



Planning and Development Services

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Emigration Metro Township Planning Commission

Public Meeting Agenda

Thursday, July 11, 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 – 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 November 15, 2018, January 17, and June 13, 2019 meetings.
- 2) General Plan Discussion
- 3) Other Business Items (as needed)

ADJOURN

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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 [insert Metro Township name] 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 [insert Metro Township name] 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 [insert Metro Township name] 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.

For purposes of this Title:

- (1) Any gender includes the other gender(s).
- (2) "Shall" is mandatory; "may" is permissive.
- (3) The singular number includes the plural, and the plural the singular.
- (4) Words used in the present tense include the past and future tense, and vice versa.
- (5) 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 [insert Metro Township name] § Code 1.16 “Administrative Hearing.”
- (4) “Animal Control Administrator” means the supervisor of the Animal Control Division, established in [insert Metro Township name] § Code 8.1.
- (5) “Chief Building Inspector” means the official authorized and responsible for planning, directing, and managing the building inspection activities within the Metro Township.
- (6) “Council” means the Council of [insert Metro Township name].
- (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 violations of 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.

- (14) “Fire Department” means the applicable entity or official(s) 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 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.
- (18) “Metro Township” or “Municipality” means the area within the territorial municipal limits of [insert Metro Township Name], and such territory outside of this Metro Township over which the [insert Metro Township Name] has jurisdiction or control by virtue of any constitutional or incorporation provisions or any law.
- (19) “Minor violation” means nuisance violations, as defined in state law and by Utah State Courts, to include:
- a. Land uses that do not conform to existing zoning of the property;
 - b. Unauthorized collections of motor vehicles that are unlicensed, unregistered, and/or inoperable;
 - c. Trash, litter, illegal dumping, and weeds;
 - d. Nuisance noise and lighting;
 - e. Illegal advertising; and
 - f. The unauthorized use of public streets and sidewalks that stem from news racks, merchandise displays, mobile food vending, and other such 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.

- (23) “Oath” includes affirmations and oaths.
- (24) “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.
- (25) “Program” means the Code Enforcement and Community Enhancement Program authorized under this Title.
- (26) “Property Owner” means the record owner of real property based on the county assessor's records.
- (27) “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.
- (28) “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.
- (29) “Treasurer” means the [insert Metro Township name] Treasurer as designated pursuant to Utah Code Ann. § 10-3c-203.
- (30) “Written” includes handwritten, typewritten, photocopied, computer printed, or facsimile.
- (31) “[Insert Metro Township name],” means [insert Metro Township name], 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 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 as provided in Section 12.2.530, and consequences for failure to request one; and
 - m. 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 or entry until all repairs are completed, provided that an 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.
 - 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 Department 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 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.

12-2-403. 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. 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 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 Director or other duly authorized representative of 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:
- (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 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 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 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 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.
- (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.



Planning and Development Services

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MEETING MINUTE SUMMARY EMIGRATION METRO TOWNSHIP PLANNING COMMISSION MEETING Thursday, November 15, 2018 8:30 a.m.

Approximate meeting length: 2 hours 49 minutes

Number of public in attendance: 40

Summary Prepared by: Wendy Gurr

Meeting Conducted by: Commissioner Tippets

***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
Brent Tippets	x	x	
Claire Clark	x	x	
Andrew Wallace	x	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		
Curtis Woodward	x	x
Jim Nakamura	x	x

BUSINESS MEETING

Meeting began at – 8:30 a.m.

- 1) Approval of Minutes from the December 14, 2017 meeting.

Motion: To approve minutes from the December 14, 2017 meeting as presented.

Motion by:

2nd by:

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

- 2) Other Business Items (as needed)

No other business items to discuss.

PUBLIC HEARINGS

Hearings began at – 8:32 a.m.

30473 – John Walsh requests conditional use approval for commercial and private recreation, including picnic area and gazebo for picnics, parties, and other gatherings, as well as two single-lane gun ranges on property at 2450 Pinecrest Canyon Road. Zone: FR-1 and FR-20. Planner: Curtis Woodward

Salt Lake County Planning and Development Services Zoning Administrator Curtis Woodward provided an analysis of the staff report.

Commissioner asked if there is a public comment period. Mr. Woodward advised there isn't a comment period per county policy.

