



**MAGNA CITY COUNCIL
BUSINESS MEETING AGENDA
September 24, 2024**

Webster Center
8952 West Magna Main Street
Magna, Utah 84044

PUBLIC NOTICE IS HEREBY GIVEN that the Magna City Council will hold a business meeting on the **24th day of September 2024** at the Webster Center, 8952 West Magna Main Street Magna, Utah as follows:

**** Portions of the meetings may be closed for reasons allowed by statute. Motions relating to any of the items listed below, including final action, may be taken.**

Anticipated meeting duration: 1:15

6:00 PM – PUBLIC MEETING

1. CALL TO ORDER
2. Determine Quorum
3. Pledge of Allegiance

4. PUBLIC COMMENTS (Limited to 3 minutes per person)

Any person wishing to comment on any item not otherwise scheduled for a public hearing on this evening's agenda, should sign-up on the "Public Comment" form located at the entrance. Person's signing up to speak will be called up in the order that they signed-in on the "Public Comment" form. Persons addressing the City Council shall step-up to the microphone and give their name for the record. The City Council is interested in hearing directly from residents. To be both transparent and responsive, the City Council previously adopted rules to help govern public meetings. As such, Councilmembers cannot respond directly to comments during public comment. However, Magna City staff will be responsible for responding directly to citizens who request a response. Should an item on tonight's agenda generate a question you would like answered, there is a QR code at the front entrance. Please scan the QR code and send your question directly to city staff. The City Council will not interrupt the evening's agenda to take questions from the audience once the formal meeting has commenced. ***Comments should be limited to not more than three (3) minutes unless additional time is authorized by the Governing Body.***

5. STAKEHOLDER REPORTS

- A. Unified Police Department - **Chief Craig & Lieutenant Manwaring** (15 minutes)
 - i. Recognition of Police and Fire Departments in Magna Call
- B. Financial Report – **Dave Sanderson, Financial Manager** (5 minutes)
- C. Pleasant Green Cemetery – **Sharon Nicholes** (5 minutes)

6. COMMUNITY STAKEHOLDER REPORTS

- A. Magna Yuzawa – **Marla Hill** (10 minutes)

7. **CONSENT AGENDA**

A. Approve Minutes of June 11, 2024 - *Nicole Smedley, City Recorder* (5 minutes)

8. **DISCUSSION/ACTION ITEMS**

A. Consider *Ordinance No. 2024-O-13* Amending Title 12 of the Magna Municipal Code Provisions on Code Enforcement and Community Preservation – *David Brickey, City Manager* (7 minutes)

B. Potential Property Acquisition - *David Brickey, City Manager* (10 minutes)

9. **COUNCIL REPORTS** (10 minutes)

10. **CLOSED SESSIONS IF NEEDED AS ALLOWED PURSUANT TO UTAH CODE §52-4-205**

A. Discussion of the character, professional competence or physical or mental health of an individual.

B. Strategy sessions to discuss pending or reasonably imminent litigation.

C. Strategy sessions to discuss the purchase, exchange, or lease of real property.

D. Discussion regarding deployment of security personnel, devices, or systems; and

E. Other lawful purposes as listed in Utah Code §52-4-205

11. **ADJOURN**

ZOOM MEETING: Topic: Magna City Council Meeting

When: September 24, 2024, 06:00 PM Mountain Time (US and Canada)

Register in advance for this webinar at:

https://zoom.us/webinar/register/WN_3r3CGOQxSnSF7mFJeJVwgQ

After registering, you will receive a confirmation email containing information about joining the webinar.

Upon request with three (3) working days' notice, the Greater Salt Lake Municipal Services District, in support of Magna City, will make reasonable accommodations for participation in the meeting. To request assistance, please call (385) 468-6703 – TTY 711.

