Hearing and pay any Administrative Hearing Fee shall constitute a waiver of the right to a hearing and a waiver of the right to appeal.

**8.14.240 - Authority to Mandate Appearance at Hearing.**

- A. When issuing an Administrative Citation, an Enforcement Official may require, upon notice, a Responsible Person, to appear at an Administrative Hearing to answer the allegations. The hearing shall be conducted in accordance with Section 2.22.080 of this Code, and the citation shall be issued so as to comply with the notice requirements of Section 2.22.050.

**B.** The Administrative Citation shall be served in the manner prescribed in Section 8.14.120 of this Chapter.

**C.** The Responsible Person shall not be required to pay an Administrative Hearing fee if the Enforcement Official issues a citation requiring appearance at an Administrative Hearing, and doubling and tripling fee provisions shall be calculated from the date of adjudication, rather than the date of violation.

**8.14.250 - Contents of Mandatory Appearance Citation.**

A citation mandating appearance shall contain the following information:

**A.** The name and address of the Responsible Person;

**B.** The date and location of each violation;

**C.** The Code sections violated;

**D.** The date of the mandatory hearing;

**E.** A demand that the person appear at the Administrative Hearing;

**F.** A summary of the Responsible Person's rights at the Administrative Hearing;

**G.** A statement that failure to appear at the Administrative Hearing will result in an Administrative Order being entered against the Responsible Person and waiver of the right to appeal the order; and

**H.** The signature of the Enforcement Official, and if possible, the signature of the Responsible Person.

**8.14.260 - Failure to Appear at Mandatory Hearing.**

The City may proceed with an administrative Hearing and the Administrative Law Judge shall take evidence, which may be received by proffer, and may enter an Administrative Order upholding the citation and imposing fees in accordance with the fee schedule when a Responsible Person who, after receiving notification of a mandatory appearance, fails to appear at the hearing.

**8.14.270 - Administrative Abatement.**

Any condition caused, maintained, or permitted to exist in violation of any provision of state law or the South Salt Lake City Municipal Code may be abated by the City pursuant to the procedures set forth in this Chapter. The Director of Urban Livability shall determine whether abatement, administrative citation, or other choice of action is preferred for a certain circumstance. Abatement is an additional remedy to an Administrative Citation and not be subordinate or superior to it. Abatement and removal, without prior administrative process, is allowed to prevent public injury associated with a state law or City Code violation during a declared emergency.

**8.14.280 - Notice of Violation and Summons and Hearing.**

**A.** Whenever an Enforcement Official determines that a violation of the South Salt Lake City Municipal Code has occurred or continues to exist, a Notice of Violation and Summons may be served

upon the Responsible Person. The Notice of Violation and Summons shall include the following information:

1. The name and address of the Responsible Person;
  2. The street address of the violation;
  3. The date of the violation;
  4. The Code section(s) violated;
  5. A description of the condition(s) that violates the applicable Code section(s);
  6. A statement of the remedial action required to voluntarily abate any violation, including corrections, repairs, demolition, removal, or other appropriate action;
  7. The deadline to correct the violation;
  8. An explanation of the consequences should the Responsible Person fail to comply with the terms and deadlines as prescribed in the Notice of Violation and Summons, including civil fines; revocation of permits; recordation of the Notice of Violation and Summons; withholding of municipal permits; involuntary abatement of the violation; payment of actual costs of abatement; payment of administrative costs; liens placed on real property, and any other legal remedies;
  9. A statement that civil fees will begin to accrue immediately on expiration of the deadline to correct violation together with the amount of the civil fee for each violation and a statement that the civil fee shall accrue daily until the violation is corrected;
  10. A demand that the Responsible Person cease and desist from further action causing the violation and commence and complete all action to correct violations as directed by the City;
  11. A statement that when the violation is brought into compliance, the Responsible Person must request an inspection;
  12. The date and time set for the Administrative Hearing;
  13. A demand that the Responsible Person appear at the Administrative Hearing;
  14. A summary of the Responsible Person's rights at the Administrative Hearing;
  15. A statement that failure to appear at the Administrative Hearing may result in an administrative order being entered against the Responsible Person and that the right to appeal the Administrative Order will have been waived; and
  16. A statement that an administrative fee will be assessed regardless of whether the violation is corrected by the established deadline.
- B. The Notice of Violation and Summons shall be served in the manner prescribed in Section 8.14.120 of this Chapter.

#### **8.14.290 - Failure to Attend Notice of Violation and Summons Hearing.**

When a Responsible Person who, after receiving notification of an Administrative Hearing as provided in Section 8.14.280 of this Chapter, fails to appear at the hearing, the Administrative Law Judge, upon receiving evidence of the alleged violation, shall enter an Administrative Order requiring the action demanded in the City's Notice of Violation and Summons and granting the City authority to go upon the

private property to abate the violation if the Responsible Person fails to do so by the deadline established in the Notice of Violation and Summons.

#### **8.14.300 - Failure to Comply with Administrative Order.**

It is unlawful for any Responsible Person to fail to comply with the terms and deadlines set forth in an Administrative Order enforcing a Notice of Violation and Summons. Violation of this Section shall be a Class B misdemeanor.

#### **8.14.310 - Inspections.**

It is the duty of the Responsible Person to request an inspection when a violation has been corrected. If no inspection is requested, it shall be deemed *prima facie* evidence that the violation remains uncorrected. If City conducted abatement occurs, no such inspection shall be necessary for work conducted by the City or its agent. If more than one inspection is necessary, an inspection fee set by the City's consolidated fee schedule shall be assessed for each subsequent inspection.

#### **8.14.320 - Authority to Abate.**

Under authority of an Administrative Order enforcing a Notice of Violation and Summons or a citation for which appearance was mandatory and a hearing was held, the Director of Urban Livability or the Director's designee and any necessary agents are authorized to enter upon private property to abate a violation of this Code. The director shall seek an order from the Administrative Law Judge to assess all costs for abatement to the Responsible Person and may use any remedy available under the law to collect such costs. If additional abatement is necessary within two years treble fines and penalties shall be assessed against the Responsible Person in addition to other remedies and abatement costs.

#### **8.14.330 - Procedures for Abatement.**

- A. Violations may be abated by City personnel or by a private contractor acting under the direction of the City.
- B. Pursuant to an Administrative Order, or in a declared emergency that is exacerbated by the violation, City personnel or a private contractor may enter upon private property in a reasonable manner to abate a violation as required by the emergency circumstances or as specified in the Notice of Violation and Summons and Administrative Order.
- C. If a Responsible Person abates the violation before the City abates the violation pursuant to a Notice of Violation and Summons or administrative order, consistent with the administrative order, the Director of Urban Livability or the Director's designee shall assess all costs actually incurred by the City against the Responsible Person.

#### **8.14.340 - Civil Fees.**

- A. If a Responsible Person fails to correct a violation by the deadline listed in a Notice of Violation and Summons or an Administrative Order entered after a hearing on a citation for which appearance was mandated, civil fines shall be paid to the City as follows:
  - 1. For each violation, the civil fine shall be as shown in the consolidated fee schedule;



2. After notice and reasonable opportunity to cure has lapsed, each and every subsequent day of violation shall be a separate violation until the violation is corrected;

3. The maximum amount of civil fines for each violation that may accrue under Subsection (A)(2) shall be one thousand dollars (\$1,000.00);

4. An administrative charge, consistent with state law, in an amount to be established in the consolidated fee schedule shall be assessed regardless of whether a Responsible Person remedies the violation by the deadline set forth in the Notice of Violation and Summons.

B. Payment of a civil fine shall not excuse any failure to correct a violation or the reoccurrence of the violation, nor shall it bar further enforcement action by the City.

