



## 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](http://www.pwpds.slco.org)

# Emigration Metro Township Planning Commission

## Public Meeting Agenda

### Thursday, November 14, 2019 8:30am

#### Location

SALT LAKE COUNTY GOVERNMENT CENTER  
2001 SOUTH STATE STREET, ROOM N1-110  
NORTH BUILDING, MAIN FLOOR  
(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.

### PUBLIC HEARINGS

**30939 – (Continued from July 11, August 15, and September 12, 2019) - Ordinance Amendments – Enactment of an administrative code enforcement process to be codified in Title 12 of the Emigration Metro Township Municipal Code.**

### BUSINESS MEETING

- 1) Approval of Minutes from the August 15, 2019 meeting.
- 2) General Plan Discussion
- 3) Other Business Items (as needed)

### ADJOURN

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**MEETING MINUTE SUMMARY  
EMIGRATION METRO TOWNSHIP PLANNING COMMISSION MEETING  
Thursday, August 15, 2019 8:30 a.m.**

**Approximate meeting length:** 1 hour 30 minutes

**Number of public in attendance:** 0

**Summary Prepared by:** Wendy Gurr

**Meeting Conducted by:** Commissioner Pinon

**\*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
Andrew Wallace			x
Alex Pacanowsky			x
Jim Karkut	x	x	
Robert Pinon	x	x	
Dale Berreth	x	x	

Planning Staff / DA	Public Mtg	Business Mtg
Wendy Gurr	x	x
Daniel Quintanilla	x	x

**PUBLIC HEARINGS**

**Hearings began at – 8:45 a.m.**

**30939 – (Continued from July 11, 2019) - Ordinance Amendments –** Enactment of an administrative code enforcement process to be codified in Title 12 of the Emigration Metro Township Municipal Code.

*Commissioners reviewed Commissioner Karkut’s redline version of the Ordinance Amendment and Commissioner Karkut explained his reasoning for changes. Additional changes were made to be presented to the MSD Council. Refer to recording and redline version.*

**PUBLIC PORTION OF MEETING OPENED**

*No one from the public present to speak.*

**PUBLIC PORTION OF MEETING CLOSED**

**Motion:** To continue file #30939 to the September 12<sup>th</sup> meeting.

**Motion by:** Commissioner Berreth

**2<sup>nd</sup> by:** Commissioner Karkut

**Vote:** Commissioners voted unanimous in favor (of commissioners present)

## **BUSINESS MEETING**

**Meeting began at – 10:07 a.m.**

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

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

**Motion by:** Commissioner Karkut

**2<sup>nd</sup> by:** Commissioner Berreth

**Vote:** Commissioners voted unanimous in favor (of commissioners present)

- 2) General Plan Discussion

*Daniel discussed the final tour produce a character area map, highlighting how the community reviews itself and go to council, and plan the next steering committee meeting and tackle the vision statement. Commissioner Pinon asked if they should review the character area map before it goes to council.*

- 3) Other Business Items (as needed)

*Commissioner Pinon said his Wednesdays have become troubled, so Tuesday nights work best for the steering committee on the 1<sup>st</sup> and 3<sup>rd</sup>. Plan September 3<sup>rd</sup> and September 17<sup>th</sup>.*

**MEETING ADJOURNED**

**Time Adjourned – 10:15 a.m.**

**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 Emigration Canyon 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.; 76-10-801, et seq.; and any other applicable law or successor statute(s).

**12.1.030 DECLARATION OF PURPOSE.**

The Emigration Canyon Metro Township Council finds that the enforcement of the Emigration Canyon Metro Township Municipal Code and applicable state codes throughout the municipality is an important public service. Code enforcement and abatement of illegal or dangerous conditions 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, comprehensive, fair, and equitable regulations that can be effectively applied in administrative 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 Emigration Canyon Metro Township Code. It has been designed as an additional remedy for the Metro Township to use in achieving compliance with its ordinances.

**12.1.050 EXISTING ORDINANCES AND LAWS CONTINUED.**

The provisions of this Title do not invalidate any provision of the Emigration Canyon Metro Township Code but shall be read in conjunction therewith as an additional mechanism available for the enforcement of the Code together with any and all other applicable laws. If there is a conflict between this Title and another provision of the Emigration Canyon Metro Township Code, this Title shall control. The provisions of this Title and all proceedings hereunder shall be construed to give effect to the purpose of this Title and to promote justice.