Commissioner Tippetts asked for a description of public notification process. Mr. Woodward described the process within 300 feet of the property, in the last 48 hours word travels quickly. Commissioner Tippetts asked if the parking would affect that or not. Mr. Woodward said if the planning commission were to entertain, we would make sure we renotify with the number of parcels involved. Mr. Woodward advised received a letter from a water company that needed to be notified under FCOZ, and we don't have the other water companies mapped out. Commissioner Tippetts said there are restrictions of firearms within the canyon. Mr. Woodward said we can find out, but his records that hasn't been an issue, but there is a restriction on hunting. Commissioner Tippetts said there isn't a traffic study done. Mr. Woodward said not to his knowledge, there was reference made to a traffic study by Johansen and he has not seen a traffic study done by a transportation engineer. Commissioner said may have been thinking of Pinecrest pipeline operating company when thinking of a water company, the metro township board adopted an amendment to the FCOZ. Under state law, presumption in favor of a conditional use application can be substantially mitigated by conditions. The packet provided was not in conflict with the emigration general plan and one comment letter quoted language and doesn't need to be resolved. The land in Pinecrest is within a subdivision plat and does have several roads and trails identified and whether they're overlaid. Mr. Woodward said the roads running through the property has been subject to discussion. Commissioner curious about the firing range and if the county has experience. Mr. Woodward said we have and the unique one is in Parleys canyon by the sheriff's department as a public use. Commissioner asked if the applicant included the total stalls, include employees, rentals, vendors, etc. Mr. Woodward said there weren't stalls specifically labeled. Commissioner Clark said all the issues overlap, if fire marshal decided to have emergency fire access and couldn't turn around, widening the road would affect private property.

PUBLIC PORTION OF MEETING OPENED

Speaker # 1: Applicant

Name: John Walsh

Address: 2348 Pinecrest Canyon Road

Comments: Mr. Walsh said suggest take questions. Biggest issue is wedding setting, occurring in the evening on the weekend coming through Parley's Canyon. Resolution passed not allowing the road to be 15 feet across, and county designed turnouts and put up no parking to address specific needs. From his own property, the fire department suggested enlarging foliage.

Commissioner asked how many employees for zipline and gun range. Mr. Walsh said wedding would be solely vehicle driving vehicles. If he needed busses he doesn't intend to provide food. Drivers for weddings, no significant employees. Commissioner asked if he anticipated rental equipment. Mr. Walsh said on the application is for two storage units, would store equipment there. Commissioner asked if there was a traffic study performed. Mr. Walsh said he spoke to great lengths with the county but hasn't engaged a traffic study. Commissioner asked the timing of the different activities, planning to hold them year-round or seasonal limits. Mr. Walsh said one activity at a time. Commissioner said application doesn't specify time frames. Mr. Walsh said happy to have times placed as conditions. Safety is important to him. Commissioner asked if there is a need for a gun range. Mr. Walsh said under recreational it is appropriate, his family is big on guns. Commissioner asked where the gun ranges would be located. Mr. Walsh said block 11 for pistols and would not go over platted right of ways and kept on private property. Commissioner asked about

mitigating a fire if started. Mr. Walsh said two existing fire hydrants on the property. Commissioner asked if fed by his own tank. Mr. Walsh said his own with 12,000 gallons upper and below. Upper shooting range is block 15. Commissioner asked if the existing home is intended for this conditional use. Mr. Walsh said none and would be for additional parking. Commissioner said application in the works for a long time, interest of disclosure to schedule a visit to the property. Mr. Walsh said he is open to that.

Commissioner Tippetts asked for a show of hands to speak, interest of time contain precise and be respectful and focus on relevant information. Limit the time to two minutes and tracking the time. Commissioner said two minutes is too short. Commissioner Tippetts agrees with that but avoid redundancy. Commissioner agreed to 3 ½ minutes and avoid redundancy.

Speaker # 2: Emigration Canyon Community Council Chair

Name: Steve Borst

Address: Not provided

Comments: Mr. Borst read a letter from the community council to the planning commission dated November 14th.

Speaker # 3: Citizen

Name: Catherine Harris

Address: 696 Donner Hill Circle

Comments: Ms. Harris said she has been a resident for 25 years. Applaud community council with their statement, joining community council in January. Was on community council when Pinecrest Road was under review and requests look into it with regards to pullouts. States her oppositions on traffic and fire safety. Objects on noise concerns. Read from a portion of her letter.

Speaker # 4: Emigration Canyon Homeowners Association

Name: Mark Tracy

Address: Not provided

Comments: Mr. Tracy said opposes this project, and Brent Tippetts should recuse himself as he is co chairman emigration improvement district. Problem reviewing the water rights. No water rights approved for commercial use. Point of diversion identified by Brent Tippetts. This has been protested by 50 residents. Reject proceeding, due to public notice, they only heard of this meeting three days prior. Proposal was distributed at cc meeting minus pictures. He pointed out a structure being a private residence, reason to believe not a single-family resident, this is a resort. They oppose any water rights. Salt Lake City was presented an opportunity to review in April, the proposal was completed in May. Ask public notice given, for public meeting.

Speaker # 5: Citizen

Name: Tom Johnson

Address: 2326 Pinecrest Canyon Road

Comments: Mr. Johnson said prepared a letter and distributed and another letter from resident Mr. Darver. Read the portion of the road from the letter. Read from the portion of the public right of way and trails. Requests denial.

Speaker # 6: President, Spring Land Water Company

Name: Lisa Fitzgerald

Address: Not provided

Comments: Ms. Fitzgerald said she has not been notified until Tuesday. They have a 60,000-gallon tank which supports a smaller area, was barely adequate for fire prevention and pay EID to put in additional hydrants to support suppression, don't think its sufficient.