C. Civil fines shall be paid to the City of South Salt Lake:

City of South Salt Lake

C/O City Attorney's Office

220 E Morris Ave

South Salt Lake, UT 84115

#### **8.14.350 - Procedures for Recordation/Lien.**

A. For violations of the South Salt Lake City Municipal Code, when a Notice of Violation and Summons or a citation mandating appearance has been served on a Responsible Person, an Administrative Hearing held, and the violation remains uncorrected after the deadline to correct set forth in the Notice of Violation and Summons or the Administrative Order entered after a hearing, the Director shall cause to be recorded the Notice of Violation and Summons and Administrative Order or mandatory citation and Administrative Order with the Salt Lake County Recorder's office.

B. The recordation of an Administrative Order shall not be deemed an encumbrance on the property but shall merely place interested parties on notice of any continuing violation found upon the property. However, if after an Administrative Hearing authorizing abatement or other related tasks, costs are incurred by the City, either in administration or in abating the violation or other related tasks, and the costs are not paid, a lien or garnishment may be placed to recover costs and may be considered an encumbrance on the property.

C. Notice of the recordation shall be served in the manner prescribed in Section 8.14.120 of this Chapter.

#### **8.14.360 - Notice of Compliance.**

A. When a violation is corrected, a Responsible Person shall request an inspection from the Director of Urban Livability or the Director's designee.

B. When the Director of Urban Livability or the Director's designee receives such request, the director or the director's designee shall perform an inspection of the property to determine whether the violation has been corrected, all necessary permits have been issued, and all final inspections have been performed as required by applicable codes.

C. The Director of Urban Livability or the Director's designee shall serve a Notice of Compliance in the manner prescribed in Section 8.14.120 of this Chapter if the director determines that:

1. All violations listed in the recorded Notice of Violation and Summons and Administrative Order have been corrected;
  2. All necessary permits have been issued and finalized;
  3. All assessed civil fees have been paid; and
  4. All assessed administrative fees and costs have been paid.
- D. If a Notice of Violation and Summons and Administrative Order has been recorded with the Salt Lake County Recorder, the Director of Urban Livability or the Director's designee shall cause to be recorded the Notice of Compliance with the recorder's office. Recordation of the Notice of Compliance shall have the effect of canceling the recorded Notice of Violation and Summons and Administrative Order.

#### **8.14.370 - Prohibition Against Issuance of Municipal Permits.**

The City shall 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 where a violation is located. The City shall withhold such permits until a Notice of Compliance has been issued by the Director of Urban Livability or the Director's designee. The City shall not withhold permits necessary to obtain a Notice of Compliance or to correct serious health and safety violations.

#### **8.14.380 - Emergency Abatement.**

- A. Whenever the City determines that an Imminent Life Safety Hazard exists that requires immediate correction or elimination, the City shall exercise the following powers without prior notice to the Responsible Person:
1. Order the immediate vacation of any tenants, and prohibit occupancy until all repairs are completed;
  2. Post the premises as unsafe, substandard, or dangerous;
  3. Board, fence, or secure the building or site;
  4. Raze and grade that necessary portions of the building or site to prevent further hazard to the general public;
  5. Make any minimal emergency repairs as necessary to eliminate any Imminent Life Safety Hazard;  
or
  6. Take any other action appropriate to eliminate the emergency.
- B. Enforcement Officials may, based on exigent circumstances, enter property without a search warrant or Administrative Order to accomplish the above listed acts.
- C. The City shall pursue only the correction or abatement necessary to eliminate the immediacy of a public health hazard or Imminent Life Safety Hazard. Costs incurred by the City during the emergency abatement process shall be calculated and an Itemized Statement of Costs shall be prepared. Further correction needed to bring the violation into compliance shall follow the Notice of Violation and Summons procedures set forth in this Chapter.

D. The Director of Urban Livability or the director's designee may also pursue any other administrative or judicial remedy to abate any remaining violations.

E. After an emergency abatement, the City shall, within ten days, serve the Itemized Statement of Costs in the manner prescribed in Section 8.14.120 of this Chapter. Such notice shall include a description of the imminent public health or life safety hazard warranting the emergency abatement.

F. A Responsible Person has the right to contest the need for the emergency abatement and/or the reasonableness of the Itemized Statement of Costs at an Administrative Hearing. A request for such hearing shall be filed within ten days from the date of service of the notice of Itemized Statement of Costs in accordance with Section 2.22.040 of this Code. Failure to request an Administrative Hearing shall constitute a waiver to an Administrative Hearing and waiver of the right to appeal.

#### **8.14.390 - Assessment of Costs.**

A. Whenever actual costs are incurred by the City to remedy violations of this Code, such costs shall be assessed against the Responsible Person. In addition to the actual costs to the City to abate the violation, an administrative cost, in the amount established in the consolidated fee schedule, shall also be assessed.

B. When abatement is completed, the Director of Urban Livability or the director's designee shall prepare an Itemized Statement of Costs.

C. The Director of Urban Livability or the Director's designee shall cause to be served the Itemized Statement of Costs by certified mail to the last known address of the Responsible Person. The notice shall demand full payment within 30 days to the City of South Salt Lake. It shall advise the Responsible Person of the right and the procedures to request an Administrative Hearing to challenge the reasonableness of the costs assessed.

D. A Responsible Person shall have a right to an Administrative Hearing to contest the reasonableness of the Itemized Statement of Costs. After receiving an Itemized Statement of Costs, the Responsible Person shall pay the costs assessed within 30 days unless an Administrative Hearing is requested to challenge the accuracy of the statement. A request for such hearing shall be in writing and shall be filed within 10 days from the date of service of the Itemized Statement of Costs in accordance with Section 2.22.040 of this Code. Failure to request an Administrative Hearing as provided shall constitute a waiver to an Administrative Hearing and a waiver of the right to appeal.

E. If a Responsible Person fails to pay costs by the deadline imposed in an Administrative Order, the Director of Urban Livability or the Director's designee shall take such steps as are necessary to record with the Salt Lake County Recorder a lien against the property.

#### **8.14.400 - Late Fee and Interest.**

The failure of any person to pay assessed costs by the deadline specified in an invoice shall result in a late fee calculated at the rate of one and one-half percent per month but shall not be less than the minimum late fee established in the consolidated fee schedule.

#### **8.14.410 - Administrative Cost Fund.**

Administrative costs and fees collected pursuant to this Chapter shall be deposited in a fund, as established by the City for the enhancement of the City's code enforcement efforts and to reimburse City departments for costs associated with the administration of this Chapter. Fees and costs deposited in this fund shall be allocated pursuant to the City's budget process and as authorized by applicable law.

**8.14.420 - Allocation of Civil Fees.**

Civil fees collected pursuant to this Chapter shall be deposited in the South Salt Lake City General Fund. Civil fees deposited in the General Fund may be allocated pursuant to the City's budget process and as authorized by applicable law.

**Chapter 8.18 - FIREWORKS**

**8.18.010 - Permitted Sales.**

Only Outdoor Sales of Fireworks are permitted in the City subject to all requirements and limitations of this Chapter.

**8.18.020 - Selling Fireworks—License Required.**

No Person shall offer for sale or sell at retail any Fireworks without holding a valid license from the city of South Salt Lake.

**8.18.030 - License Application.**

All applications for a license to sell Fireworks shall:

- A. be on a form provided by the City;
- B. set forth the proposed area and location where the Fireworks will be sold and stored;
- C. include written consent for the sale of Fireworks and the erection of the Fireworks stand from the owner of the property upon which Fireworks are to be sold;
- D. include insurance certificates evidencing (1) general liability coverage in favor of the applicant of at least \$200,000.00; (2) property damage coverage in favor of the applicant of at least \$200,000.00; and (3) designation of the City as an additional insured with a waiver of subrogation;
- E. be accompanied by the fee set forth in the consolidated fee schedule;
- F. be accompanied by a refundable cleanup fee set forth in the consolidated fee schedule;
- G. include a statement that the applicant agrees to strictly comply with the terms of the license and furnish any additional information upon request; and
- H. include a copy of a valid Utah sales tax permit for the Firework sales business.

