



Planning and Development Services

2001 S. State Street N3-600 • Salt Lake City, UT 84190-4050

Phone: (385) 468-6700 • Fax: (385) 468-6674

www.pwpds.slco.org

Kearns Metro Township Planning Commission

Public Meeting Agenda

Monday, June 10, 2019 5:30 P.M.

Location

KEARNS ATHLETIC TRAINING AND EVENT CENTER
5658 SOUTH COUGAR LANE
MEETING ROOM
(385) 468-6700

UPON REQUEST, WITH 5 WORKING DAYS NOTICE, REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS MAY BE PROVIDED. PLEASE CONTACT WENDY GURR AT 385-468-6707. TTY USERS SHOULD CALL 711.

The Planning Commission Public Meeting is a public forum where, depending on the agenda item, the Planning Commission may receive comment and recommendations from applicants, the public, applicable agencies and County staff regarding land use applications and other items on the Commission's agenda. In addition, it is where the Planning Commission takes action on these items, which may include: approval, approval with conditions, denial, continuance or recommendation to other bodies as applicable.

BUSINESS MEETING

- 1) Approval of Minutes from the April 8, 2019 meeting
- 2) Confirm July 8, 2019 meeting attendance
- 3) Other Business Items (as needed)

PUBLIC HEARINGS

30939 – Ordinance Amendments - Revisions to the code enforcement process and the associated civil penalties for code violations within the Kearns Metro Township, including amendments to Chapter 19.94 of the zoning ordinance and the enactment of a new Title (12) to the Code.

ADJOURN

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**MEETING MINUTE SUMMARY
KEARNS METRO TOWNSHIP PLANNING COMMISSION MEETING
Monday, April 8, 2019 5:30 p.m.**

Approximate meeting length: 42 minutes

Number of public in attendance: 3

Summary Prepared by: Wendy Gurr

Meeting Conducted by: Commissioner Robertson

***NOTE:** Staff Reports referenced in this document can be found on the State and County websites, or from Salt Lake County Planning & Development Services.

ATTENDANCE

Commissioners and Staff:

Commissioners	Public Mtg	Business Mtg	Absent
Jeff Robertson	x	x	
Joy Nelson	x	x	
Jerry Wellman	x	x	
Bruce Walton	x	x	
Joe Hatch	x	x	

Planning Staff / DA	Public Mtg	Business Mtg
Wendy Gurr	x	x
Curtis Woodward	x	x

BUSINESS MEETING

Meeting began at – 5:30 p.m.

- 1) Approval of Minutes from the March 11, 2019 meeting.

Motion: To approve minutes from the March 11, 2019 meeting as presented.

Motion by: Commissioner Wellman

2nd by: Commissioner Walton

Vote: Commissioners voted unanimous in favor

- 2) Good Landlord/Fit Premises Ordinance introduction and discussion

Commissioners and Staff discussed where a room is rented and the responsibility of the owner, with access to the bathroom and kitchen, accessory buildings and dwellings, parking and maintaining sufficient stalls with off-street parking, renting to family members, animals or hazards, fees and taxes for more than one owner on the home, financial impacts on the landlord, how do you start up and find these people, adding language for registering rentals, Airbnb, high-density kitchenette, emergency egress, length of time for a repairman.

- 3) Other Business Items (as needed)

No other business items to discuss.

PUBLIC HEARINGS

Hearings began at – 5:57 p.m.

30882 – (Continued from March 11, 2019) - An application to adopt a new chapter to the Kearns Metro Zoning Ordinance to create two “public facilities” zones, the PF and PI zones, as zoning in which public uses like parks, schools, recreation centers, civic buildings, churches, utility buildings, and similar uses are allowed. **Planner:** Curtis Woodward

Salt Lake County Planning and Development Services Zoning Administrator Curtis Woodward provided an analysis of the new zoning chapter.

Commissioner Robertson asked if they want to maintain an urban feel by making sure they don't take more than 40%. Commissioner Wellman asked if anything else will be developed. Mr. Woodward said a vacant police station and added to the mix, but not a lot out there, a lot of utilities plan, as new facilities come along adjust the zoning map and include them. Commissioner Robertson said in 50 years may look different and single-family neighborhoods will not maintain that character forever. Commissioner Hatch said a developer come in and buy older homes and want to put up townhomes but would involve zone change. Mr. Woodward said the schools and closures and Kearns, and the Mayor and council doesn't want to block use, but to zone public use, plan it out and not a given and forces a conversation.

PUBLIC PORTION OF MEETING OPENED

Speaker # 1: Kearns Community Council

Name: Roger Snow

Address: 5977 South Parkwood Drive

Comments: Mr. Snow said the Community Council provides a favorable recommendation.

Commissioner Wellman motioned to close the public hearing, Commissioner Walton seconded that motion.

PUBLIC PORTION OF MEETING CLOSED

Motion: To recommend file #30882 to the Kearns Metro Township Council for approval as presented.

Motion by: Commissioner Wellman

2nd by: Commissioner Walton

Vote: Commissioners voted unanimous in favor

MEETING ADJOURNED

Time Adjourned – 6:12 p.m.



File # 30939

Ordinance Summary and Recommendation

Public Body: Kearns Metro Township Planning Commission **Meeting Date:** June 10, 2019

Request: Streamline the code enforcement process by revising the civil penalties provisions in the enforcement section of the zoning ordinance to increase the daily penalties for most violations (particularly residential properties) and to reduce the mandatory warning period. Also included in this request is the introduction of a new section of code, Title 12, Code Enforcement and Community Preservation.

Planner: Curtis Woodward

Planning Staff Recommendation: Approval

EXECUTIVE SUMMARY

Concerns have been raised about the ineffectiveness of the use of civil penalties as set forth in the current code as an effective code enforcement tool, particularly regarding the timing and the practicality of allowing penalties to accrue so high before seeking judgements to collect. Cases are taking too long to get to resolution, and often by the time a judgement is obtained for civil penalties, the amount is so high that both the defendant and the Metro have no hope of it ever being paid, thus taking away all incentive to comply. In addition, penalties that grow to huge amounts over misdemeanor zoning violations appear unfairly punitive in nature, when the original intention was to provide incentive for compliance, not to take people's property. The goal of the changes is to refocus on achieving compliance more efficiently.

The following is a summary of the proposed changes:

1. Daily civil penalties are being increased (as they have not been adjusted in over 20 years).
2. The warning period before penalties begin to accrue is being decreased from 28 days to 14 days.
3. Action to abate and resolve code violations will go through an administrative process rather than a district court process.

The proposed ordinances are attached to this report, and legal counsel for the Kearns Metro Township will be available at the hearing to further explain and answer questions.

PLANNING STAFF RECOMMENDATION

Staff recommends the planning commission forward a favorable recommendation to the Metro Council by adopting the following motion:

"Move to recommend approval of the amendments to Chapter 19.94 and the adoption of Title 12, Code Enforcement and Community Preservation, as presented to the planning commission."

Another option would be to adopt a separate motion for each of the two ordinance proposals.

Chapter 19.94 - ENFORCEMENT

19.94.010 - Enforcement authority.

The director of development services or his authorized agent is designated as the officer charged with the enforcement of this title. The director of animal services is designated as the enforcement official for Section 19.04.305 of the Kearns Metro Township Code of Ordinances which shall be enforced pursuant to Section 8.10.010 of this code.