Speaker # 7: Citizen

Name: Melinda McIlwaine

Address: 2148 Pinecrest Canyon

Comments: Ms. McIlwaine read a letter from the Steve Moore, president of Pinecrest pipeline operating company addressed to Mayor Smolka. Her property has been affected by the widening of the road and dig a 14-foot hole, nothing to prevent driving in to the hole. County plows fall in to the creek, the bus turn around was paved. The gate is never supposed to be closed, muddy in the spring or an appropriate road. No way for another car to pull over, due to the boulders.

Speaker # 8: Citizen

Name: Heather Ross

Address: 4347 Laneview Court

Comments: Ms. Ross said last night searched the internet for 11 instances where wildfires were started on legal target ranges. Study by the us forest service in 2013, every firearm has potential to ricochet and cause fire. Ask the applicant to withdraw that aspect of his plan, not worth the risk.

Speaker # 9: Citizen

Name: Cindy Furse

Address: 2295 Pinecrest Canyon Road

Comments: Ms. Furse said water and traffic would be affected and wasn't formally notified. Sent an email and provide an updated letter. Children walk along this road to the school bus and extreme weather. Condition is not within the general plan and no additional commercial activity to take place. Traffic plan should be required. She read from her letter submitted to the planning commission. Also presented letters from three additional neighbors.

Speaker # 10: Citizen

Name: Sarah Bennett

Address: 64 North Silver Oak Road

Comments: Ms. Bennett said she is concerned on window of notification. Obvious impacts to water, fire safety traffic and request this body take maximum amount of time for discussion and determine how much of a threat this proposal is. Traffic, blocking of the road and risk of safety and incompatibility and outline of no further commercial. Speak to right of way, Mr. Walsh seem fit to block, be cause the plat map is on the books and right of way is identified, and the root is part of the trails to access the public lands. Echoes Cynthia.

Speaker # 11: Citizen, Springland Water Company

Name: Jessica Kramer

Address: 4801 Skycrest Park Cove

Comments: Ms. Kramer said she supports the community council letter and concerns raised, this is not a matter of if, but when fire starts. Two months ago, a 14-year-old boy was killed in his car from a stray bullet from a firing range. May not use parleys to avoid traffic and will use emigration, exceeded daily trips in the canyon. Concerns with smoking, alcohol, firepits and many unanswered questions. Joggers and bikers using the canyon road and consider school children.

Speaker # 12: Emigration Canyon Community Council and Pinecrest Services Association

Name: Kate Miyagi

Address: Not provided

Comments: Ms. Miyagi submitted a personal letter and documentation. They have a plow, additional traffic issue. Stated all documents listed. In 2012 governor Herbert by July 21 fires had been started, multiples

fires started at shooting ranges despite. Powder mountain fire burned 800 acres. She read from documentation. This is bound to happen, personal resident communications, and fires start every year.

Speaker # 13: Citizen

Name: Jeff Kenney

Address: 2143 North Pinecrest Canyon Road

Comments: Mr. Kenney said running in opposition and submitted a folder and read from his letter. Shuttling people doesn't seem feasible business model, wonder about transparency. Noise echoes down the canyon, worries about wedding events over the weekend and can hear gun shooting. The 300-foot notification is not feasible. Environmental impact has not been outlined in the proposal and catastrophic failure. Why in this case is there 50-100 parking stalls for small events. Red flags and contradicting statements.

Speaker # 14: Executive Director, Save Our Canyons

Name: Carl Fisher

Address: 824 South 400 West

Comments: Mr. Fisher said he wants to commend comments. Elevate comments made, very concerned and change the nature, ecological impacts and safety. Shared a lot of research, because of states efforts forest service. Growing smart, more peoples lives in danger. Narrowest steepest canyons with community inside, this is irresponsible. Urge commission to pump the brakes and allow time. Agency questions and doesn't see any answers. People deserve answers for the future of the area. Threats to these places as continue to grow. Recommend provide answers to questions from community and agencies.

Speaker # 15: Citizen

Name: William and Ardell Carroll

Address: 2322 North Pinecrest Canyon Road

Comments: Mr. Carroll said agreed with everything said. Noise of firearms would be disruptive. They live at 7000 feet and can hear the gun range in Parleys. He has personally survived an avalanche above the property, and also survived the fire in emigration from a camping spot down Killyons. Pinecrest community doesn't need a commercial development.

Speaker # 16: Citizen

Name: David Ream

Address: 6535 East Emigration Canyon Road

Comments: Mr. Ream said from now on there's a system to keep residence people further than 300 feet from development. The environment effects this is the wrong place to do this. So many hazards and issues. This is an incompatible use and express his opposition to the proposal. He's submitting written comments.