**8.18.040 - Appeals.**

Appeals of decisions regarding fireworks shall be made using the Administrative Hearing process outlined in Chapter 2.22 of this Code. A hearing request shall be in writing and must be received no later than ten days following such decision.

**8.18.050 - Display of License and Sales Tax Permit.**

The City license to sell Fireworks and the Utah sales tax permit shall be displayed in a prominent place immediately adjacent to the cash register in the building or on the stand where Fireworks are sold.

**8.18.060 - Outdoor Sales—Stand Requirements.**

- A.** At each location where Fireworks are sold or stored, there shall be an easily accessible 2.5-gallon water pressure fire extinguisher or equivalent.
- B.** "No Smoking" signs shall be prominently displayed throughout the area where Fireworks are sold or stored.
- C.** Smoking, the use of an open flame, or the discharge of Fireworks is prohibited within 50 feet of any location where fireworks are sold or stored.
- D.** Every Fireworks stand shall have posted on it in a prominent manner signs that read substantially as follows:

  - 1.** No smoking, open flames, or discharge of fireworks within 100 feet; and
  - 2.** The dates on which Fireworks may be legally discharged pursuant to state law.
- E.** No Fireworks stand shall be erected more than five days before each of the permitted sales dates under state law.
- F.** Every Fireworks stand must be removed within five days of the end of each of the permitted sales periods.
- G.** All electrical installations associated with a Fireworks stand must conform to the applicable electrical code and be accompanied by an electrical permit obtained from the City building department.
- H.** Each stand shall be located in accordance with the applicable City zoning ordinances.
- I.** No stand shall be located in such a way as to eliminate the off-street parking required by the applicable zoning ordinances.
- J.** All stands shall have an aisle at least three feet wide that must be maintained free and clear of all obstructions.
- K.** All stands shall be constructed to prevent customers from reaching the Fireworks until the Fireworks are actually purchased.
- L.** All stands must be securely locked when not in use, and no Person shall be allowed to sleep overnight in the stand.
- M.** The area surrounding the stand shall be kept free and clear of all weeds, debris, and other flammable materials for a distance of 25 feet in all directions.
- N.** Stands shall only be located on hard surface.

O. No stand shall be located within 100 feet of a gasoline, propane, oil, or other flammable material storage site or dispensing device.

P. Stands shall be maintained in a neat and orderly fashion at all times. All wastepaper, spilled powder, and broken fireworks shall promptly be removed from the stand and properly disposed of.

Q. Stands shall have at least one supervisor, 18 years of age or older, on duty at all times. No Person under 14 years of age shall be employed anywhere Fireworks are sold or offered for sale.

#### **8.18.070 - Fireworks Stand Cleanup Assessment and Deposit Return.**

Upon removal of the Fireworks stand, the fire department will assess the cleanliness and condition of the stand location. If the fire department finds the site sufficiently clean and in appropriate condition, the licensee may reclaim his/her cleanup deposit from the City.

#### **8.18.080 - Persons Under Sixteen—Prohibited Acts.**

It is illegal for any Person under 16 years of age to purchase Fireworks unless accompanied by a parent or guardian. It is illegal to sell Fireworks to any Person under 16 years of age unless such Person is accompanied by a parent or guardian.

#### **8.18.090 - Discharge Restriction.**

A. It is illegal for any Person to ignite, explode, project, or otherwise fire or use, or to permit the ignition, explosion, projection, firing, or use of any Firework upon, over, or onto the property of another without the Property Owner's consent.

B. It is illegal to ignite, explode, project, or otherwise fire or use any Firework within 20 feet of any residence, dwelling, or other structure.

C. It is illegal to ignite, explode, project, or otherwise fire or use any Firework in any area of the city west of 900 West.

D. It is illegal to ignite, explode, project, or otherwise fire or use any Firework on any property owned by the City without express written consent from the Fire Chief or the Chief's designee.

E. Authority of Fire Chief. The Fire Chief, or the Chief's designee, during times of adverse fire and hazardous environmental conditions, may review information regarding meteorological conditions, moisture content of plants and soil, and other information related thereto, and may exercise discretion based thereon, in the protection of the health, safety, and welfare of the public, to prohibit the ignition or use of all Fireworks. Such a prohibition shall be for a defined period of time and may be limited to identified areas of the City or may be applicable throughout the City.

F. The Fire Chief, or the Chief's designee(s), upon a finding that such a prohibition should take place, shall published with the City a map of the specific identified areas of the City where the restrictions shall occur.

G. No Person shall ignite, discharge, or otherwise use any Fireworks in any area of the City designated by the Fire Chief as hazardous as provided in subsection E of this Section.

H. A violation of this Section is a class B misdemeanor.

### **8.18.100 - Penalties and License Revocation.**

A violation of the provisions of this Chapter shall be a Class B misdemeanor. Any violation of the provisions of this Chapter by a licensee or his/her agents shall be grounds for immediate revocation of the Fireworks license. Upon probable cause to believe there have been or are violations occurring, or any threat to health and safety, the Police or Fire Chief may seize such license and all Fireworks offered for sale, sold, or in the possession of any Person in violation of this Chapter.

## **Chapter 8.24 - CESSPOOLS—PRIVY VAULTS**

### **8.24.010 - Cesspools and Privy Vaults Unlawful.**

- A. It is unlawful for a Property Owner, agent, or other Person having control of or occupying any property in South Salt Lake City to maintain, use, cause, or permit to exist any privy vault, septic tank, or cesspool on any property located within 200 feet of an existing public sewer or storm water system.
- B. It is unlawful for any structure containing plumbing to remain unconnected from a public sewer for more than twenty 20 days after an accepted public sewer line is ready to receive connections thereto.
- C. If the City determines that a structure is required to be connected to a sewer system and is not, the City shall provide appropriate notice to the Property Owner, agent, or occupant of the offending structure.

## **Chapter 8.28 - COMMUNICABLE DISEASES**

### **8.28.010 - Duty to Report Communicable Diseases.**

- A. It shall be the duty of every physician or other person caring for the sick within the City to make a written report to the board of health and the South Salt Lake City Mayor of the existence of any case of a communicable disease in the City; and it shall be the duty of every person, owner, agent, manager, principal or superintendent of any public or private institution, dispensary, hotel, boarding house, or lodging house to make a report in like manner of any inmate, occupant, or boarder contacting or suffering from any communicable disease.
- B. It is unlawful for any physician, nurse, or other person having knowledge of the existence of any communicable disease or having reason to believe that any such disease exists in the City to fail to report the same to the board of health and the South Salt Lake City Mayor; provided, however, that it shall not be necessary to make such a report if the same has been reported as required, by any other person. The responsibility for determining whether or not the disease has been reported shall rest with the person required to make the report and it shall be no defense to a prosecution under this Section that the person required to make the report thought that the report had been turned in by others having the same duty or obligation herein.

## **Chapter 8.32 - BURGLARY AND FIRE ALARM SYSTEMS**

### **8.32.010 - Applicability.**

The provisions of this Chapter shall apply to all Alarm Users, Alarm Businesses, Employees, and Alarm Systems that are installed, connected, monitored, operated, or maintained on or prior to 1999.

### **8.32.020 - Registration Required to Operate Alarm Business.**

It is unlawful for any Person to own, manage, conduct, or carry on the business of selling, leasing, installing, servicing, maintaining, repairing, replacing, moving or removing, or causing to be sold, leased, installed, serviced, maintained, repaired, replaced, moved or removed in or on any building or other property within the City any device known as an Intrusion or Physical Duress Alarm system, or Automatic Dialing Device connected to an answering service, unless the Person holds a valid security certificate therefor, granted and subsisting in compliance with the provisions of the Utah Burglar Alarm Certification Act, Sections 13-18-1 et seq., Utah Code Annotated 1953, as amended, and the name, address and certificate number or I.D. card number registered with the chief of police. Alarm Businesses must list an alarm or monitoring company that is currently licensed with the Utah Division of Professional Licensing on the registration form to obtain a permit number from the City.