19.94.020 - Powers and duties.

- A. The director of development services is authorized to inspect or cause to be inspected all buildings and structures in the course of construction, modification or repair and to inspect land uses to determine compliance with the provisions of this title; provided, however that no such inspection shall be required as a condition precedent to commencement or continuation of any construction, modification or repair of building or structure.
- B. The director shall enforce all of the provisions of this title, employing all legal means available to do so. In the enforcement of this title, the director or any employee of the division authorized to represent the director shall have the right to enter any building for the purpose of determining the use thereof or to enter the premises for the purpose of determining compliance with the provisions of this title, provided that such right of entry shall be exercised only at reasonable hours and that in no case shall entry be made to any occupied building in the absence of the owner or tenant thereof without the written order of a court of competent jurisdiction.

19.94.030 - Unlawful use prohibited.

- A. No land, building or structure shall be used for any purpose or use not allowed in the zone in which such land, building or structure is located.
- B. Violation of any of the provisions contained in this title is prohibited. Any person who violates that provisions of this title shall be subject to the criminal and civil penalties set forth in this chapter.

19.94.040 - Violation—Penalties and remedies.

- A. Violation of any of the provisions of this title is punishable as a Class C misdemeanor upon conviction. In addition, the provisions of this title may also be enforced by injunctions, mandamus, abatement, civil penalties, or any other remedies provided by law.
- B. Any one, all, or any combination of the penalties and remedies set forth in subsection A of this section may be used to enforce the provisions of this title.
- C. Each day that any violation continues after notification by the director of development services or his agent that such violation exists shall be considered a separate offense for purposes of penalties and remedies set forth in this title.

- D. Accumulation of penalties for continuing violations, but not the obligation for payment of penalties already accrued, shall stop upon correction of the violation.

19.94.050 - Violation—Persons liable.

Any person, corporation or other entity, whether as owner, occupant, agent or employee, who causes, permits or otherwise participates in any violation of the provisions of this title may be held responsible for the violation, suffer the penalties, and be subject to the remedies provided by law.

19.94.060 - Violation—Notice and order.

- A. Upon inspection and discovery that any provision of this title is being violated, the director shall provide a written notice of violation and order to the property owner and to any other party who may be responsible for the violation.
- B. The written notice and order shall: (1) indicate the nature of the violation; (2) order the action necessary to correct the violation; (3) give information regarding the established warning period for the violation; and (4) state the action the director intends to take if the violation is not corrected within the warning period.
- C. The written notice shall be delivered personally or mailed to the property owner, as shown on the records of the county recorder, and to any other person who may be responsible for the violation. Receipt of notice shall mean three days after the date written notice is delivered or mailed as provided herein.
- D. The written notice shall serve to start any warning periods provided in this chapter, commencing upon receipt of notice. If the violation remains uncured within five days after the expiration of the warning period, a second notice of violation and order shall be delivered in the same manner as the first notice. The second notice shall serve to start the civil penalties.
- E. In cases where the director determines that a delay of enforcement would pose a danger to the public health, safety or welfare, or would otherwise compromise the effective enforcement of this title, the director may seek immediate enforcement without prior written notice by instituting any of the remedies, other than civil penalties, authorized by Section 19.94.040 of this chapter.

19.94.070 - Civil penalties.

- A. Civil Penalties. Violations of the provisions of this title shall result in civil penalties pursuant to the following schedule:

CIVIL PENALTIES FOR VIOLATION OF ZONING REGULATIONS		
WARNING PERIOD: 28-14 DAYS FOR ALL VIOLATIONS		
Type of Zone	Classification of Violation	Fine Per Day

		(after warning period)
Residential Zones R-1's R-2's R-4-8.5 FR's F-1 RMH	Conditional use without a permit Other violations	\$25-75
	Nonpermitted use Violation of permit or approval	\$50-150
Mixed Zones R-M MD's FM's S-1-G	Conditional use without a permit Other violations	\$50-100
	Nonpermitted use Violation of permit or approval	\$100-200
Commercial/Manufacturing Zones C's M's O-R-D	Conditional use without a permit Other violations	\$100-150
	Nonpermitted use Violation of permit or approval	\$200-300
Agricultural Zones A's FA's	Conditional use without a permit Other violations	\$25-75
	Nonpermitted use Violation of permit or approval	\$50-150
Overlay Zones AOZ HPZ	Violation of provisions	\$100-200

- B. Daily Violations. Each day a violation is continued or maintained after receipt of notice shall give rise to a separate civil penalty for each day of violation.
- C. Violation Appeal Procedures.
1. The mayor shall appoint such hearing officers as he/she deems appropriate to consider matters relating to the violation of this title.
 2. Any person having received notice of such violation, or the owner of any affected property, may appear before a hearing officer and present and contest such alleged violation of this title.

3. The burden to prove any defense specified in subsection (C)(4) of this section shall be upon the person raising such defense.
4. If the hearing officer finds that no violation occurred and/or a violation occurred but one or more of the defenses set forth in this section is applicable, the hearing officer may dismiss the notice of violation. Such defenses are:
 - a. At the time of the receipt of the notice of violation, compliance would have violated the criminal laws of the state;
 - b. Compliance with the subject ordinances would have presented an imminent and irreparable injury to persons or property.
5. If the hearing officer finds that a violation of this title occurred and no applicable defense exists, the hearing officer may, in the interest of justice and on behalf of the Metro, enter into an agreement for the timely or periodic payment of the applicable penalty by the violator.
6. No action by a hearing officer shall relieve the violator from complying with any of the provisions of this title.

D. Abatement for Correction and Payment.

1. Civil penalties shall be partially abated after the violation is cured and in the discretion of a hearing officer considering the following guidelines and factors:
 - a. Prompt Cure. Reductions are generally appropriate for promptly curing the violation pursuant to the following schedule, but the hearing officer may grant greater or lesser abatements depending on the facts of the case:
 - i. Cured within fourteen days after second notice—seventy-five percent reduction,
 - ii. Cured within twenty-eight days after second notice—fifty percent reduction, or
 - iii. Cured within fifty-six days after second notice—twenty-five percent reduction;
 - b. If strict compliance with the notice and order would have caused an imminent and irreparable injury to persons or property;
 - c. If the violation and inability to cure were both caused by a force majeure event such as war, act of nature, strike or civil disturbance;
 - d. Such other mitigating circumstances as may be approved by the attorney or designee;
 - e. If a change in the actual ownership of the property was recorded in the recorder's office after the first or second notice was issued and the new owner is not related by blood, marriage or common ownership to the prior owner.
2. If the hearing officer finds that the noticed violation occurred and no applicable defense applies, the hearing officer may, in the interest of justice and on behalf of the Metro, enter into an agreement for the delayed or periodic payment of the applicable penalty.

E. Collection of Civil Penalties.

1. If the penalty imposed pursuant to this chapter remains unsatisfied after ~~forty~~thirty days or when the penalty amounts to five thousand dollars from the receipt of notice, or ten days from such date as may have been agreed to by the hearing officer, the Metro may use such lawful means as are available to collect such penalty, including costs and attorney's fees.
2. Commencement of any action to remove penalties shall not relieve the responsibility of any penalty to cure the violation or make payment of subsequently accrued civil penalties nor shall it require the Metro to reissue any of the notices required by this chapter.