Speaker # 17: Citizen

Name: Phil Davis

Address: 1832 North Pinecrest Canyon Road

Comments: Mr. Davis said parking problem for trailheads and will parking be available for the general public. Concern with wintertime activities and snowmobiling.

Speaker # 18: Citizen

Name: Greg White

Address: 1990 North Pinecrest Canyon Road

Comments: Mr. White said lived her for 20 years and grave concern for interruption. Proposed gun range will destroy wildlife. Can hear the gun range from his house. Concern and represent the wildlife. Unique eco system, watched elk out there, came across a mountain lion kill and elk from proposed gun range and

nesting eagles, quarter mile from gun range and will deter wildlife from this area and consider this an asset to the people. Grave concern for safety and will have no control over people shooting and ranges are on active trails and in the line of fire and ski terrain behind them.

Speaker # 19: Citizen

Name: Corey Schwabenlander

Address: 2121 Pinecrest Canyon Road

Comments: Mr. Schwabenlander said he'd like to echo Mr. Fishers concerns, inadequacy of the comments is a big concern. Pages of concerns, request to traffic plans, bus shuttles, inconsistencies to responses, bullet traps and allowing shotguns, a lot of questions and Mr. Walsh has a lot of work to do and there is a responsible plan.

Speaker # 20: Citizen

Name: Robert Jordan

Address: 749 North Emigration Canyon Road

Comments: Mr. Jordan said appreciates everyone's comments. Is there a cutoff to public input.

Commissioner Tippets said based on discussion today, may continue. Mr. Jordan said requests time to submit comments. In addition, safety of ziplines and construction. Mentioned no regular staff, considering the different issues proposed. Focus on safety of uses and why there may not be staff. The example of public parking and using shuttles on the main canyon road. Substantial congestion and informative to consider historically where this has occurred. Reiterate prior to moving forward mitigating measures the applicant put forward to address concerns, whether through analysis and he is opposed.

Speaker # 21: Citizen

Name: Margaret Armstrong

Address: 2137 North Pinecrest Canyon Road

Comments: Ms. Armstrong said she has lived there for 35 years. Need for oversight. Mr. Walsh said 25 cars and neighbors have been the overseers and an ongoing problem and don't know how to mitigate.

Speaker # 22: Citizen

Name: Linda Evans

Address: 5864 East Emigration Canyon Road

Comments: Ms. Evans said sanitation is a problem, already have a creek polluted and county doesn't recommend letting her dog in it. Illegal parking, grass and catalytic converters start fires and people parking in illegal places.

Speaker # 23: Citizen

Name: Georgia Badley

Address: 2125 North Pinecrest Canyon Road

Comments: Ms. Badley said she has lived here for 20 years, hooray to all her neighbors. Talked specifically about environmental issues and doesn't see how a commercial development is appropriate with all the issues.

Speaker # 24: Citizen

Name: Annette MacIntyre

Address: 449 Marathon Circle

Comments: Ms. MacIntyre said she is opposed and submitted with her reasons and many have been spoken about. Main concern is fire and it is the number one risk to her life and property. Anything making a chance greater is the height of responsibility and echo concerns of conditions set, once granted who will watch over

the people attending these events and travelling parleys, who assures the definition of occasionally. Will these comments being recorded and available to share with the public and letters. Urge consider comments in good faith and strongly oppose the development only there for personal gain

Speaker # 25: Citizen

Name: Robert Avery

Address: 155 Skycrest Lane

Comments: Mr. Avery said the proposal opposed, impossible to mitigate risk of fire and is there enough water allocated for development then not enough water for fire.

Speaker # 26: Citizen

Name: John Porches

Address: 2238 Pinecrest Canyon Road

Comments: Mr. Porches said his experience with Mr. Walsh has never acted in good faith to illegal ponds and personal dealings. Recommends serious oversight to development. When Mr. Walsh dumps concrete in the stream they notify, this is going to be bigger than what he says and will do more. Let Mr. Walsh do this, his acquisition of the property, water rights through litigation. Responds to many letters of inquiries with bullet points and urges oversight.

Speaker # 27: Citizen

Name: Jacob representing a client Deiko Deherra

Address: Not provided

Comments: Jacob asked to present a letter from his client. 330 acres surrounding are for sale. He read a letter.

Commissioner said the applicant has a brief opportunity to speak. Mr. Walsh said he would submit his comments in writing.

Commissioner Tippetts motioned to close the public hearing.

PUBLIC PORTION OF MEETING CLOSED

Commissioners and staff had a brief discussion regarding recording of the meeting, summary of minutes and public comments submitted will be available, schedule a site visit of the property and a work meeting, traffic, gun ranges, UFA, water availability analysis and septic system, Utah division of water rights meeting on December 19th.

Motion: To continue application #30473 to the January 17, 2019 meeting to allow time to schedule a noticed onsite tour and review all public input, UFA and SLC Health Department.

Motion by: Commissioner Karkut

2nd by: Commissioner Wallace

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

MEETING ADJOURNED

Time Adjourned – 11:19 a.m.