### **8.32.030 - Alarm User Permit.**

**A.** Every Alarm User shall obtain an Alarm User permit issued by the Chief of Police before operating an Alarm System. An Alarm User permit application shall be filed with the police department in a form as provided by Section 8.32.060. A separate Alarm User permit is required for each Alarm Site. The Alarm User permit application fee shall be submitted with a complete application no later than five days following the alarm installation or the transfer of an existing system to a different Alarm User or Alarm Business. An Alarm User shall be responsible for the proper maintenance and operation of an Alarm System and for payment of all fees and penalties under this Chapter.

**B.** An Alarm Business must not request a police response to an alarm signal for seven days after the Alarm User registers the Alarm System with the police department, unless this provision is waived in writing by the Chief of Police because of imminent danger to persons or property.

**C.** It is unlawful to report to the police department or other emergency service agency an alarm from an Alarm System that does not have a valid Alarm User permit. Alarm signals from an intrusion alarm with no permit or a suspended or revoked permit, will result in no police response. This provision shall not apply to the reporting of the sounding of a local alarm.

**D.** Effective January 1, 2000, a \$125.00 penalty per incident shall be charged to a central station and/or Alarm Business for each request for police response where no valid Alarm User permit exists.

**E.** An Alarm User permit shall be valid until there is a change in ownership of the Alarm System, at which time the permit shall expire. An Alarm Business must notify the police department of any Alarm User, who has a service contract with or is monitored or maintained by the Alarm Business, who has canceled or otherwise terminated their alarm services. Alarm User permits are not transferable.

**F.** Registration of an Alarm System is not intended to, nor will it, create a contract, duty, or obligation, either expressed or implied, to respond. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as



provided by law is retained. By registering an Alarm System with the City, the Alarm User acknowledges that police response may be based on factors such as:

1. Availability of police units;
2. Priority of calls;
3. Weather conditions;
4. Traffic conditions;
5. Emergency conditions; and
6. Staffing levels.

#### **8.32.040 - Employees and Installers Identification Cards.**

It is unlawful for any Person to Engage in the Business of installing, servicing, maintaining, repairing, moving, or removing, in or on any building or other property within the City, any burglar, robbery, or other Emergency Alarm System, or monitoring and relaying calls for such system, unless such Person has a valid license or permit issued by the state pursuant to Utah Code section 58-55-3, or successor sections.

#### **8.32.050 - Alarm User Information.**

A. An alarm permit application shall be completed by the Alarm User or the Alarm Business and submitted to the City police department prior to the operation of any Alarm System.

B. An alarm permit application shall set forth the full name, address, and telephone number of both the Owner or lessee of the premises on which the system is installed, operated, connected, monitored, or maintained, and the name of the licensed Alarm Business installing, monitoring, maintaining, or servicing the system. The permit application shall also contain the names, addresses, and telephone numbers of three people who may be contacted by police officers responding to an alarm. The persons listed shall have authority to act for the Alarm User to grant access to any portion of the premises concerned and shall be knowledgeable in the basic operation of the Alarm System. The alarm permit shall contain such additional information as the Chief of Police shall reasonably deem necessary to properly identify and locate the user, the Alarm Business installing, servicing, monitoring, or maintaining the alarm system and the Persons to be contacted in the event of the filing of an alarm report.

#### **8.32.060 - User Instructions.**

Every Alarm Business selling, leasing, or furnishing to any Alarm User an Alarm System installed on premises shall furnish the user with written instructions and training to enable the user to operate the Alarm System properly and avoid False Alarms. Written operating instructions and the phone number of the monitoring station shall be maintained at each Alarm Site. The Alarm Business shall notify the Alarm User of the permit requirements and this alarm ordinance.

#### **8.32.070 - False Burglary Alarms.**

A. Any burglary alarm user having more than four false alarms within any twelve-month period shall be subject to suspension of police response and/or revocation of the permit and shall be guilty of a

misdemeanor. Revocation of a user permit shall be in accordance with the license revocation provisions specified in Chapter 5.02 of this code, or its successor provisions. A certified letter will be sent to the alarm user and alarm business after the fourth false intrusion alarm informing them of the upcoming suspension or revocation. A hearing officer hearing a revocation proceeding shall have authority to suspend a user permit in lieu of revocation in appropriate cases. Any city burglary alarm user whose user permit is suspended or revoked by the city shall pay a reinstatement fee of one hundred dollars (\$100.00) to the city before such permit shall be reinstated or reissued.

**B.** A penalty is imposed for false alarms on an intrusion alarm system to which a peace officer responds to the call or arrival. The penalty is assessed on the user of the alarm system for each false alarm, after two false alarms, in any twelve-month period. The amount of the fee is one hundred fifty dollars (\$150.00) for the third and consecutive intrusion alarms.

**C.** The South Salt Lake city police department will respond to all robbery/duress/panic alarms, when possible, regardless of the alarm permit holder's status; however, the police department's response to these types of activations are limited to burglar alarm systems which require an intentional act by a person on the premises to activate these types of alarms. Activation of these types of alarms which are determined to be false by the police department will be assessed a penalty of fifty dollars (\$50.00) on the first, one hundred dollars (\$100.00) on the second, two hundred dollars (\$200.00) for the third, three hundred dollars (\$300.00) for the fourth, five hundred dollars (\$500.00) for the fifth and each additional alarm. If the alarm system is determined to be faulty, a nuisance, or in noncompliance with this chapter, and any amendments thereto, the police department has the option to not respond to the alarm activation.

**D.** All alarm dispatch requests caused by an actual criminal offense, or with evidence of an attempted criminal offense, shall not be counted as a false alarm. The criminal offense must be reported within five business days of the activation and must be accompanied by a police report.

**E.** The alarm administrator or any law enforcement supervisor may cancel, without notice, any alarm dispatch caused by power or weather-related causes or other emergencies based upon priority, or alarm considered to be a nuisance.

**F.** All penalties assessed under this chapter shall be due and payable on the date written notice of any penalty due is issued by the city treasurer. Any penalty which is paid within thirty (30) days of the due date shall be reduced by fifty dollars (\$50.00). Any penalty, which is paid after thirty (30) days and within sixty (60) days of the due date, shall be reduced by twenty-five dollars (\$25.00). Any penalty paid after sixty (60) days from the due date shall not be reduced. If any penalty is not paid within ninety (90) days of the due date, the city may use such lawful means as are available to collect such penalties. In the event the city files an action in court to recover such penalties, the city shall be entitled to recovery of its costs and attorney's fees in addition to the penalties due and owing.

#### **8.32.080 - False Fire Alarms.**

**A.** Any alarm user having four or more false fire alarms within any twelve-month period shall be subject to nuisance alarm fees for each incident. The fee shall be established in the city's consolidated fee schedule. The fee shall be due and payable upon written notice by a city official, which may be provided through citation or a notice of violation prepared in compliance with chapter 8.14 of this code. Unpaid fees shall be subject to collections actions. The reductions identified in Section 8.32.080(F) are not applicable to fees assessed for false fire alarms.

**B.** Fire officials shall send notice to a responsible person after the third false alarm, notifying the owner of the malfunction, and the potential fees which will be imposed on the next false alarm. Notice shall be provided by mailing or hand-delivering a copy of the letter to the business address.

**C.** Appeal. A person may appeal the imposition of the nuisance alarm fee by filing a notice of appeal to the administrative law judge, as provided in Chapter 2.22 of this code.

#### **8.32.090 - False Alarm Prevention Course.**

The alarm administrator may implement a "false alarm prevention course." The course shall inform alarm users of the problems created by false alarm dispatches and how users may operate an alarm system without generating false alarm dispatches. Users who complete the course shall be issued a certificate worth the dismissal of one false alarm penalty equal to one hundred dollars (\$100.00). No permittee shall be entitled to take such course and receive a penalty waiver more than once per year.