3. Separate civil penalties and subsequent legal action may be pursued for properties with recurring violations or multiple violations.

TITLE 12 – CODE ENFORCEMENT AND COMMUNITY PRESERVATION

CHAPTER 12.1 – GENERAL

12.1.010 SHORT TITLE.

This Title shall be known as the “Code Enforcement and Community Preservation Program.” This Chapter shall also be known as Chapter [12.1](#), of the Kearns Metro Township Municipal Code. It may be cited and pleaded under either designation.

12.1.020 AUTHORITY

The Metro Township promulgates this Ordinance pursuant to Utah Code Ann. §§ 10-3-702 – 703.7; 10-3-716; 10-8-60; 10-11-1, et seq.; and any other applicable law or successor statute(s).

12.1.030 DECLARATION OF PURPOSE.

The Kearns Metro Township finds that the enforcement of its Municipal Code and applicable state codes throughout the municipality is an important public service. Code enforcement and abatement are vital to the protection of the public's health, safety, and quality of life. The Council recognizes that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative code enforcement hearings and judicial proceedings. The Council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with these regulations in a manner that is fair and equitable to the Metro Township and its citizens. Failure to comply with an administrative code enforcement action may require the Metro Township Attorney to file a judicial action to gain compliance.

12.1.040 SCOPE.

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

12.1.050 EXISTING ORDINANCES AND LAWS CONTINUED.

The provisions of this Title do not invalidate any other title or ordinance but shall be read in conjunction with those titles and ordinances as an additional remedy available for the enforcement of those ordinances together with any and all other applicable laws. If there is a conflict between this Title and another provision of the Metro Township Code, this Title shall control.

12.1.060 CRIMINAL PROSECUTION RIGHT.

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

12.1.070 EFFECT OF HEADINGS.

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

12.1.080 VALIDITY OF TITLE – SEVERABILITY.

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

12.1.090 NO MANDATORY DUTY – CIVIL LIABILITY.

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

12.1.100 GENERAL RULES OF INTERPRETATION OF ORDINANCES.

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

12.1.110 DEFINITIONS APPLICABLE TO TITLE GENERALLY.

The following words and phrases, whenever used in this Title, shall be constructed as defined in this section, unless a different meaning is specifically defined elsewhere in this Title and specifically stated to apply:

- (1) "Abate" or "Abatement" means any action the Metro Township may take on public or private property and any adjacent property as may be necessary to remove or alleviate a violation, including, but not limited to, demolition, removal, repair, boarding, and securing or replacement of property.
- (2) "Administrative Code Enforcement Order" means an order issued by an administrative law judge. The order may include an order to abate the violation, pay civil penalties and administrative costs, or take any other action as authorized or required by this Title and applicable state codes.
- (3) "Administrative Law Judge" or "hearing officer" means the position established by the Kearns Metro Township § Code [1.16](#) "Administrative Hearing."
- (4) "Animal Control Administrator" or "means the supervisor of the Animal Control Division, established in Kearns Metro Township § Code 8.1.
- (5) "Council" means the Council of Kearns Metro Township.
- (6) "Code Enforcement Lien" means a lien recorded to collect outstanding civil penalties, administrative fees, and costs.
- (7) "Code Enforcement Performance Bond" means a bond posted by a responsible person to ensure compliance with the Metro Township Code, applicable state titles, a judicial action, or an administrative code enforcement order.
- (8) "County" means Salt Lake County, Utah.
- (9) "Department" means the Metro Township's Planning and Development Services Department, or its designee.
- (10) "Director" means the director of the Metro Township's Planning and Development Services Department or his/her authorized agent(s) or any other person/entity and their authorized agent(s) that the Metro Township has authorized to provide code enforcement services.
- (11) "Enforcement Official" means any person authorized to enforce violations of the Metro Township Code or applicable state codes.
- (12) "Financial Institution" means any person that holds a recorded mortgage or deed of trust on a property.
- (13) "Good Cause" means incapacitating illness; death; lack of proper notice; unavailability due to unavoidable, unpreventable, or extenuating emergency or circumstance; if a required act causes an imminent and

irreparable injury; and acts of nature adverse to performing required acts.

- (14) "Imminent Life Safety Hazard" means any condition that creates a present, extreme, and immediate danger to life, property, health, or public safety.
- (15) "Legal Interest" means any interest that is represented by a document, such as a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien, or other similar instrument that is recorded with the County Recorder.
- (16) "Metro Township" or "Municipality" means the area within the territorial municipal limits of Keams Metro Township, and such territory outside of this Metro Township over which the Kearns Metro Township has jurisdiction or control by virtue of any constitutional or incorporation provisions or any law.
- (17) "Minor violation" means:
- Nuisance violations related to litter, illegal dumping, and weeds.
 - Nuisance noise and lighting;
 - Illegal advertising;
 - The unauthorized use of public streets and sidewalks that stem from news racks, merchandise displays, mobile food vending, and other such illegal uses.
- (18) "Notice of Compliance" means a document issued by the Metro Township, representing that a property complies with the requirements outlined in the notice of violation.
- (19) "Notice of Satisfaction" means a document or form approved by the Administrative Law Judge or his or her designee, which indicates that all outstanding civil penalties and costs have been either paid in full, or that the Metro Township has negotiated an agreed amount, or that a subsequent administrative or judicial decision has resolved the outstanding debt. In addition to the satisfaction of the financial debt, the property must also be in compliance with the requirements outlined in the notice of violation.
- (20) "Notice of Violation" means a written notice prepared by an enforcement official that informs a responsible person of code violations and orders them to take certain steps to correct the violations.
- (21) "Oath" includes affirmations and oaths.
- (22) "Person" means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, sergeant, officer, or employee of any of them, or any other entity that is recognized by law as the subject of rights or duties.
- (23) "Program" means the Code Enforcement and Community Enhancement Program authorized under this Title.

- (24) "Property Owner" means the record owner of real property based on the county assessor's records.
- (25) "Public Nuisance" means any condition caused, maintained, or permitted to exist that constitutes a threat to the public's health, safety, and welfare, or that significantly obstructs, injures, or interferes with the reasonable or free use of property in a neighborhood or community or by any considerable number of persons. A public nuisance also has the same meaning as set forth in the Utah Code Annotated.
- (26) "Responsible Person" means a person who has charge, care, or control of any premises, dwelling, or dwelling unit as the legal or equitable owner, agent of the owner, lessee, or as an executor, administrator, trustee or guardian of the estate of the owner. In all cases, the person with legal title to any premises, dwelling, or dwelling unit shall be considered a responsible person, with or without accompanying actual possession thereof.
- (27) "Written" includes handwritten, typewritten, photocopied, computer printed, or facsimile.
- (28) "Kearns Metro," means the Kearns Metro Township, a municipal corporation under state law. May also be referred to "the Metro Township" and/or "the Municipality" pursuant to Utah Code § 68-3-12.5(6).

12.1.111 ACTS INCLUDE CAUSING, AIDING, AND ABETTING.

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

12.1.200 PART 2 – SERVICE REQUIREMENTS

12.1.210 SERVICE OF PROCESS.

- (1) Whenever service is required to be given under this Title, service shall be made in accordance with Utah Code Ann. § 10-11-2 or any applicable successor statute(s), unless another form of service is required by law.
- (2) If service complies with the requirements of this Section, it shall be deemed a valid service even if a party claims not to have received the service and it shall not affect the validity of any proceedings taken under this Title.
- (3) The failure to serve all responsible person(s) shall not affect the validity of any proceedings.