**12.1.060 CRIMINAL PROSECUTION RIGHT.**

The Metro Township has sole discretion in deciding whether to file a civil or criminal case, or both, for the violation of any of its ordinances. The pursuit 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. If the Metro Township chooses to file both civil and criminal charges for the same violation, no civil penalties may be assessed, but all other remedies will be available.

**12.1.070 EFFECT OF HEADINGS.**

Headings contained in this Title are for reference purposes and shall not be deemed to limit, modify, or in any manner affect the scope, meaning or interpretation of any part or provision 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 or enforceability of the remaining portions of this Title. This Section shall apply to all amendments heretofore or hereafter made to this Title.

**12.1.090 NO MANDATORY DUTY – CIVIL LIABILITY.**

In establishing performance standards for or an obligation to act by Metro Township officers, employees, or designees, the provisions of this Title shall not be construed as creating a mandatory duty for purposes of tort liability.

**12.1.100 GENERAL RULES OF INTERPRETATION OF ORDINANCES.**

For purposes of this Title:

- (1) Any gender pronoun includes the pronoun for any other gender(s).
- (2) “Shall” is mandatory; “may” is permissive.
- (3) “Or” is always inclusive.
- (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 their context and ordinary usage.
- (7) The term “include” is not exhaustive and does not create an exclusive list.

**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 Emigration Canyon 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 Emigration Canyon Metro Township § Code 1.16 “Administrative Hearing.”
- (4) “Animal Control Administrator” means the supervisor of the Animal Control Division, established in Emigration Canyon Metro Township Code § 8.1.
- (5) “Chief Building Inspector” means the official responsible for planning, directing, and managing the building inspection activities within the Metro Township.
- (6) “Council” means the Council of Emigration Canyon Metro Township
- (7) “Code Enforcement Lien” means a lien recorded to collect outstanding civil penalties, administrative fees, and costs.
- (8) “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.
- (9) “County” means Salt Lake County, Utah.
- (10) “Department” means the Metro Township’s Planning and Development Services Department, or its designee.
- (11) “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.
- (12) “Enforcement Official” means any person authorized to enforce the Metro Township Code or applicable state codes.
- (13) “Financial Institution” means any person that holds a recorded mortgage or deed of trust on a property.

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- (14) “Fire Department” means the entity that is authorized and responsible for providing fire and emergency services to the Metro Township.
- (15) “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.
- (16) “Imminent Life Safety Hazard” means any condition that creates a present, extreme, and immediate danger to life, property, health, or public safety.
- (17) “Legal Interest” means any interest 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 recorded with the County Recorder.
- (18) “Metro Township” or “Municipality” means the area within the territorial municipal limits of Emigration Canyon Metro Township, and such territory outside of this Metro Township over which the Emigration Canyon Metro Township has jurisdiction or control by virtue of any constitutional or incorporation provisions or any law.
- (19) “Minor violation” means nuisance violation, as defined by Utah state statute, regulation, or judicial opinion, to include:
- a. Land uses that do not conform to existing zoning;
  - b. Unauthorized collections of unlicensed, unregistered, or inoperable motor vehicles;
  - c. Illegal dumping or accumulation of trash, litter, or weeds;
  - d. Nuisance noise and lighting;
  - e. Illegal advertising; and
  - f. The unauthorized erection and use of news racks, merchandise displays, mobile food vending, and other illegal uses.
- (20) “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.
- (21) “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.
- (22) “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.