#### **8.32.100 - Inter-agency Communications.**

**A.** All central stations or other answering services shall provide the police department's dispatch, at the time of filing the alarm report, with the alarm user's permit number, with a toll-free telephone number for contacting the central station dispatchers and for obtaining the information required under Section 8.32.060, or its successor.

**B.** A central station performing monitoring services shall attempt verification of every alarm signal, except duress or hold-up alarm activation, before requesting a police response to an alarm signal. Violation of this section shall result in a civil penalty of one hundred twenty-five dollars (\$125.00) per incident.

**C.** In the event that a central station becomes aware that an intrusion alarm which has been called into the police dispatch by such central station is false, the central station shall cancel the alarm call with the police dispatch.

#### **8.32.110 - Deliberate False Alarms.**

No person shall cause to be transmitted any intrusion or physical duress alarm knowing the same to be false or without basis in fact. Central stations shall not request law enforcement officers to respond to alarm scenes when monitoring equipment indicates an alarm system malfunction signal or when there have been four or more false alarms within a 24-hour period.

#### **8.32.120 - Local Alarm System-Cutoff Required When.**

Burglary, robbery, or other Emergency alarm systems which use a local audible or visual device to attract the attention of the public shall be equipped with an automatic cutoff device which will terminate the audible or visual alarm within 15 minutes and which will not sound again as a result of the same event that resulted in the original activation.

#### **8.32.130 - Police Call Records.**

Alarm businesses which request police response to alarm signals shall maintain a record of all police calls, the time, date and location of the alarm and the name, address and phone number of the alarm user. The records shall indicate the cause of the alarm, if known. This record shall be current and shall be made available to the chief of police or the chief's designated representative at any time during normal business hours.

#### **8.32.140 - Administration and Enforcement.**

**A.** The provisions of this chapter shall be administered and enforced by the chief of police. The chief of police, or his/her authorized representative, which may be the chief building inspector, is authorized to make inspections of burglar, robbery, and other Emergency alarm systems and of the premises wherein said devices or systems are located. Such individual shall have authority at reasonable times and upon oral notice to enter upon any premises within the city to undertake such inspections and to determine whether such systems are being used in conformity with the provisions of this chapter.

**B.** Subject to the approval of the mayor, the chief of police, or his or her authorized representative, shall have power to make such reasonable rules and regulations as may, in the discretion of the chief of police, be deemed necessary to implement the provisions of this Chapter.

#### **8.32.150 - Operational Defects to be Rendered.**

**A.** All alarm users must have the user's alarm system inspected by an alarm business on a regular yearly basis.

**B.** All alarm systems shall have a sufficient backup power supply that will become effective in the event of power failure or outage in the source of electricity from the utility company. Such power supply shall last a minimum of three hours.

**C.** No alarm business shall program alarm systems, so they are capable of sending one plus duress alarms. Violation of this section shall result in civil penalty of one hundred twenty-five dollars (\$125.00) per incident.

**D.** Alarm companies shall not install a device for activating a hold-up alarm, which has a single action, non-recessed button. Violation of this section shall cause a civil penalty of one hundred twenty-five dollars (\$125.00) per incident.

**E.** It is the responsibility of the alarm business and technician to prevent false alarms during installation, system repairs or system service. Proper notification should be made to the monitoring company that the system uses a test mode to avoid dispatching of law enforcement. Violation of this section shall result in a civil penalty of one hundred twenty-five dollars (\$125.00) per incident.

**F.** Vision Obscuring Device. It is unlawful for any person to install or use an alarm system or device that emits or produces real or simulated smoke, fog, vapor or any like substance that obscures vision.

#### **8.32.160 - Automatic Dialing and Prerecorded Message Alarm Systems Unlawful.**

It is unlawful to maintain, operate, connect, or allow to be maintained, operated or connected, any automatic dialing device which automatically dials the police department and then relays any prerecorded message to report any robbery, burglary, or other Emergency.

### **8.32.170 - City Liability Limitations.**

The city shall not be liable for any defects in operation of burglar or robbery alarm systems, for any failure or neglect to respond appropriately upon the receipt of an alarm nor for failure or neglect of any person registered or issued a permit pursuant to this chapter in connection with the installation, operation or maintenance of the equipment necessary to or incident to the operation of such system. In the event the city finds it necessary to order the system disconnected, the city shall incur no liability for such action.

### **8.32.180 - Violation—Penalty.**

Notwithstanding any other provision in this chapter, failure of any person to comply with the requirements of this chapter shall constitute a Class B misdemeanor.

### **8.32.190 - Appeal Procedures.**

A. Appeals of actions regarding burglary and fire alarm systems shall be made using the administrative hearing process outlined in Chapter 2.22 of the city code. A hearing request shall be in writing and must be received no later than ten days following such actions.

B. Suspension and/or revocation will result in loss of police response for one year. A reinstatement fee of one hundred dollars (\$100.00) and a certificate signed by the alarm business and alarm user stating the problem has been corrected will be required before police response will be resumed. Two additional false alarms will place the user on immediate suspension without an appeal for an additional year.

C. If the administrative law judge finds that no violation of this chapter occurred, or that a violation occurred, but one or more of the defenses set forth in this section is applicable, the administrative law judge may dismiss the penalty and release the alarm user from liability thereunder, or may reduce the penalty associated therewith as he or she shall determine. Such defenses are:

1. The false alarm for which the penalty has been assessed did not originate at the premises of the alarm user who has been assessed the fee;
2. The alarm for which the penalty has been assessed was, in fact, not false, but was rather the result of an actual or attempted burglary, robbery, or other emergency;
3. The police dispatch office was notified by the permit holder or the alarm company that the alarm was false prior to the arrival of a peace officer to the subject premises in response to the false alarm; or
4. Such other mitigating circumstances as may be approved by the city law department.

D. If the administrative law judge finds that a false alarm did occur and no applicable defense exists, the administrative law judge 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 fees and penalties.

## **Chapter 8.34 - EMERGENCY MEDICAL SERVICES ABUSE**

### **8.34.010 - Purpose.**

The City has experienced repeated calls from citizens for emergency medical services when no real emergency exists and has repeatedly responded to public health emergencies generated by repeated negligent or criminal activities at a single location. Further, responding to such nonemergency calls or repeated negligent or criminal activities at a single location requires the use of public safety personnel and equipment so that they are not readily available in the event of a real emergency. Therefore, the purpose of this Chapter is to reduce such abuse and misuse of emergency medical services provided by the City, thus keeping personnel and equipment available for use in real emergency situations, conserving energy, and reducing costs.

#### **8.34.020 - Unlawful Request of Service.**

**A.** Any person who shall repeatedly request that the public safety personnel of the City respond to unnecessary, false, or capricious requests for assistance, or for nonemergency situations, shall be guilty of a Class B misdemeanor.

**B.** For the purpose of this Section, nonemergency situations include the following:

- 1.** Alcohol intoxication;
- 2.** Minor lacerations;
- 3.** Minor contusions and sprains;
- 4.** Minor illnesses;
- 5.** Insect and animal bites not deemed emergencies;
- 6.** Rash, skin disorders, hives without dyspnea (difficulty of breathing);
- 7.** Home delivery to avoid doctor and hospital services;
- 8.** Venereal disease;
- 9.** Patients seeking nonemergency transportation;
- 10.** Forehead and scalp lacerations only;
- 11.** Cold syndrome;
- 12.** Sore throat;
- 13.** Earache;
- 14.** Hiccough;
- 15.** Nervousness/anxiety;
- 16.** Toothache;
- 17.** Minor bruises;
- 18.** Non-life-threatening overdoses;
- 19.** Non-life-threatening self-inflicted injuries; and
- 20.** Similar injuries of a medically insignificant nature that do not require emergency care on an expedited basis.