12.1.220 CONSTRUCTIVE NOTICE OF RECORDED DOCUMENTS.

Whenever a document is recorded with the County recorder as authorized or required by this Title or applicable state codes, recordation shall provide constructive notice of the information contained in the recorded documents.

12.1.300 PART 3 – GENERAL AUTHORITY AND OFFENSES

12.1.310 GENERAL ENFORCEMENT AUTHORITY.

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

12.1.320 ADOPTION OF POLICY AND PROCEDURES.

The Administrative Law Judge is authorized to develop policies and procedures relating to the hearing procedures, scope of hearings, subpoena powers, and other matters relating to the Program.

12.1.330 AUTHORITY TO INSPECT.

The Director or any designated enforcement official is authorized to enter upon any property or premises to ascertain whether the provisions of the Metro Township Code or applicable state codes are being obeyed and to make any examinations and surveys as may be necessary in the performance of the enforcement duties. This may include the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner based upon cause. If the responsible person refuses to allow the enforcement official to enter the property, the enforcement official shall obtain a search warrant.

12.1.340 POWER TO ARREST.

The Director or any designated enforcement official is authorized to issue a misdemeanor citation or administrative citation whenever there is reasonable cause to believe that the person has committed a violation of the Metro Township Code or applicable state codes in the enforcement official's presence.

12.1.350 FALSE INFORMATION OR REFUSAL PROHIBITED.

It shall be unlawful for any person to willfully make a false statement or refuse to give his or her name or address with intent to deceive or interfere with a duly authorized Metro Township official or agent, including but not limited to the Director any authorized enforcement officials, when in the performance of his or her official duties under the provisions of this Title. A violation of this Section is a class B misdemeanor.

12.1.360 FAILURE TO OBEY A SUBPOENA.

It is unlawful for any person to refuse or fail to obey a subpoena issued for an administrative code enforcement hearing. Failure to obey a subpoena constitutes contempt and is a class B misdemeanor.

CHAPTER 12.2 – ADMINISTRATIVE CODE ENFORCEMENT PROCEDURES

12.2.010 AUTHORITY.

Any condition caused, maintained, or permitted to exist in violation of any provisions of the Metro Township Code or applicable state codes that constitutes a violation may be abated by the Metro Township pursuant to the procedures set forth in this Chapter.

12.2.020 NOTICE OF VIOLATION.

- (1) Whenever the Director or any designated enforcement official determines that a violation of the Metro Township Code or applicable state codes has occurred or continues to exist, the Director or enforcement official will issue a notice of violation to a responsible person. The notice of violation shall include the following information and shall comply with Utah Code § 10-11-2 or the applicable successor statute(s):
 - a. Name of the property owner of record according to the records of the County Recorder;
 - b. Street address of violation;
 - c. Nature and results of the examination and investigation conducted;
 - d. Date and approximate time the violation was observed;
 - e. All code sections violated and description of condition of the property that violates the applicable codes;
 - f. A statement explaining the type of remedial action required to permanently correct outstanding violations, which may include corrections, repairs, demolition, removal, eradication, destruction, or other appropriate action;
 - g. A specific date for the responsible party to correct the violations listed in the notice of violation, which date shall be at least ten days from the date of service unless the Director determines that the violation requires emergency abatement under Section 12.2.200;
 - h. Explanation of the consequences should the responsible person fail to comply with the terms and deadlines as prescribed in the notice of violation, which may include, but is not limited to, criminal prosecution; civil penalties; revocation of permits; recordation of the notice of violation; withholding of future municipal permits; abatement of the violation by the Metro Township and re-payment to the Metro Township for the costs of the abatement; other costs incurred by the Metro Township; administrative fees; and any other legal remedies;
 - i. That civil penalties will begin to accrue immediately on expiration of the date to correct violations;

- j. The amount of the civil penalty on each violation and that the penalty will accrue daily until the property is brought into compliance;
 - k. That only one notice of violation is required for any 12-month period, and that civil penalties begin immediately upon any subsequent violations of the notice. The responsible person may request a hearing on the renewed violations by following the same procedure as provided for the original notice;
 - l. Procedures to appeal the notice and request a hearing
 - m. as provided in Section [12.2.530](#), and consequences for failure to request one; and
 - n. Procedures to request an inspection after the violation has been abated pursuant to Section 12.2.040.
- (2) The notice of violation shall be served by one of the methods of service listed in Section [12.1.210](#) of this Title.
- (3) More than one notice of violation may be issued against the same responsible person, if it encompasses different dates, or different violations.

12.2.030 FAILURE TO BRING PROPERTY INTO COMPLIANCE.

- (1) If a responsible person fails to bring a violation into compliance within the compliance period specified in the notice of violation, civil penalties shall be owed to the Metro Township for each and every subsequent day of violation.
- (2) Failure to comply with the notice of violation is a Class C misdemeanor.

12.2.040 INSPECTIONS.

It shall be the duty of the responsible person served with a notice of violation to request in writing an inspection when his or her property has been brought into compliance. It is prima facie evidence that the violation remains on the property if no inspection is requested. Civil penalties accumulate daily until the property has been inspected and a notice of compliance is issued. Re-inspection fees shall be assessed if more than one inspection is necessary.

12.2.200 PART 2 – EMERGENCY ABATEMENT

12.2.210 AUTHORITY.

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

- a. Order the immediate vacation of any tenants, and prohibit occupancy until all repairs are completed;
 - b. Post the premises as unsafe, substandard, or dangerous;
 - c. Board, fence, or secure the building or site;
 - d. Raze and grade that portion of the building or site to prevent further collapse, and remove any hazard to the general public;
 - e. Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or
 - f. Take any other action appropriate to eliminate the emergency.
- (2) The Director and his or her agents have the authority, based on cause, to enter the property without a search warrant or court order to accomplish the above listed acts to abate the safety hazard.
- (3) The responsible person shall be liable for all costs associated with the abatement of the life safety hazard. Costs may be recovered pursuant to this Title.

12.2.220 PROCEDURES.

- (1) The Director shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard. Costs incurred by the Metro Township during the emergency abatement process shall be assessed and recovered against the responsible person through the procedures outlined in Chapter 12.3 of this Title regarding "Administrative and Judicial Remedies" section
- (2) The Director may also pursue any other valid and legal administrative or judicial remedy to abate any remaining violations.

12.2.230 NOTICE OF EMERGENCY ABATEMENT.

After an emergency abatement, the Metro Township shall notify the owner or responsible person of the abatement action taken in writing. This notice shall be served within ten days of completion of the abatement and will describe in reasonable detail the abatement actions taken.

12.2.300 PART 3 – DEMOLITIONS

12.2.310 AUTHORITY.

Whenever the Director determines that a property or building requires demolition, he or she may demolish or remove the offending structure, or exercise any or all of the powers listed in Section [12.2.210](#) once appropriate notice has been given to a responsible person pursuant to the Uniform Abatement of Dangerous Buildings Code

or Uniform Fire Codes as required under state law, provided that the notice shall include a written description of the Director's findings explaining the need for the demolition and citations to the applicable ordinances or laws authorizing the demolition. The responsible person shall be liable for all costs associated with the demolition. Costs may be recovered pursuant to this Title.