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- (23) “Person” means a natural person or a firm, partnership, corporation, trust, or other association, or the authorized agent or employee of any of them, or any other entity recognized by law as the subject of rights or duties.
- (24) “Program” means the Code Enforcement and Community Enhancement Program authorized under this Title.
- (25) “Property Owner” means the record owner of real property based on the county assessor’s records.
- (26) “Public Nuisance” means, in addition to the definition set forth in Utah Code § 76-10-801(1), any condition that constitutes a threat to public health, safety, and welfare, or that significantly obstructs, injures, or interferes with the reasonable use of property.
- (27) “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.
- (28) “Treasurer” means the Emigration Canyon Metro Township Treasurer as designated pursuant to Utah Code Ann. § 10-3c-203.
- (29) “Written” means transcribed in comprehensible words or pictograms, and includes handwritten, typewritten, photocopied, computer printed, or facsimile.
- (30) “Emigration Canyon Metro Township” means Emigration Canyon 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 on the property owner and any non-owner occupant of the property, if applicable, in accordance with Utah Code Ann. § 10-11-2(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 Emigration Canyon 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 is authorized to enforce 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 nuisances and unlawful or dangerous conditions upon public and private property, and use whatever judicial and administrative remedies are available under the Emigration Canyon Metro Township Code or applicable state codes.

**12.1.320 ADOPTION OF POLICY AND PROCEDURES.**

The Administrative Law Judge shall develop and submit to the Metro Township Council for approval such policies and procedures, relating to hearing scope and procedure, subpoena powers, and such matters, as shall afford equal protection of the law to and protect the due process rights of all parties.

**12.1.330 AUTHORITY TO INSPECT.**

(1) The Director or any designated enforcement official, may, enter upon any property or premises to ascertain whether there has been a violation of any of the provisions of the Emigration Canyon Metro Township Code or applicable state codes and to examine or survey the property or premises, or to take such samples, photographs, or evidence as may be necessary to this end.

(2) All inspections, entries, examinations, and surveys shall be (a) based upon reasonable cause and (b) carried out in a reasonable manner with reasonable prior oral notice to the responsible person and the property occupant. If the responsible person requests it, the enforcement official shall obtain a search warrant before entering upon the property or into the premises.

**12.1.340 POWER TO ISSUE CITATION.**

The Director or any designated enforcement official is authorized to issue a misdemeanor citation or administrative citation to a person whenever any such official has reasonable cause to believe (1) that the Emigration Canyon Metro Township Code has been or applicable state codes have been violated and (2) that the person to be cited is responsible for the violation.

**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 and/or 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 the 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 by which the responsible party must 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. An explanation of the consequences of failure to comply with the terms of the notice of violation, which may include, but are not limited to, (i) civil penalties, (ii) assessment of administrative fees or other costs incurred by the Metro Township, (iii) recordation of the notice of violation, (iv) revocation of permits, (v) withholding of future municipal permits, (vi) criminal prosecution, or (vii) abatement of the violation by the City and the property owner’s repayment to the City of the costs of the abatement; ;
- i. A statement that civil penalties will begin to accrue immediately upon expiration of the date set in Subsection (1)(g) for correction of the violations;
- j. The amount of the civil penalty for each violation that will accrue daily until the property

is brought into compliance;

- k. An explanation of (i) the procedures to follow to appeal the notice and request a hearing as provided in Section 12.2.530, and (ii) the consequences of failure to request such a hearing; and
- l. An explanation of the procedures to follow to request an inspection after a violation has been abated pursuant to Section 12.2.040

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

(3) If a notice of violation is issued on the same property for a violation of the same provision of the Metro Township Code or Utah law within 12 months following the later of (i) the date of issuance of the first notice of violation or (ii) the date of the request for inspection under Section 12.2.040 of the Emigration Canyon Metro Township Code, then the civil penalties associated with the second violation shall be doubled.

**12.2.030 FAILURE TO BRING PROPERTY INTO COMPLIANCE.**

(1) If the responsible person fails to bring a violation into compliance within the compliance period specified in the notice of violation, civil penalties shall accrue for each and every subsequent day of violation.

(2) Civil penalties accruing pursuant to Subsection (1) shall be immediately due and payable to the Metro Township.

(3) 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 shall 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, the Director may exercise the following powers without prior notice to the responsible person:

- a. Order the immediate removal of any tenants, and prohibit occupancy or entry until all repairs are completed, provided that any order prohibiting entry shall specify how entry is to be made to mitigate damage, complete repairs, retrieve personal property, or for any other purpose, if any, during the abatement process.