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MEETING MINUTE SUMMARY EMIGRATION METRO TOWNSHIP PLANNING COMMISSION MEETING Thursday, January 17, 2019 8:30 a.m.

Approximate meeting length: 2 hours 24 minutes

Number of public in attendance: 20

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
Brent Tippets	x	x	
Claire Clark		x	
Andrew Wallace (Vice Chair)	x	x	
Alex Pacanowsky			x
Jim Karkut			x
Robert Pinon (Chair)	x	x	
Dale Berreth	x	x	

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

BUSINESS MEETING

Meeting began at – 8:35 a.m.

Commissioner Tippets advised January 31st at 6:30 pm at the fire station for an open house by Mayor Smolka. Commissioner Clark will be stepping down from the planning commission, as she has been elected to the Community Council and Commissioner Tippets time has expired and will not seek reappointment.

1) Election of Chair and Vice Chair 2019

Election of Chair for 2019

Motion: To nominate Commissioner Pinon for Chair, Commissioner Pinon accepted.

Motion by: Commissioner Tippets

2nd by: Commissioner Wallace

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

Election of Vice Chair for 2019

Motion: To nominate Commissioner Wallace for Vice Chair, Commissioner Wallace accepted.

Motion by: Commissioner Tippets

2nd by: Commissioner Clark

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

- 2) Approval of Minutes from the November 15, 2018 meeting.

Motion: Continued to the next meeting.

Motion by:

2nd by:

Vote:

Commissioner Clark announced she will be stepping down and resigning from the planning commission and will join the public as this would be a conflict.

- 3) Other Business Items (as needed)

PUBLIC HEARINGS

Hearings began at – 8:40 a.m.

30473 – (Continued from 11/15/18) - John Walsh requests conditional use approval for commercial and private recreation, including picnic area and gazebo for picnics, parties, and other gatherings, as well as two single-lane gun ranges. **Location:** 2450 Pinecrest Canyon Road. **Zone:** FR-1 and FR-20. **Planner:** Curtis Woodward

Salt Lake County Planning and Development Services Zoning Administrator Curtis Woodward provided an analysis of the staff report.

Commissioner Tippetts asked if recreational use clearly identifies commercial, and if the use specifically says commercial. Mr. Woodward confirmed commercial and private recreation as one use. Commissioner Tippetts asked if they can get a clear definition on access from UFA. Mr. Woodward said they looked at it, but didn't hear back, but can see if they submitted anything and that's why he went to the fire code.

PUBLIC PORTION OF MEETING OPENED

Speaker # 1: Applicant

Name: John Walsh

Address: 2348 Pinecrest Canyon Road

Comments: Mr. Walsh said he would make an objection to James Karkut, he has a private personal conflict of interest in this matter, regarding traffic and water issues, as well as a garage and home that are within ten feet of the stream. His interest in the issues is much more personal than that of other Members of Emigration Planning Commission. He (Mr. Walsh) has taken fire marshal on the property and met with him again after the application was filed. He (fire marshal) asked if the road on the plans is the same road they looked at on site. His main concern was for clearance for emergency vehicles on the sides, having driven the road himself. Grateful to run with the matter, as the application has been pending for some time, it will be nice to get direction. It is important to note they are not deciding whether to have a gazebo, he is entitled to a gazebo. The question is whether he can use it for, commercial use, and work out the best arrangement.

Mr. Walsh showed his drone video going downhill and showed the drone video going uphill, pointing out "turn-outs" where cars may pull off to pass one another

Commissioner Wallace asked where the house was located. Mr. Walsh said his personal residence is in lots twenty-three and twenty-four of block eight. Important to note the question is not whether he can build a