12.2.320 PROCEDURES.

Once the Director has determined that the Metro Township Chief Building Inspector or the Fire Marshal has complied with all of the notice requirements of the applicable laws, the property will be demolished. Other applicable remedies may also be pursued.

12.2.400 PART 4 – ADMINISTRATIVE CITATIONS

12.2.410 DECLARATION OF PURPOSE.

The Council finds that there is a need for an alternative method of enforcement for minor violations of the Metro Township Code and applicable state codes. The Council further finds that an appropriate method of enforcement is an administrative citation program.

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

12.2.420 AUTHORITY.

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

12-2-403. PROCEDURES.

- (1) Upon discovering any violation of the Metro Township Code or applicable state codes an enforcement official may issue an administrative citation to a responsible person in the manner prescribed in this Part or as prescribed in Section [12.1.210](#). The administrative citation shall be issued on a form approved by the

Director.

- (2) If the responsible person is a business, the enforcement official shall attempt to locate the business owner and issue an administrative citation to the business owner. If the enforcement official can only locate the manager of the business, the administrative citation may be given to the manager of the business. A copy of the administrative citation may also be mailed to the business owner or any other responsible person in the manner prescribed in Section [12.1.210](#) of this Title.
- (3) Once the responsible person has been located, the enforcement official shall attempt to obtain the signature of that person on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.
- (4) If the enforcement official is unable to locate the responsible person for the violation, then the administrative citation shall be mailed to the responsible person in the manner prescribed in Section [12.1.210](#) of this Title.
- (5) If no one can be located at the property, then the administrative citation may be posted in a conspicuous place on or near the property and a copy subsequently mailed to the responsible person in the manner prescribed by Section [12.1.210](#) of this Title.
- (6) The administrative citation shall also contain the signature of the enforcement official.
- (7) The failure of any person with an interest in the property to receive notice shall not affect the validity of any proceedings taken under this Part.

12.2.440 CONTENTS OF ADMINISTRATIVE CITATION.

Administrative citations shall include the information required in Section 12.2.020 and shall:

- (1) State the amount of penalty imposed for the minor violations; and
- (2) Explain how the penalty shall be paid, the time period by which the penalty shall be paid, and the consequences of failure to pay the penalty.

12.2.450 CIVIL PENALTIES ASSESSED.

- (1) The Metro Township Council shall establish policies to assist in the assessment of civil penalties for administrative citations.
- (2) Civil penalties shall be assessed immediately for each violation listed on the administrative citation. The penalties shall be those established in the Consolidated Fee Schedule.

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

12.2.500 PART 5 – HEARING PROCEDURES

12.2.510 DECLARATION OF PURPOSE.

The Council finds that there is a need to establish uniform procedures for administrative code enforcement hearings conducted pursuant to the Metro Township Code. It is the purpose and intent of the Council to afford due process of law to any person who is directly affected by an administrative action. Due process of law includes notice, an opportunity to participate in the administrative hearing, and an explanation of the reasons justifying the administrative action. These procedures are also intended to establish a forum to efficiently, expeditiously, and fairly resolve issues raised in any administrative code enforcement action.

12.2.520 AUTHORITY AND SCOPE OF HEARINGS.

The Administrative Law Judge will preside over hearings of Metro Township Code violations. The Administrative Law Judge shall develop policies and procedures to regulate the hearing process for any violation of the Metro Township Code and applicable state codes that are handled pursuant to the administrative abatement procedures, the emergency abatement procedures, the demolition procedures, or the administrative citation procedures

12.2.530 REQUEST FOR ADMINISTRATIVE CODE ENFORCEMENT HEARING.

- (1) A person served with one of the following documents or notices has the right to request an administrative code enforcement hearing, if the request is filed within 20 calendar days from the date of service of one of the following notices:
 - a. Notice of violation;
 - b. Notice of itemized bill for costs;
 - c. Administrative citation;
 - d. Notice of emergency abatement;
- (2) The request for hearing shall be made in writing and filed with the Administrative Law Judge. The request shall contain the case number, the address of the violation, and the signature of the responsible party.
- (3) As soon as practicable after receiving the written notice of the request for hearing, the Administrative Law

Judge shall schedule a date, time, and place for the hearing.

- (4) Failure to request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to challenge the action.

12.2.540 HEARINGS AND ORDERS.

- (1) If the responsible person fails to request a hearing before the expiration of the 20-day deadline, the Director may request a default hearing, which the Administrative Law Judge shall schedule. The responsible person shall be notified of the date, time, and place of the hearing by one of the methods listed in Section [12.2.210](#).
- (2) A default hearing shall be scheduled for all cases that have outstanding or unpaid civil penalties, fines, fees and/or costs due to the Metro Township before collection, if a hearing on that case has not already been held.
- (3) At any hearing, the responsible person shall have the opportunity to present evidence to show that good cause exists, as defined in the Title, to do one or more of the following in addition to any other rights afforded under other provisions of the Metro Township Code or applicable law:
 - a. Waive or reduce the fines which have accumulated;
 - b. Postpone an abatement action by the Metro Township; or
 - c. Excuse the responsible person's failure to request a hearing within the 20-day period.
- (4) If the responsible person fails to establish good cause to take one or more of the actions set forth in paragraph (3), the Administrative Law Judge shall review the notice of violation and any other relevant information included in the case file. The Administrative Law Judge shall not accept any other evidence.
 - a. If the evidence shows that the violations existed, the Administrative Law Judge shall enter an order requiring abatement of the violations, and the payment of all fines and fees. Fines shall run until the Metro Township issues a Notice of Compliance stating when the violations were actually abated.

12.2.550 NOTIFICATION OF ADMINISTRATIVE CODE ENFORCEMENT HEARING.

- (1) Written notice of the day, time, and place of the hearing shall be served to a responsible person as soon as practicable prior to the date of the hearing.
- (2) The format and contents of the hearing notice shall be in accordance with rules and policies promulgated by the Administrative Law Judge.

- (3) The notice of hearing shall be served by any of the methods of service listed in Section [12.1.210](#) of this Title.

12.2.560 DISQUALIFICATION OF ADMINISTRATIVE LAW JUDGE.

- (1) A responsible person may file a written motion to disqualify an Administrative Law Judge for bias, prejudice, a conflict of interest, or any other reason for which a judge may be disqualified in a court of law. The motion to disqualify shall be accompanied by an affidavit or unsworn declaration as described in Title 78B of the Utah Code or applicable successor statute(s) signed by the responsible person, which shall:
- a. State that the motion is filed in good faith;
 - b. Allege facts sufficient to show, bias, prejudice, a conflict of interest, or any other reason that would disqualify a judge in a court of law in Utah; and
 - c. State when and how the Responsible Party came to know of the reason for disqualification.
- (2) The responsible person must file the motion within 21 days of the assignment of the action to an Administrative Law Judge or the date on which the responsible person knew or should have known of the grounds on which the motion is based, whichever is later.
- (3) A responsible person can only file one motion to disqualify an Administrative Law Judge, unless a second or subsequent motion is based on grounds that the responsible person did not know of and could not have known of at the time of the earlier motion.
- (4) The Administrative Law Judge who is the subject of a motion to disqualify must, without taking any further action, provide the Director with a copy of the motion and refer the motion to the Metro Township Council.
- (5) Upon receipt of a motion to disqualify, the Metro Township Council will schedule and notice the matter for review at its next regular scheduled meeting. The Metro Township Council may, in its sole discretion, elect to hold a special meeting to hear the motion before its next regularly scheduled meeting. The Metro Township Council shall first review the motion to disqualify to determine if it satisfies the requirements of paragraphs (1) and (2) of this Section. If the motion to disqualify does not satisfy the requirements of this Section, the Council will deny the motion and remand it to the Administrative Law Judge for further proceedings. If the motion to disqualify satisfies the requirements of paragraphs (1) and (2) of this Section, the Metro Township Council shall determine whether the motion is legally sufficient to warrant disqualification. If the Metro Township Council determines that disqualification is warranted, it will assign the matter to another Administrative Law Judge. If the Metro Township Council determines that the motion to disqualify is not legally sufficient, it will remand the matter back to the Administrative Law Judge.

