

Staff Report
Kamas City Planning Commission
September 7, 2021

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Subject: Public Hearing – Amending Kamas Municipal Code’s enforcement policy in 15.27.080, 15.03.070 and 15.32.040.

History: There are currently multiple sections in the Municipal Code relating to enforcement and we would like to consolidate and update to have one uniform policy as it related to land use.

Discussion Items:

There are two different code section in the land use code relating to enforcement. Section 15.03.070 stated that all violations were subject to a class c misdemeanor subject to a fine or imprisonment. Section 15.27.080 didn’t address whether prosecutions should be infractions or misdemeanors. Rather, it provided for a broader range of penalties including business license revocations and fine of \$100 per day to a maximum fine of \$1,000 per occurrence. It did not define what an “occurrence” was.

State law says that violations of land use code can be prosecuted up to a class c misdemeanor through criminal or civil enforcement (10-9a-803). State law also said that nuisances should be prosecuted as infractions if it relates to pets or personal residences and must be once every 14 days. If there are three or more nuisance violations within 12 months or there is a health and safety issue, it could be punished as a class b misdemeanor (10-3-703).

As state law is somewhat vague and our code was inconsistent, we would like to consolidate and streamline our penalties and make it easier to enforce our code according to state law limitations. To do so, we purpose to make the default penalty and infraction for land use code violations an infraction with a \$100 fine. The fine can be imposed once per day unless it’s a personal residence or pet, in which case it is once every 14 days. The penalty increases to a class c misdemeanor if there are more than three violations within a 12 month period or it is a health and safety issue.

We purpose to put this new consolidated code in 15.03 because that is the City’s general administrative and enforcement chapter for land use. We repeal 15.27.080 as it is repetitive. Lastly, we would amend the code section 15.32.040 regarding enforcement of cargo container regulations to point to the new consolidated code section.

The maximum that State Law (76-3-301) allows for is as follows:

Class C Misdemeanor and Infractions can be fined up to \$750 per violation

Class B Misdemeanor and Infractions can go up to \$1,000 per violation

We propose keeping it at the same level that it’s at (\$100 per day) for each infraction.

The corresponding proposed ordinance shows the proposed changes to each code section.

Staff Recommendations:

Staff recommends the Planning Commission hold a public hearing and consider the amendments, and forward a positive recommendation of the code amendments to the City Council.

Planning Commission Options:**Recommended motion:**

Positive Recommendation. Planning Commission recommends APPROVAL of the proposed Code Amendment to section 15.27.080, 15.03.070 and 15.32.040. The Planning Commission can also recommend additional or different changes from those presented for the City Council to consider. If so, the motion will need to identify those additional or different changes.

Alternative motion:

Negative Recommendation. Planning Commission recommends REJECTION of the proposed Code Amendments