**C.** Any owner of property at which public safety personnel are required to investigate or respond to more than three circumstances of negligent or criminal behavior in any 180-day period shall be guilty

of a Class B misdemeanor for excessive use of public safety personnel and shall be liable for all public safety personnel costs incurred for each response to the property.

**8.34.030 - Assessment of Costs.**

- A.** For each call to a nonemergency situation (as defined in the preceding Section) made and for which emergency medical personnel arrived, the responsible person shall be assessed the cost associated with the emergency response, as included in the City's consolidated fee schedule.
- B.** For the purposes of this Section, excessive use of public safety personnel is established after public safety personnel responds to circumstances of negligent or criminal behavior at or associated with a property more than three times in any 180-day period
- C.** The requirement of fees under this Section does not foreclose the possibility of criminal prosecution for conduct described in this Section.

**Chapter 8.44 - SECURING OF VACANT BUILDINGS AND PROPERTY**

**8.44.010 - Purpose and intent.**

It is the purpose and intent of this Chapter to impose a legal duty upon the owners of Vacant Buildings and properties to secure them and to prevent the buildings from deteriorating into havens for crime and vagrancy to the degree that a nuisance is created, ruining the safe, peaceful and quiet enjoyment of neighboring properties. This Chapter creates a system to notify Property Owners of the problems reasonably attributable to their vacant property and a process to secure the vacant property.

**8.44.020 - Civil liability—Other Remedies Available.**

- A.** By establishing performance standards or by establishing obligations to act, it is the intent of the City Council that City employees and officers are exercising discretionary authority in pursuit of an essential governmental function and that any such standards or obligations shall not be construed as creating a ministerial duty for purposed of tort liability.
- B.** Obtaining a Vacant Building permit is not a substitute for effective property management and does not supersede any of the Property Owner's responsibilities.
- C.** Obtaining a permit does not prevent an enforcement official from taking action against a Property Owner, nor does taking action under this Section prevent the City from seeking additional enforcement actions, including civil or criminal citations, or the abatement of violations or unsafe conditions.

**8.44.030 - Owner Responsibilities for Vacant Properties.**

- A.** Property Owners of Vacant Buildings or properties bear ultimate responsibility to maintain and secure their property against unlawful entry or to remove the Vacant Building from the premises.
- B.** Vacant Buildings shall be maintained so as to appear capable of occupancy. In the event that the vacant property is not so maintained, the Property Owner shall take appropriate measures to secure the building against unlawful entry, and make repairs when others unlawfully break through their security measures or to remove the Vacant Building from the premises
- C.** Properties containing Vacant Buildings shall be maintained in accordance with the landscaping standards of this Code.



#### **8.44.040 - Vacant Buildings.**

- A.** The City, through Enforcement Officials, shall maintain a program to identify nuisance or Compromised Vacant Buildings, and enforce the provisions of this Chapter.
- B.** Vacant Buildings are classified in one of the following tiers:

  - 1.** Tier 1: Maintained Vacant Buildings;
  - 2.** Tier 2: Nuisance Vacant Buildings;
  - 3.** Tier 3: Boarded Buildings; or
  - 4.** Tier 4: Compromised Vacant Buildings.
- C.** Tier 2 and 3 properties may be periodically checked by Enforcement Official for signs of broken windows or doors, unauthorized dumping, and other violations. When such problems are identified, the Enforcement Official shall notify the Property Owner of the issue. Property Owners who fail to correct these identified issues are subject to enforcement action and re-classification to higher tiers of Vacant Buildings.
- D.** Tier 3 properties are subject to higher annual Vacant Building fees, due to their increased risk of vandalism and trespass, and the attention which must be paid to these properties by City officials.
- E.** It is unlawful to maintain a Vacant Building in a condition rendering it a Tier 4 Compromised Vacant Building.
- F.** It is unlawful to maintain a Vacant Building in a condition rendering it a Tier 2 or Tier 3 Vacant Building, without payment of the associated Vacant Building fee.
- G.** The property's tier shall be re-evaluated on an annual basis, during which properties shall be adjusted to the tier that best fits that property's description. Notice of this re-evaluation shall be provided to the Property Owner, as provided in Section 8.14.150 of this Code.

#### **8.44.050 - Procedures.**

- A.** Upon discovery of a previously unidentified Tier 2, 3, or 4 Vacant Building, an Enforcement Official shall notify the Property Owner in accordance with Section 8.14.150 of this Code. Within 10 days of mailing, the Property Owner shall: (1) for properties identified as Tier 2 properties, contact the City and pay the fee associated with that tier; (2) for properties identified as unpermitted Tier 3 properties, (a) apply for a permit to maintain the Tier 3 property as a Boarded Vacant Building, or (b) request a stay in order to rehabilitate the building; or (3) for properties identified as Tier 4 properties, (a) apply for a boarding permit; (b) request a stay in order to rehabilitate the building; or (c) remove the Vacant Building from the property.
- B.** A Property Owner who fails to comply with subsection A of this Section is subject to fines, in amounts to be determined by the consolidated fee schedule.
- C.** A Property Owner who files a notice of appeal with the City stays the enforcement action, but fees continue to accrue while the appeal is pending and being heard and are imposed retroactively if the City's actions are upheld.
- D.** A vacant property that has been rehabilitated and maintained in the same manner as a Tier 1 Vacant Building for six months shall no longer be required to maintain a Vacant Building permit. A Property

Owner who wishes to terminate the permit must make written request and pay an inspection fee. Upon receipt of this request, an Enforcement Official shall inspect the property to ensure that it is being maintained appropriately.

E. A property is no longer vacant once a tenant or Property Owner is occupying the structure, and the structure has been approved for habitation or occupation, as applicable.

#### **8.44.060 - Notice and Order to Board or Remove Building.**

A. It is unlawful to maintain a Tier 4 Vacant Building. All Compromised Vacant Buildings shall be boarded, removed, or rehabilitated according to the provisions of this Chapter.

B. Upon discovery of a Compromised Vacant Building, the City shall send written notice and order by certified mail, return receipt requested, and regular mail, to the Property Owner. The notice shall include: the reason(s) why the building must be boarded or removed, the method for obtaining a permit, the date by which it must be boarded or removed, the method(s) for boarding the building, procedures to request a stay for rehabilitation, consequences for failure to comply, and the appeal process. The City shall also, on the same day, post notice on the building.

C. If, due to the existence of Emergency Conditions, it is not possible or practical to give notice in advance, the City may nevertheless board, or depending on the circumstances, remove the building without giving prior notice and order to the Property Owner or occupant. The City shall provide all required notices immediately following the boarding or removal of the building in accordance with Section 8.14.520 of this Code.

#### **8.44.070 - Failure to Comply with Notice and Order.**

A. If, within the time specified in the notice and order, the Property Owner fails to comply with the notice and order sent pursuant to this chapter the City may:

1. For Tier 2 notices, assess a \$100 fine and bill the Property Owner for the Tier 2 annual fee;
2. For Tier 3 notices, assess a \$200 fine and bill the Property Owner for the Tier 3 annual fee; and
3. For Tier 4 notices, assess a \$300 fine, abate the nuisance by boarding or removing the building in accordance with this Chapter, and bill the Property Owner for the Tier 3 annual fee.

B. If the City boards or removes a building, the City shall send the Property Owner a bill for:

1. The actual costs incurred by the City in securing the building or property;
2. The annual Tier 3 program fee; and
3. A \$100 fee to partially recover the City's administrative costs in boarding or removing the building.

C. Property Owners shall be required to pay an annual fee equal to the renewal fee adopted in the fee schedule for each year.