12.2.570 POWERS OF THE ADMINISTRATIVE LAW JUDGE.

- (1) The Administrative Law Judge has the authority to hold hearings, determine if violations of Metro Township ordinances exist, order compliance with Metro Township ordinances, and enforce compliance as provided in this Title on any matter subject to the provisions of the Title.
- (2) The Administrative Law Judge may continue a hearing based on good cause shown by one of the parties to the hearing. The Administrative Law Judge must enter on the record the good cause on which a continuance is granted.
- (3) The Administrative Law Judge, at the request of any party to the hearing, may sign subpoenas for witnesses, documents, and other evidence where the attendance of the witness for the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena. The Administrative Law Judge shall develop policies and procedures relating to the issuance of subpoenas in administrative code enforcement hearings, including the form of the subpoena and related costs.
- (4) The Administrative Law Judge has continuing jurisdiction over the subject matter of an administrative code enforcement hearing for the purposes of granting a continuance; ordering compliance by issuing an administrative code enforcement order using any remedies available under the law; ensuring compliance of that order, which includes the right to authorize the Metro Township to enter and abate a violation; modifying an administrative code enforcement order; or, where extraordinary circumstances exist, granting a new hearing.
- (5) The Administrative Law Judge has the authority to require a responsible person to post a code enforcement performance bond to ensure compliance with an administrative code enforcement order.

12.2.580 PROCEDURES AT ADMINISTRATIVE CODE ENFORCEMENT HEARING.

- (1) Administrative code enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply; however, an informal exchange of discovery may be required. The request must be in writing. Failure to request discovery shall not be a basis for a continuance. Complainant information is protected and shall not be released unless the complainant is a witness at the hearing. The procedure and format of the administrative hearing shall follow the procedures promulgated by the Administrative Law Judge.
- (2) The Metro Township bears the burden of proof at an administrative code enforcement hearing to establish the existence of a violation of the Metro Township Code or applicable state codes.

- (3) The standard of proof to be used by the Administrative Law Judge in deciding the issues at an administrative hearing is whether the preponderance of the evidence shows that the violations exist.
- (4) Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case. A written declaration signed under penalty of perjury may be accepted in lieu of a personal appearance. Testimony may be given by telephone or other electronic means.
- (5) All hearings are open to the public. They shall be recorded by audio tape. Hearings may be held at the location of the violation.
- (6) The responsible person has a right to be represented by an attorney. If an attorney will be representing the responsible person at the hearing, notice of the attorney's name, address, and telephone number must be given to the Metro Township at least one day prior to the hearing. If notice is not given, the hearing may be continued at the Metro Township's request, and all costs of the continuance assessed to the responsible person.
- (7) No new hearing shall be granted, unless the Administrative Law Judge determines that extraordinary circumstances exist which justify a new hearing.

12.2.590. FAILURE TO ATTEND ADMINISTRATIVE CODE ENFORCEMENT HEARING.

Any party whose property or actions are the subject of any administrative code enforcement hearing and who fails to appear at the hearing is deemed to waive the right to a hearing, and will result in a default judgment for the Metro Township, provided that proper notice of the hearing has been provided.

12.2.591 ADMINISTRATIVE CODE ENFORCEMENT ORDER.

- (1) Once all evidence and testimony are completed, the Administrative Law Judge shall issue an administrative code enforcement order that affirms, modifies, or rejects the notice or citation. The Administrative Law Judge may increase or decrease the total amount of civil penalties and costs that are due pursuant to the Metro Township's fee schedule and the procedures in this Title.
- (2) The parties may enter into a stipulated agreement, which must be signed by both parties. This agreement shall be entered as a stipulated administrative code enforcement order. Entry of this agreement shall constitute a waiver of the right to a hearing and the right to appeal.
- (3) The Administrative Law Judge may order the Metro Township to enter the property and abate all violations, including but not limited to demolitions and the removal of vehicles, garbage, animals,

and other property kept in violation of the Metro Township Code.

- (4) The Administrative Law Judge may revoke a kennel permit, an animal license, or the right to possess animals as provided in the Metro Township Code.
- (5) As part of the administrative code enforcement order, the Administrative Law Judge may condition the total or partial assessment of civil penalties on the responsible person's ability to complete compliance by specified deadlines.
- (6) The Administrative Law Judge may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the administrative code enforcement order.
- (7) The Administrative Law Judge may order the responsible person to post a performance bond to ensure compliance with the order.
- (8) The administrative code enforcement order shall become final on the date of the signing of the order.
- (9) The administrative code enforcement order shall be served on all parties by any one of the methods listed in Section [12.1.210](#) of this Title.

12-2-595 FAILURE TO COMPLY WITH ORDER.

- (1) Upon the failure of the responsible person to comply with the terms and deadlines set forth in the administrative code enforcement order, the Metro Township may abate the violation as provided in Chapter 3, Part 3 of this Title and use all appropriate legal means to recover the civil penalties and administrative costs to obtain compliance.
- (2) After the Administrative Law Judge issues an administrative code enforcement order, the Administrative Law Judge shall monitor the violations and determine compliance.

12.2.600 PART 6 – ADMINISTRATIVE ENFORCEMENT APPEALS

12.2.610 APPEAL OF ADMINISTRATIVE CODE ENFORCEMENT HEARING DECISION.

- (1) Any person adversely affected by any decision made in the exercise of the provisions of this Chapter may file a petition for review of the decision or order by the district court within 30 days after the decision is rendered.
- (2) No person may challenge in district court an administrative code enforcement hearing officer's decision until that person has exhausted his or her administrative remedies.

- (3) Within 120 days after submitting the petition, the party petitioning for appeal shall request a copy of the record of the proceedings, including transcripts of hearings when necessary. The Administrative Law Judge shall not submit copies of files or transcripts to the reviewing court until the party petitioning for appeal has paid all required costs. The petitioning party's failure to properly arrange for copies of the record, or to pay the full costs for the record, within 180 days after the petition for review was filed shall be grounds for dismissal of the petition.
 - a. If a transcript of a hearing cannot be prepared because the tape recording is incomplete or unintelligible, the district court may, in its discretion, remand the matter to the Administrative Law Judge for a supplemental proceeding to complete the record. The district court may limit the scope of the supplemental proceeding to issues that, in the court's opinion, need to be clarified.
- (4) The district court's review is limited to the record of the administrative decision that is being appealed. The court shall not accept nor consider any evidence that is not part of the record of that decision.
- (5) The courts shall:
 - a. Presume that the administrative code enforcement hearing officer's decision and orders are valid; and
 - b. Review the record to determine whether or not the decision was arbitrary, capricious, or illegal.