gazebo, but whether it is for personal or recreational use. His family meaning, immediate family own 480 lots of record, 450 beyond the gate. Contrast the impact of a bus during the weekend, vs. the impact of 480 residential lots on traffic in the canyon. When the county put in the road restrictions, they acted in good faith. Otherwise, we create a problem by making the road too narrow, then saying "you can't do this because the road's too narrow." The bottom line focusing on the different uses: Shooting in the area is legal, but to make commercial or recreational use, conditions on that are reasonable can be put on it to make it safe. It's not illegal to discharge a firearm in the canyon if you are so far from the house. Mr. Walsh said he met with the fire department, discussed capturing the bullet, and keeping the area clean of combustibles. Conditions could be applied requiring compliance to code with necessary inspections. Gazebo is private use; the issue is whether it can be used for commercial purposes. The storage containers, sledding (already occurring privately), zipline would be by appointment only, least minimal impacts. Commissioner Pinon referred to the video and asked of the road on pullouts and is it private or public and posted. Mr. Walsh said pull outs typically allow plenty of room between road and garage to allow for use without interfering with residential use. He submitted a map of an aerial showing the platted road parallel to the travelled road on public land. The pullouts are primarily on public property within the platted right of way, the travelled road stops at the gate., Judge Baldwin placed no limits on the sides of the road, just "as wide as reasonably necessary." Mr. Walsh submits that therefore the pull-outs on both sides are public. There are places where there are designated signs with no parking, that was part of the analysis when put together. Commissioner Tippetts asked about recent health department review and facilities one hundred feet from the creek. Mr. Walsh said he will do what's appropriate, working with public health, and he clearly believes he can be at least one hundred feet from the stream. Regarding "permanent" restroom facilities, he proposes a temporary and contained system he can haul off each year rather than putting in the ground (in a septic system). Commissioner Tippetts said it's up to the Health Department, but it would affect the quantity on uses and a trailer solution would not comply with the quantity needed for a resort. Mr. Walsh said he would submit that simply getting health department approval be one of those conditions, rather than the planning commission naming the specific solution. Let the board of health mandate and monitor the solution. Commissioner Wallace said outhouses would be insufficient for commercial use as an alternative, they're not permanent enough to withstand a strong wind, can't control how often cleaned, defer to the health department, use of outhouses would be insufficient. Mr. Walsh agrees with having the health department oversee that. Commissioner Tippetts said he is concerned about fires, and he doesn't have solutions as to mitigation of risk of fire for gun ranges, which are documented to have fire risks with or without safety precautions. How do they anticipate not increasing the fire risk. Mr. Walsh said the current risk is unregulated discharged firearms, which goes on today, as opposed to approval by this body with fire department conditions to address fire safety. Have fire department confirm their conditions are complied with. Commissioner Wallace said there is not adequate fire protection and no plan to upgrade and handle a fire adequately and response time will be long. If a fire happened, you will have gridlock in the canyon and residents in peril. "Legal to discharge," may be true, and it's strictly up to the person to behave, but when taken to a commercial level, it's adding a lot more risk, which has not been addressed adequately to be approved. Mr. Walsh said the fire department officials are the experts and would have to approve the specific conditions. Commissioner Wallace said regarding public access through the canyon, he saw ski tracks on existing trails through the shooting ranges in the video presentation, and asked "will the trails be blocked off?" Mr. Walsh said the map shows where the trails are as defined by the plat, and the ranges aren't over public property. Otherwise, one could come through and want to ski through his private backyard. The gun range doesn't cross over public land (either one). Commissioner Berreth said his concern as far as gun and fire safety, at this point, there's an occasional hunter person discharging, once you put in a gun range you're inviting people to come in, incidents of gun use will be greater, which is a concern for fire. Mr. Walsh said family goes up there and shoots rather frequently, but an increase will increase the risk. Commissioner Wallace said just having more people going up there increases the fire risk. Noise coming from the gun range isn't compatible with the residential area, daily sessions will drive wildlife off from the area. Mr. Walsh stated, the gun ranges are designed to shoot away from down canyon

residents, shooting into the larger “uphill” mountain, and based on mountain terrain, feels that the noise won’t travel as far as an open area gun range. Noise will be heard, but the board of health would be the gate keeper. Commissioner Wallace said he can hear the rifle fire from Parley’s Canyon every day in a separate canyon, miles away. Mr. Walsh said you can see the gun range from their home and isn’t obstructed by the mountain. Commissioner Wallace said he’s talking about the range further down the canyon, not the one across from the golf course, and that residents from Pinecrest would hear every shot, which cannot be mitigated. Commissioner Wallace asked where a fire truck would turn around. Mr. Walsh said: one, right in front of home, in front of 2348, two, at the very top below the gazebo, three, another area over by the trailers. Instead of trying to guess, he suggests letting the fire department make the decision. Commissioner Wallace asked if those areas would be full of cars during an event. Mr. Walsh said only on Friday and Saturday nights would they have events with 20 or more cars, and they would not be filling up those areas. Commissioner Pinon asked if the fire marshal asked if the road needed to be improved to support the weight of a fire truck. Mr. Walsh said no, the clearance with foliage was all the fire marshal discussed.

Speaker # 2: Emigration Canyon Community Council

Name: Catherine Harris

Address: 696 Donner Hill Circle

Comments: Ms. Harris said her term starts on the 27th. Community Council entered a specific and detailed letter opposing this.

Speaker # 3: Citizen

Name: Catherine Harris

Address: 696 Donner Hill Circle

Comments: Ms. Harris said already entered comments. Hijacking conversation, private conversation with fire marshal, does not mean meets current ordinances or through process. Decision made by the county to adopt maintenance of the road but doesn’t meet county standards. County recognizes, if there is a new venue or variance or conditional use and road should be looked at again. Should meet 2019 code with new commercial venue and should be up to date. Planning Commission needs to consider that. Applicant acknowledges public right of way and gun use would impact right of way and should look to reconciliation. Almost fire safety body, says if not when you have a fire, it’s when. Fire department is not in charge of determining risk. Applicant seems to feel the fire department will determine if risk is ok, it’s not their job.