D. The City may follow lien procedures or collections actions, as described in Chapter 8.14 of this Code.

#### **8.44.080 - Permit Required to Board a Building.**

- A. It is unlawful to board a Vacant Building except pursuant to a permit issued under this Chapter or pursuant to a catastrophic event, such as a structural fire, earthquake, or other declared emergency.
- B. Permits for boarding a building must be applied for on forms provided by the City.
- C. Boarding of a building must be completed within 21 days of issuance of the permit.

**8.44.090 - Boarding a Building Without a Permit.**

Boarding a building before obtaining a permit pursuant to this Chapter is a Class B misdemeanor and requires payment of a fine of not less than \$250.00. The City may pursue administrative penalties in lieu of criminal prosecution. Payment of a fine does not excuse payment of permit fees.

**8.44.100 - Fees.**

- A. Application Fee. The application fee is the fee adopted in the consolidated fee schedule.
- B. Renewal Fee. On or before the yearly anniversary of a building/property securing a permit, the City will mail, to the address on the application, a renewal permit form. A Property Owner desiring to continue the permit shall submit a completed renewal form and pay a renewal fee as adopted in the consolidated fee schedule.
- C. A daily late fee, as adopted in the consolidated fee schedule, in addition to the renewal fee, shall be assessed by the City for each day the renewal fee is delinquent.
- D. If the Property Owner fails to pay any fee imposed by this Chapter, the City may take legal action to collect the fees.
- E. The City may establish payment plans for Property Owners.

**8.44.110 - Stays Authorized.**

The Property Owner of a Tier 4 Vacant Building may apply for a stay of the boarding requirement and payment of the Tier 3 fee. The stay may only be granted for the rehabilitation or removal of the identified building.

**8.44.120 - Stay Process.**

- A. A Property Owner who seeks to rehabilitate a building may apply for a six-month stay of a Tier 3 program fee by doing the following:
  - 1. Filing a stay request;
  - 2. Paying the Tier 2 fee;
  - 3. Applying for building permits to rehabilitate the property, as required by applicable building codes; and
  - 4. Completing the rehabilitation within the six-month period.
- B. No extensions shall be granted for stays, and a Property Owner who fails to complete the rehabilitation within six months shall pay the balance of the Tier 3 fee and board the building.

#### **8.44.130 - Method of Boarding Buildings.**

All buildings shall be boarded in the following manner:

- A.** All doors, except as allowed in subsection D of this Section, and windows of the structure on the first two floors, other openings easily accessible from the ground, and openings with broken glass or through which unauthorized human entry could be made, shall be secured either by erecting a single one-half inch thick layer of exterior grade plywood sheathing, or exterior-grade wafer board, covering over all exterior openings, overlapping the opening on every edge by three inches, and fastened with two and one-half inch exterior grade screws along the outside edges spaced every six inches or by fastening with eight penny common nails spaced every six inches on the outside edges;
- B.** Alternately, the openings may be secured by conventional wood-frame construction. The frames shall use wood studs of a size not less than two inches by four inches (nominal dimension) placed not more than 24 inches apart on center. The frame stud shall have the four-inch sides or the wide dimension perpendicular to the face of the wall. Each side of the frame shall be covered with exterior grade plywood or exterior wafer board sheathing of at least one-half inch thickness or equivalent lumber nailed or screwed over the opening by using eight penny common nails or two and one-half inch exterior screws spaced every six inches on the outside edges and every 12 inches along intermediate stud supports;
- C.** All coverings shall immediately be painted the same color as the building or its trim; and
- D.** Exterior doors shall be secured by a solid wood core or metal door with a dead bolt type lock to preclude entry of unauthorized persons or shall be secured as described in Subsection (A) or (B) of this Section.
- E.** The City may place a placard on the Boarded Building that states that the building is closed to occupancy and that it is unlawful for any unauthorized person to enter the building. The placard shall also provide phone numbers to call if people are seen on the property or if doors or windows are unsecured.

#### **8.44.140 - Securing Abandoned or Idle Construction Sites.**

- A.** When an Enforcement Official identifies an Abandoned or Idle Construction Site, the official shall notify the Property Owner of the need to secure the site, as provided in Section 8.14.120.
- B.** Abandoned or Idle Construction Sites shall be secured by removing all volunteer tree growth, removing or mowing weed growth, leveling or removing piles of soil, sand and rock, removing all construction waste, removing unused construction material, burying or removing exposed footings and foundations, boarding all partially constructed buildings according to Section 8.44.130, and erecting a six-foot high chain link fence around the entire perimeter of the property.
- C.** If the Property Owner returns the property to the state of a vacant lot, the Property Owner need not erect a fence around the property, nor pay any annual fees associated with Vacant Buildings or properties. This Section does not excuse a Property Owner from thereafter maintaining the vacant lot in accordance with applicable zoning and landscaping ordinances in this Code.
- D.** This Section does not excuse the payment of Vacant Building fees, if Boarded Buildings remain on the Abandoned or Idle Construction Site.

#### **8.44.150 - Landscape Maintenance.**

A. Existing landscaping and lawn on the property where a Vacant Building permit exists shall be routinely mowed, watered, pruned, and maintained as though the building were occupied and as required in Section 17.06.300, Landscaping.

B. If the City determines that the landscaping on the property surrounding a permitted Vacant Building is not being maintained, the City shall send a notice to the Property Owner, requiring compliance with all applicable landscaping standards located in this Code within 10 days.

C. If the City determines that the Property Owner has failed to comply with the notice and order, the City may cause the work to be done by a contractor employed by the City.

D. If the City is required to maintain the landscaping of the property, the City shall bill the Property Owner:

1. An administrative fee of \$200.00 per year, for administrative expenses in contracting and overseeing the landscaping maintenance; and

2. The actual cost of landscaping maintenance billed to the City by the City's contractor.

#### **8.44.160 - Exterior Maintenance.**

A. Exterior walls and surfaces shall be properly maintained. Severely weathered, peeling or unpainted wood, or unpainted or damaged siding, and damaged roofing must be replaced or repaired with similar materials and colors.

B. If the City determines that a Boarded Building is not being maintained, the City shall send notice to the Property Owner and/or the Property Owner's agent requiring removal of the building or compliance with the building maintenance standards within seven days.

C. If the City determines that the Property Owner has failed to comply with the notice and order, the City may remove the building or cause the work to be done by a contractor employed by the City.

D. If the City is required to maintain or remove a building, the City shall bill the Property Owner:

1. An administrative fee of \$100.00 per year for administrative expenses in contracting for the building maintenance; and

2. The actual cost of building maintenance or removal billed to the City by the City's contractor.

#### **8.44.170 - Snow Removal.**

A. Snow shall be removed from public sidewalks surrounding all properties, in the manner otherwise required by law.

B. If the City determines that sidewalks adjacent to a property containing a Vacant Building are not having the snow removed as required by City ordinance the City shall send notice to the Property Owner and/or the Property Owner's agent, requiring snow from the present snowfall to be removed and notifying the Property Owner that if snow from a subsequent snowfall is not removed as required, the City will contract for the removal and charge the Property Owner.

C. If the City determines that the Property Owner has failed to comply with the notice and order, the City may cause snow to be removed by a contractor employed by the City.

D. If the City is required to cause the snow to be removed from a property, the City shall bill the Property Owner:

1. An administrative fee of \$200.00 per year, for administrative expenses in contracting and overseeing the snow removal; and

2. The actual cost of snow removal billed to the City by the City's contractor.

E. Once City-initiated removal has begun, the removal and billing to the Property Owner shall continue until the Property Owner demonstrates a snow removal plan independent of the City-initiated removal.

#### **8.44.180 - Inspections Required.**

Whenever a Property Owner, manager, or tenant intends to clean, repair, renovate, reopen, or reoccupy a building that has been boarded, the building shall be inspected and a permit must be issued by City prior to the Property Owner, manager, or tenant initiating any of the above actions. Any person conducting work on a Boarded Building or a building closed to occupancy must have a copy of the permit on the site at all times.