CHAPTER 12.3 – ADMINISTRATIVE AND JUDICIAL REMEDIES

12.3.100 PART 1 –RECORDATION OF NOTICES OF VIOLATION

12.3.110 DECLARATION OF PURPOSE.

The Council finds that there is a need for alternative methods of enforcement for violations of the Metro Township Code and applicable state codes that are found to exist on real property. The Council further finds that an appropriate method of enforcement for these types of violations is the issuance and recordation of notices of violation.

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

12.3.120 AUTHORITY.

Whenever the Director determines that a property or violation has not been brought into compliance as required in this Title, the Director has the authority, in his or her discretion, to record the notice of violation or administrative code enforcement order with the County Recorder's Office.

12.3.130 PROCEDURES FOR RECORDATION.

- (1) Once the Director has issued a notice of violation to a responsible person, and the property remains in violation after the deadline established in the notice of violation, and no request for an administrative hearing has been filed, the Director shall record a notice of violation with the County Recorder's Office.
- (2) If an administrative hearing is held, and an order is issued in the Metro Township's favor, the Director shall record the administrative code enforcement order with the County Recorder's Office.
- (3) The recordation shall include the name of the property owner, the parcel number, the legal description of the parcel, and a copy of the notice of violation or order.
- (4) The recordation does not encumber the property, but merely places future interested parties on notice of any continuing violation found upon the property.

12.3.140 SERVICE OF NOTICE OF RECORDATION.

A notice of the recordation shall be served on the responsible person and the property owner pursuant to any of the methods of service set forth in Section [12.1.210](#) of this Title.

12.3.150 FAILURE TO REQUEST.

The failure of any person to file a request for an administrative code enforcement hearing when served with a notice of violation shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded notice of violation.

12.3.160 NOTICE OF COMPLIANCE – PROCEDURES.

- (1) When the violations have been corrected, the responsible person or property owner may request an inspection of the property from the Director.
- (2) Upon receipt of a request for inspection, the Director shall re-inspect the property as soon as practicable to determine whether the violations listed in the notice of violation or the order have been corrected, and whether all necessary permits have been issued and final inspections have been performed.
- (3) The Director shall serve a notice of satisfaction to the responsible person or property owner in the manner provided in Section [12.2.210](#) of this Title, if the Director determines that:
 - a. All violations listed in the recorded notice of violation or order has been corrected;
 - b. All necessary permits have been issued and finalized;
 - c. All civil penalties assessed against the property have been paid or satisfied; and
 - d. The party requesting the notice of satisfaction has paid all administrative fees and costs.
- (4) If the Director denies a request to issue a notice of satisfaction, upon request the Director shall serve the responsible person with a written explanation setting forth the reasons for the denial. The written explanation shall be served by any of the methods of service listed in Section [12.1.210](#) of this Title.

12.3.170 PROHIBITION AGAINST ISSUANCE OF MUNICIPAL PERMITS.

The Metro Township may withhold business licenses; permits for kennels; or permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of the real property or the structure. The Metro Township may withhold permits until a notice of satisfaction has been issued by the Director. The Metro Township may not withhold permits that are necessary to obtain a notice of satisfaction or that are necessary to correct serious health and safety violations.

12.3.180 CANCELLATION OF RECORDED NOTICE OF VIOLATION.

The Director or responsible person shall record the notice of satisfaction with the County Recorder's Office. Recordation of the notice of satisfaction shall cancel the recorded notice of violation.

12.3.200 PART 2 – ADMINISTRATIVE CIVIL PENALTIES

12.3.210 AUTHORITY.

- (1) Any person violating any provision of the Metro Township Code or applicable state codes may be subject to the assessment of civil penalties for each violation.
- (2) Each and every day a violation of any provision of the Metro Township Code or applicable state codes exists is a separate violation subject to the assessment of civil penalties.
- (3) Civil penalties cannot be assessed when a criminal case has been filed for the same date and violation, because fines will be assessed with the criminal case.
- (4) Interest shall be assessed per Metro Township policy, or at the judgment rate provided in Utah Code Ann. § 15-1-4 in the absence of a Metro Township policy, on all outstanding civil penalties balances until the case has been paid in full.
- (5) Civil penalties for violations of any provision of the Metro Township Code or applicable state codes shall be assessed pursuant to the Metro Township's applicable fee schedule.

12.3.220 PROCEDURES FOR ASSESSING CIVIL PENALTIES.

- (1) If a responsible person fails to bring a violation into compliance within ten days of service of the notice of violation, civil penalties shall be owed to the Metro Township for each and every subsequent day of violation.
- (2) Civil penalties are assessed and owing immediately for any violation of the Metro Township Code or applicable state codes for an administrative citation.

12.3.230 DETERMINATION OF CIVIL PENALTIES.

- (1) Civil penalties shall be assessed per violation per day pursuant to the applicable Metro Township fee schedule.
- (2) Civil penalties shall continue to accrue until the violation(s) has/have been brought into compliance with the Metro Township Code or applicable state codes.

12.3.240 MODIFICATION OF CIVIL PENALTIES.

- (1) Upon completion of the notice of violation or administrative enforcement order, the responsible person may request a modification of the civil penalties on a finding of good cause.
- (2) Civil penalties may be waived or modified by the administrative law judge, in his or her discretion, if there is a finding of good cause based on the responsible person's claim of nonconforming use or conditional use and:
 - (3) The Metro Township's need to verify the claim; or
 - (4) The responsible person's filing of an application for either use before expiration of the date to correct.

12.3.250 FAILURE TO PAY PENALTIES.

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

12.3.300 PART 3 – ABATEMENT OF VIOLATION

12.3.310 AUTHORITY TO ABATE.

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

12.3.320 PROCEDURES FOR ABATEMENT.

- (1) The Director may abate a violation pursuant to this Part after providing notice under Section 12.2.020 and by following the process set forth in Utah Code Ann. § 10-11-3 or any applicable successor statute(s) if the Responsible Party or Parties:
 - a. Do not abate a violation within the time period prescribed in a notice issued pursuant to Sections 12.2.020 and 12.2.400, et seq.; and
 - b. The Responsible Party or Parties did not file a request for an administrative code enforcement hearing under Section 12.2.530.
- (2) The Director may, in his or her discretion, request a default hearing pursuant to

Section 12.2.504 but is not required to do so to abate the violation under this Part and may abate the violation without a default hearing pursuant to Utah Code Ann. § 10-11-3 or applicable successor statute(s).

- (3) The Director may use Metro Township personnel or by a private contractor acting under his or her direction or the direction of the Metro Township to abate the violation.
- (4) Metro Township personnel or a private contractor may enter upon private property in a reasonable manner to abate the ordinance violation as specified in the notice of violation or administrative code enforcement order.
- (5) If the responsible person abates the violation before the Metro Township performs the actual abatement pursuant to a notice of violation or administrative code enforcement order, the Director may still assess all costs incurred by the Metro Township against the responsible person.
- (6) When the abatement is completed, the Director shall prepare an itemized statement of the work performed that complies with Utah Code Ann. § 10-11-3 or any applicable successor statute(s).
- (7) The Director shall serve the itemized statement on the responsible person in accordance with Utah Code Ann. § 10-11-3 or any applicable successor statute(s).
- (8) The Administrative Law Judge shall hear any appeals filed by a responsible person in response to an itemized statement issued under this Part and shall conduct such appeals and any related hearings in accordance with Utah Code Ann. § 10-11-3 or any applicable successor statute(s).