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- b. Post visible notice on the exterior of the property or structure that is deemed unsafe that the premises as unsafe, substandard, or dangerous;
  - c. Board, fence, or otherwise secure the building or site;
  - d. Raze or grade that portion of the property or premises necessary to prevent collapse or remove any hazard to the 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 imminent life safety hazard.
- (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 imminent life safety hazard.
- (3) The responsible person shall be liable for all costs associated with the abatement of the imminent 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 imminent life safety 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.
- (2) The Director may also pursue any other legal remedy to abate any remaining violations.

**12.2.230 NOTICE OF EMERGENCY ABATEMENT.**

Within 10 days after completion of an emergency abatement, the Emigration Canyon Metro Township shall provide notice of the abatement action taken in accordance with the notice provisions of Utah Code § 10-11-2(2). This notice shall describe in reasonable detail the abatement action(s) taken and the cost thereof.

**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 the 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. Such 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 Department has complied with all of the notice requirements of the applicable laws, the property shall be demolished.

**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 offices 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.

**12.2.430. PROCEDURES.**

- (1) Upon discovering any violation of the Metro Township Code, or applicable state codes, an enforcement official may issue an administrative citation to the 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 a legal 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 violation(s), 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 Emigration Canyon 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. If there is a conflict between the appeal procedures in this Title and the appeal procedures in another code incorporated by the Township, this Title shall control.

**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 this 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 preponderance of 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 accrue until the Director or other duly authorized representative of the Metro Township issues a Notice of Compliance stating the date on which 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 the 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) The 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 person 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) The 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 the matter for review 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 condition and/or 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 the 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 or such release is otherwise required by law. 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 actions taken to abate the relevant conditions and/or violations and determine compliance with the order.

**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 generally limited to the record of the administrative decision that is being appealed.
- (5) The district court 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, or an abuse of discretion.

**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 for compliance 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 and/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:
  - (4) All violations listed in the recorded notice of violation or order has been corrected;
  - (5) All necessary permits have been issued and finalized;
  - (6) All civil penalties assessed against the property have been paid or satisfied; and
  - (7) The party requesting the notice of satisfaction has paid all administrative fees and costs.
- (8) If the Director denies a request to issue a notice of satisfaction, upon request, the Director shall serve the responsible person and/or property owner 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 WITHHOLDING OF MUNICIPAL PERMITS FOR NONCOMPLIANT PROPERTIES.**

The Metro Township may, in its sole discretion, withhold any municipal permit that has been requested for a property that is in violation of any provision of the Metro Township Code until the Director issues a notice of satisfaction for the applicable violation(s) pursuant to this Title. 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 balance 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 ASSESSMENT OF 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 compliance with the notice of violation or administrative enforcement order, the responsible person may request a modification of the civil penalties based on good cause as defined in this Title or other extenuating circumstances.
- (2) Civil penalties may be waived or modified by the Administrative Law Judge, in his or her discretion, if the Administrative Law Judge finds good cause for such modification or waiver.

**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 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 person:
  - 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 person 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).

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- (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 the 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 as adopted in the Metro Township’s annual budget.

**12.3.430 NOTIFICATION OF ASSESSMENT OF REINSPECTION FEES.**

- (1) Notification of any applicable re-inspection fees adopted by the Metro Township 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. Re-inspection fees shall be assessed after two failed inspections.
- (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, including re-inspection fees, 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 fees 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 the responsible person 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 performance bond will be forfeited to the Metro Township. The performance 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 condition or violation on public or private property involving but not limited to 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 relevant conditions and deliver them to the Metro Township Mayor within 10 days after completion of the abatement.
- (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 the 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 subject to the abatement action(s) 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 has been 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 – COLLECTION BY WRIT**

After obtaining a judgment, the Director may collect the obligation by use of all appropriate legal means, including (a) filing a writ with an applicable court for execution on personal property owned by the responsible person, or (b) 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. The Emigration Canyon 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 provisions of this Title.

**12.4.420. REPAYMENT TO ABATEMENT FUND.**

All monies recovered from the sale or transfer of property or by payment for 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. 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 the fund shall be appropriated and allocated in a manner determined by the Metro Township Council. The Metro Township Council shall establish accounting procedures to ensure proper account identification, credit, and collection.