Speaker # 4: Citizen

Name: Tom Johnson

Address: 2326 Pinecrest Canyon Road

Comments: Mr. Johnson said 8 unidentified issues. He read from his letter submitted this morning as part of the record. Addressed some issues Mr. Walsh brought up. A third of distance of his gate and subdivision. The existing road coincides, that isn’t true. There isn’t a beaver dam, Mr. Walsh created a dam up there. 480 lots could be 480 homes and more traffic, not legitimate, only handful of developable lots. Width of the road, this is private property, people’s homes all sit next to the road, to imagine save claim it’s a public road for width, not applicable, his going up and shooting guns.

Speaker # 5: Citizen

Name: Dr. Cynthia Furse

Address: 2295 North Pinecrest Canyon

Comments: Dr. Furse said she is representation on the lower portion of the road and went over the video going up the road. Identifying the driveways, turnouts and steepness and narrowness of the road. Double amount of snow, and emergency services and fire. Unable to pass a car, doubling amount of homes and traffic would be throughout the day, consider a quick flow of traffic. Mr. Walsh has parties and may have

ten to twenty cars, not 100. All future owners would be allowed to do what the conditional use permits. Major issues for a family living in this canyon. Rarely plowed on pullout. Since decision of turnarounds, rocks have been added and signs blocking the turnaround. 10 mph listed, just the general public in mask is an unreasonable expectation. How deep the stream drops, with people driving up and down. Commercial event with 4-wheel drive is zero. Mentioned pullouts is private property, driveway paved and has added both garbage cans are not a public pullout. Don't assume road has sufficient pullouts. All fire marshal concerned with is bushes. All bushes along her line were pruned, likely the fire marshal came up were pruned and on my private property, there was illegal pruning representing. Encourage everything evaluated and don't trust anyone but own evaluation. No source of fire protection water is sufficient. Not proposed putting in sufficient water tank, increased fire risk and insufficient fire protection and fire access.

Speaker # 6: Citizen

Name: Vides Backman

Address: unable to identify

Comments: Mr. Backman said the planning commission takes fire seriously, increased risk, three fires in Idaho and two in Utah directly related to target shooting and climate change. Governor declared state of emergency, drought worsens wildfire conditions. Estimated over fifty percent increase in 2018, pipeline along main canyon, if wildfire gets to that point emigration canyon is toast, winds spread flames of wildfire. Studies indicated ground water mining, has proven fire increase, significant role in California wildfire, firetrucks not there in five minutes and not easily reached. Not location for development. Conditional use standards shall not pose serious threat to residents and property and should be denied. Noise pollution, 140 to 190 decibels. Health department standards implementing sound cannot exceed 70 decibels, this should be denied. Road access should be twenty feet wide. In 1983 settlement between county and residents to obtain rural mountain setting, county considered mitigating measures with shuttle services. Narrow road is rural mountain setting. If you change the nature of area, you would have to reconsider access to the roads. Increased in traffic and he has counted cars and four to twenty per day, weddings up to twenty-five cars, only for guests. Conditional use standards and shall not pose traffic hazards, doesn't feel the development complies and should be denied.

Speaker # 7: Citizen

Name: Sarah Bennett

Address: 64 North Silver Oak Road

Comments: Ms. Bennett said she was involved in the review of general plan and mayors blue ribbon commission to review FCOZ. At no time did they ever conceive a commercial development in the upper regions of the canyon. Maintain public access and public recreation and trails, open space. Specifically considered restriction of commercial development. Respect owner rights, commercial development is far outside of ever conceived of planning reviews of FCOZ. Fire concerns, lack of water, impacts to wildlife and public lands. Given applicants track record intentionally discourage public access, cannot or do not approve.

Speaker # 8: Citizen

Name: Matt Velinder

Address: 5222 Emigration Canyon Road

Comments: Mr. Velinder said there are three choices, numerous things in direct contact with general plan. Private mountain feel in the canyon. Gun use, noise, fire risk. He's unable to mitigate within his proposal and deny on that basis. Toilets and water issues not mitigated. Water change applications with Utah state engineer, for operation of wells, would be dependent on those applications approval. Highlights the facts and telling things not any other resident shows support. Strong opposition and haven't had ample notifications of the meetings and doing grass roots efforts. Bad faith arguments, these aren't pullouts, they are private driveways.

Speaker # 9: Citizen

Name: Linda Evans

Address: 5864 East Emigration

Comments: Ms. Evans said her husband went to the water rights meeting and didn't get an answer. Gazebo, no permit and how many feet from the stream. He already violated the law, rocks and signs, also violated our rules. Not a good standard to give a permit.