12.3.400 PART 4 – COSTS

12.3.410 DECLARATION OF PURPOSE.

- (1) The Council finds that there is a need to recover costs incurred by enforcement officials and other Metro Township personnel who spend considerable time inspecting and re-inspecting properties throughout the Metro Township in an effort to ensure compliance with the Metro Township Code or applicable state codes.
- (2) The Council further finds that the assessment of costs is an appropriate method to recover expenses incurred for actual costs of abating violations, re-inspection fees, filing fees, attorney fees, hearing officer fees, title search, and any additional actual costs incurred by the Metro Township for each individual case. The assessment and collection of costs shall not preclude the imposition of any administrative or judicial civil penalties or fines for violations of the Metro Township Code or applicable state codes.

12.3.420 AUTHORITY.

- (1) Whenever actual costs are incurred by the Metro Township on a property to obtain compliance with provisions of the Metro Township Code and applicable state codes, the Director may assess costs against the responsible person.
- (2) Once a notice of violation has been issued, the property will be inspected one time. Any additional inspections shall be subject to re-inspection fees pursuant to the applicable Metro Township fee schedule.

12.3.430 NOTIFICATION OF ASSESSMENT OF REINSPECTION FEES.

- (1) Notification of re-inspection fees shall be provided on the notice of violation served to the responsible person(s).
- (2) Re-inspection fees assessed or collected pursuant to this Part shall not be included in any other costs assessed.
- (3) The failure of any responsible person to receive notice of the re-inspection fees shall not affect the validity of any other fees imposed under this Part.

12.3.440 FAILURE TO TIMELY PAY COSTS.

The failure of any person to pay assessed costs by the deadline specified in the invoice shall result in a late fee pursuant to Metro Township policy.

12.3.500 PART 5 – ADMINISTRATIVE FEES

12.3.510 ADMINISTRATIVE FEES.

The Director or the Administrative Law Judge is authorized to assess administrative fees for costs incurred in the administration of this program, such as investigation of violations, preparation for hearings, hearings, and the collection process. The fee assessed shall be the amount set in the applicable Metro Township fee schedule.

12.3.600 PART 6 -- INJUNCTIONS

12.3.610 CIVIL VIOLATIONS – INJUNCTIONS.

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

12.3.700 PART 7 – PERFORMANCE BONDS

12.3.710 PERFORMANCE BOND.

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

CHAPTER 12.4 - RECOVERY OF CODE ENFORCEMENT PENALTIES AND COSTS

12.4.100 PART 1 – CODE ENFORCEMENT TAX LIENS

12.4.110 DECLARATION OF PURPOSE.

The Council finds that recordation of code enforcement tax liens will assist in the collection of civil penalties, administrative costs, and administrative fees assessed by the administrative code enforcement hearing program or judicial orders. The Council further finds that collection of civil penalties, costs, and fees assessed for code enforcement violations is important in deterring future violations and maintaining the integrity of the Metro Township's code enforcement system. The procedures established in this Part shall be used to complement existing administrative or judicial remedies that may be pursued to address violations of the Metro Township Code or applicable state codes.

12.4.120 PROCEDURES FOR TAX LIENS WITHOUT A JUDGMENT.

- (1) Once the Metro Township has abated a property for weeds, garbage, refuse, or unsightly or deleterious objects or structures, the Director shall prepare three copies of the Itemized Statement of Costs incurred in the removal and destruction of the violations and deliver them to the Metro Township Mayor within 10 days after completion of the work of removing the violations.
- (2) The Director shall send, by registered mail to the property owner's last known address, a copy of the Itemized Statement of Costs informing him or her that a code enforcement tax lien is being recorded for the amount of actual costs of abatement. Payment shall be due within 20 calendar days from the date of mailing.
- (3) Upon receipt of the Itemized Statement of costs, the Metro Township Mayor shall record a Code Enforcement Tax Lien against the property with the County Treasurer's office.
- (4) The failure of any person with a financial interest in the property to actually receive the notice of the lien shall not affect the validity of the lien or any proceedings taken to collect the outstanding costs of abatement.

12.4.130 PROCEDURES FOR TAX LIENS WITH A JUDGMENT.

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

person(s).

12.4.140. CANCELLATION OF CODE ENFORCEMENT TAX LIEN.

Once payment in full is received for the outstanding civil penalties and costs, or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the Director shall either record a notice of satisfaction of judgment, or provide the property owner or financial institution with the notice of satisfaction of judgment so that it can record this notice with the county recorder's office. The notice of satisfaction of judgment shall include the same information as provided for in the original code enforcement tax lien. Such notice of satisfaction of judgment shall cancel the code enforcement tax lien.

12.4.200 PART 2 – WRIT OF EXECUTION

12.4.201 RECOVERY OF COSTS BY WRIT OF EXECUTION.

After obtaining a judgment, the Director may collect the obligation by use of all appropriate legal means. This may include the execution on personal property owned by the responsible person by filing a writ with the applicable court.

12.4.300 PART 3 – WRIT OF GARNISHMENT

12.4.310 RECOVERY OF COSTS BY WRIT OF GARNISHMENT.

After obtaining a judgment, the Director may collect the obligation by use of all appropriate legal means. This may include the garnishment of paychecks, financial accounts, and other income or financial assets by filing a writ with the applicable court.

12.4.400 PART 4 – ALLOCATION OF FUNDS COLLECTED UNDER ADMINISTRATIVE CODE ENFORCEMENT HEARING PROGRAM

12.4.410 ABATEMENT FUND.

There is hereby established a revolving fund to be known as the "Abatement Fund" to defray costs of administrative and judicial abatements. The fund shall be reimbursed by collection from the property or property owner as specified in this Title and by the courts. The Metro Township Council shall establish accounting procedures to ensure proper account identification, credit, and collection. This fund may be operated and used in conjunction with procedures ordered or authorized under the abatement provision of this Title.

12.4.420. REPAYMENT TO ABATEMENT FUND.

All monies recovered from the sale or transfer of property or by payment for the actual abatement costs shall be paid to the Metro Township Treasurer, who shall credit the appropriate amount to the Abatement Fund.

12.4.430 CODE ENFORCEMENT ADMINISTRATIVE FEES AND COST FUND.

Administrative fees and administrative costs, except for actual abatement costs, collected pursuant to this Part shall be deposited in a fund established by the Metro Township Council for the enhancement of the Metro Township's code enforcement efforts and to reimburse the Metro Township for investigative costs and costs associated with the hearing process. Fees and costs deposited in this fund shall be appropriated and allocated in a manner determined by the Metro Township Council. The Metro Township Council shall establish accounting procedures in consultation with the Metro Township Auditor to ensure proper account identification, credit, and collection.

12.4.440 ALLOCATION OF CIVIL PENALTIES.

Civil penalties collected pursuant to this Part shall be deposited in the General Fund of the Metro Township. Civil penalties deposited in this fund shall be appropriated and allocated in a manner determined by the Metro Township Manager and the Metro Township Council. The Metro Township Council shall establish accounting procedures to ensure proper account identification, credit, and collection.