#### **8.44.190 - Legal Action Authorized.**

The City may take appropriate legal action to collect all unpaid fees or bills provided by this Chapter.

#### **8.44.200 - Appeal Process.**

Any Person aggrieved by a decision of the City may appeal the decision to the Administrative Law Judge by following the provisions of Chapter 2.22 of this Code.

### **Chapter 8.48 - SUPPLEMENTAL FIRE CODE REGULATIONS**

#### **8.48.010 - Purpose.**

It is the purpose of this chapter to meet the public safety needs of the City when, due to the unique circumstances and hazards associated with certain uses, materials, and structures in the City and the urban nature of the City's composition, there is a need for more restrictive ordinances related to fire safety than exist in the state fire code.

#### **8.48.020 - Enactment of More Restrictive Ordinances.**

When a more restrictive fire code requirement is enacted by the City, the City shall follow the procedures contained within the State Fire Code Administration Act, as amended, in order to notify the appropriate state officials.

#### **8.48.030 - Violations; Fines.**

A. Any violation of this Chapter is punishable as a Class B misdemeanor. In the discretion of the Fire Marshal or a designee. Violations may also be punished by an administrative citation.

B. The fine for a civil violation of this Chapter is \$1,000.00 per day that the violation occurred or continues to occur.

#### **8.48.040 - Administrative Action.**

In addition to criminal penalties, if a Property Owner or other responsible Person maintains the premises contrary to the provisions of this Chapter, the Fire Marshal or a designee may take such measures as is necessary to protect the public or neighboring properties from the risk of fire, including evacuation or immediate closure to occupancy.

#### **8.48.050 - Outdoor Storage of Wood Chips and Associated Materials.**

A. Any Person who operates a business that generates, collects, or sells chipped or ground-wood based materials, including wood chips, hogged material, or compost as a major function of the business, and that stores more than 3,600 cubic feet of such product outdoors at any one time, shall comply with the provisions of this Section. Nothing in this Section shall prevent the Fire Marshal or other fire authority from enforcing generally applicable fire codes to smaller piles of such materials, in appropriate circumstances.

B. Maximum amount of product per business location. No business may store greater than an aggregate total of 510,000 cubic feet of wood chips or materials regulated by this Section, piles of which are subject to further regulation by this Section.

C. Combustible waste materials such as bark, chips, and other combustible debris shall not be permitted to accumulate in a location that constitutes, in the opinion of the Fire Marshal, an undue fire hazard. Such locations shall be affirmatively identified by the Fire Marshal.

D. Smoking shall be prohibited on the entire premises, except designated, permanent locations which shall be kept free of any combustible materials and shall be clearly marked. The manager or owner must post "No Smoking" signs throughout the property.

E. Storage areas shall be:

1. Enclosed with a minimum eight-foot (8') chain link fence with privacy slats, locked gates, and a fire department box for keyed access by fire personnel, located as necessary to allow for entry of fire apparatus; and

2. Reviewed by the Fire Marshal for conformity with the International Fire Code, Appendix "D" Section D102 "Required Access, Fire Apparatus Access Roads." Said access shall be paved with graded asphalt, concrete, or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds.

F. The owner or manager of the premises shall enact and follow a fire prevention program which includes the following elements:

1. Establishing controls over factors that lead to spontaneous heating, including the monitoring of internal conditions of the pile by thermocouple, or other approved means which shall be installed with the piles, regularly monitored, and provide for regular reports upon request of the Fire Marshal;

2. Placement of piles that provides access to within 150 feet of all sides of a pile;

3. Electrical equipment and installations shall conform to the provisions of the National Electrical Code and National Fire Prevention Association Standard 70;
4. Freeze protected yard hydrants shall be installed on the site at maximum spacing intervals of not more than 250 feet. Yard hydrants shall be available for emergency use and for the day-to-day compost, chip, and for other related fire prevention irrigation purposes. Yard hydrants shall be protected by barricades, posts, or necessary devices and spaced so that all portions of the yard hydrant have a minimum three-foot (3') clearance around the hydrant. Hydrants shall be accessible at all times for emergency use; and
5. Portable fire extinguishers suitable for all weather conditions shall be mounted and within a maximum travel distance not to exceed 75 feet from any pile.
- G. Piles shall comply with the following regulations at all times:
  1. Pile heights shall not exceed 20 feet in height, 150 feet in width, and/or 170 feet in length, with a pile-to-pile clearance of not less 30 feet.
  2. Piles shall be wetted regularly to keep materials from drying out and to maintain the moisture content of the surface layer of the pile;
  3. No portion of any pile shall be located within 75 feet of a property line; and
  4. No temporary conveyors or motors shall be placed or used on the surface or immediately adjacent to the piles.
- H. Notwithstanding any other provision of this Code, piles shall not be maintained in a manner which may cause them to spontaneously combust.
- I. The premises shall not contain more than the amount of product identified in the operating plan, which may be modified annually by the Fire Marshal prior to the issuance or renewal of the business's license.
- J. Vehicles used on site shall be subject to the following regulations:
  1. Power-operated, shovel-type, or scoop-type vehicles, dozers, or similar equipment shall be available for use in moving stored material for firefighting purposes;
  2. Portable fire extinguishers suitable for Class A fires shall be provided in accordance with NFPA 10, Standard for Portable Fire Extinguishers, on all vehicles operating on or near a pile in addition to the normal Class B units for the vehicle; and
  3. Physical protection shall be provided to prevent heat sources, such as steam lines, airlines, electrical motors, and mechanical drive equipment from becoming buried or heavily coated with combustible material.



**SECTION V: Revise Section 17.11.090 – Enforcement as follows:**

**17.11.090 – Enforcement.**

- A. Authority.** The Community Development Director is authorized to enforce the provisions of this Code through either criminal or civil proceedings.
- B. Delegation.** The Community Development Director may delegate enforcement authority to any City official. No written delegation of power is necessary.
- C. Violations.** Any Building or Use of land or any construction thereon which was not authorized by or under the City Code which is illegal under such ordinances, shall remain unauthorized and illegal unless expressly authorized or permitted in the provisions of this Code. The Use or continuation of such a Use or construction is punishable under this Code.
- D. Number of Offenses.** Every person, firm or corporation shall be deemed responsible or guilty of a separate offense for each and every day that a violation is committed or continued.
- E. Criminal Penalties.** Violations of the provisions of this Code are class **CB** misdemeanors, subject to criminal prosecution, except as otherwise provided in UCA §10-3-703.
- F. Civil Penalties.** Violations of the provisions of this Code may also be pursued through administrative citation or summons, as provided in Title 8, Chapter 14, Code Enforcement Program. Orders of abatement may be issued by the City pursuant to those provisions.
- G. Remedies.**
  - 1.** The City, or any adversely affected Owner of real estate within the City in which violations of this Code occur or are about to occur, may, in addition to other remedies provided by law, institute:
    - a.** Injunctions, mandamus, abatement, or any other appropriate action; or
    - b.** Proceedings to prevent, enjoin, abate or remove the unlawful Building, Use, or act.
  - 2.** The City need only establish the violation to obtain an injunction.
  - 3.** The City may, in addition to other remedies provided by law, enforce the ordinance by:
    - a.** Withholding Building Permits; or
    - b.** Taking action to cancel any permit or approval for failure to comply with the terms of any permit or approval. The land use authority that issued the permit or approval shall consider the matter preceded by at least ten calendar days' notice. Cancellation or revocation of a permit or approval may be appealed in the same manner as the original action.
- H. Nuisance and Abatement.** All Buildings or Uses of land which are established, conducted, or maintained contrary to the provisions of this Code shall be and are declared to be unlawful and a public nuisance. In addition to other remedies provided by the law, the City Attorney may immediately commence a court action or proceedings for abatement, removal or injunction to correct the nuisance. These remedies are cumulative to other civil and criminal actions, and not exclusive.