Speaker # 10: Citizen

Name: Melinda McIlwaine

Address: 2148 Pinecrest Canyon Road

Comments: Ms. McIlwaine said if she put rocks on boundaries of her property, you wouldn't be able to drive up past her house, 400 square feet of her property has been procured for that road and called task commission and if she was paying taxes, many pullouts are on private property. Has a map for additional parking on emigration canyon road and all dirt pullouts, you never see many cars in any of those places and precreation of public property of private use. Did well application, provide him with additional water, real water issues in holding capacity. Surprised you can shoot on your property when there is a hunting restriction. Wouldn't appreciate the noise. Private road is subject to prescript use and dirt road has been used by the public extensively, before Mr. Walsh. Tom Johnson built illegal ponds and saying anything about Mr. Karkut ten feet from creek and he's impaired the flow of the creek with the ponds. Read a portion of letter sent to the tribune. Plow fell in the creek and had to remove part of the bank to get a vehicle up, behind the vehicle and replaced with big rocks. This should not move forward.

Speaker # 11: Citizen

Name: Ben Doblin

Address: 2230 Pinecrest Canyon Road

Comments: Mr. Doblin said there will be increased traffic up the canyon, narrowest stretch of road in front of his house one way. Cars meet head to head, they pull into the nearest driveway, his has received three direct hits to his garage door and would be increased to fill up Mr. Walsh parking spaces. It's illegal to discharge firearm on southern side of ridge. Wildlife found refuge and why we enjoy living there and driven from the property and further east. Give wildlife a break. This is inappropriate, and a man wants to make something happen and entirely reasonable and encourage to deny outright. If passes will be back here looking for a zoning change and his house has a huge operation as a Pinecrest Inn. No public support.

Speaker # 12: Citizen

Name: Greg White

Address: 1990 North Pinecrest Canyon Road

Comments: Mr. White said sewage is a big issue with the quantity, especially with proximity of his venues to the creek, huge issue. Removing outhouses and putting them in is not a solution. Mr. Walsh care for the creek over the last decade has extracted fill on the road, that is his road, with literally hundreds of dump truck roads and claims would never want to endanger the creek and has dumped cement into the creek. SWPPP is aware and hasn't made any criteria. Statement is false in relationship to his care of the creek. Example of how he does projects and won't budge, permit should have been applied for his gazebo, and dam constructions. Containment done, except cutting diversions across his road. Erosion factor is unprecedented no fish left in Pinecrest creek, has broadened, no depth. Fill brought in, brought nauseous weeds and seeds. County issued an extreme care guide. Damage can be pointed at the Walsh project, look at the road, creek runs amuck. Sure, of what he says in relationship to this. Eye sore for Pinecrest with no sight on view what this will become. Condition of creek due to run off, this is unacceptable, and points need to be taken into consideration for future decisions. What is this building going to be, is it a resident or foot in the door for commercial property.

Speaker # 13: Applicant

Name: John Walsh

Address: 2348 Pinecrest Canyon Road

Comments: Mr. Walsh said there are water rights, provide documents. Stop work order on gazebo and now lifted. Maps submitted on pullouts and his project doesn't change state engineer, no people going simultaneously. Solution is fire and health cover what need covered.

Speaker # 14: Citizen

Name: Mike Bogart

Address: 6324 East Lefthand Fork Lane

Comments: Mr. Bogart said he has lived her for 34 years. Mr. Walsh is negligent.

PUBLIC PORTION OF MEETING CLOSED

Commissioners and staff had a brief discussion regarding public easement, platted right-of-way, paved surface within thirty-three feet, vacated trails, preliminary approval, definition of gun use, driveway, water, fire hazards and firetrucks, traffic issues.

Motion: To deny conditional use application #30473 for commercial and recreational use, where the anticipated detrimental effects of the proposed use could not substantially be mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards.

Motion by: Commissioner Tippetts

2nd by: Commissioner Wallace

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

MEETING ADJOURNED

Time Adjourned – 10:59 a.m.



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MEETING MINUTE SUMMARY EMIGRATION METRO TOWNSHIP PLANNING COMMISSION MEETING Thursday, June 13, 2019 8:30 a.m.

Approximate meeting length:

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
Brent Tippets			x
Jacob Steed			x
Andrew Wallace		x	
Alex Pacanowsky			x
Jim Karkut		x	
Robert Pinon		x	
Dale Berreth			x

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

BUSINESS MEETING

Meeting began at – 8:46 a.m.

- 1) Approval of Minutes from the November 15, 2018 meeting.

Motion:

Motion by:

2nd by:

Vote:

Approval of Minutes from the January 17, 2019 meeting.

Motion:

Motion by:

2nd by:

Vote:

Commissioner Pinon advised the commission that the Walsh appeal was denied and their motion was maintained.

- 2) General Plan Discussion

Mr. Quintanilla provided a powerpoint presentation to the planning commission.

Commissioner Karkut asked how they will treat the existing plan, biggest component of the trails plan and is there a new plan there. Mr. Quintanilla said up to the commission and could focus on the 1999 or the 2012 plan and is a community consensus. Trails effects the Elk population and appropriate in one area and not the other.

- 3) Confirm July 11, 2019 meeting attendance
- 4) Other Business Items (as needed)

MEETING ADJOURNED

Time Adjourned – 9:17 a.m.

DRAFT