A copy of the foregoing agenda was posted at the following locations on the date posted below: Magna City website at <https://magna.utah.gov/> and the Utah Public Notice Website at <https://www.utah.gov/pmn/>. Pursuant to State Law and Magna Ordinance, Councilmembers may participate electronically. Pursuant to Utah Code § 52-4-205, parts of meetings may be closed for reasons allowed by statute.

POSTED: September 20, 2024

Magna City
Budget Report Yearly

16.60%

8/31/2024

	Actual to 8/31/2024	FY 2024 Budget	Projected
Revenues			
Sales taxes	900,000	5,450,000	5,450,000
Google franchise tax	-	-	-
Grants	-	200,000	200,000
Transportation sales tax	85,000	525,000	525,000
Class C road funds	180,000	1,200,000	1,200,000
Corridor preservation funds	-	-	-
Liquor allotment	-	-	-
Cares Act	-	-	-
ARPA funding	-	2,865,883	2,865,883
Business License	8,040	50,000	50,000
Building permits	206,740	1,250,000	1,250,000
Other permits	-	21,000	21,000
Sewer and water permits	-	5,000	5,000
Zoning - land use permit	-	75,000	75,000
Engineering services	243	50,000	50,000
Planning service	5,595	500,000	500,000
Storm drain fee	-	-	-
Code enforcement fines	-	5,000	5,000
Justice court fines	-	175,000	175,000
Interest earnings	40,565	75,000	75,000
Miscellaneous	1,565	15,000	15,000
Transfers in	1,060,009	1,060,009	1,060,009
Total Revenues	\$ 2,487,757	\$ 13,521,892	\$ 13,521,892
Expenses - Administration			
Wages	50,614	279,700	279,700
Employee Benefits	14,737	79,030	79,030
Awards, promotional & meals	121	2,000	2,000
Subscriptions/Memberships	830	24,330	24,330
Printing/Publications/Advertising	172	8,000	8,000
Travel/Mileage	-	2,500	2,500
Cell phone and telephone	-	-	-
Office expense and supplies	419	6,200	6,200
Computer equipment/Software	313	10,000	10,000
Attorney-Civil	9,748	75,000	75,000
Attorney-Land use	-	30,000	30,000
Training & Seminars	-	17,500	17,500
Web page development/Maintenance	-	19,745	19,745
Software/Streaming	3,600	5,000	5,000
Payroll processing fees	35	5,000	5,000
Grant charged expense	-	-	-
Communications	-	10,000	10,000
Contribution/Special events	31,966	172,000	172,000
Insurance	17,645	26,000	26,000
Workers comp insurance	-	2,500	2,500
Postage	2,323	20,000	20,000
Professional and technical	4,492	89,504	89,504
UFA emergency services	-	-	-
Grant related	500	-	500
SL (Client) County Support Services	-	30,500	30,500
Equipment/Computer purchases	-	7,500	7,500
Beer funds	-	-	-
Rent	3,000	133,000	133,000
Non classified expenses	-	5,000	5,000
Total Administration	\$ 140,515	\$ 1,060,009	\$ 1,060,509

Budget Report Yearly

16.60%

8/31/2024

	Actual to 8/31/2024	FY 2024 Budget	Projected
Revenues			
Expenses - Transfers			
Contribution to GF	1,427,748	9,596,000	9,596,000
ARPA expenses	-	2,865,883	2,865,883
Transfer to Capital projects	-	-	-
Total Transfers	\$ 1,427,748	\$ 12,461,883	\$ 12,461,883
Total Expenses	\$ 1,568,263	\$ 13,521,892	\$ 13,522,392
Surplus/Deficit	\$ 919,494	\$ -	\$ (500)
	16.60%		8/31/2024

Pleasant Green Cemetery

	Actual to 8/31/2024	FY 2024 Budget	Projected
Revenues			
Sale of lots	-	20,000	20,000
Grave openings	500	20,000	20,000
Other revenue	99	4,500	4,500
Transfers In	-	-	-
Total Revenues	\$ 599	\$ 44,500	\$ 44,500
Expenses - Administration			
Grave opening expenses	-	-	-
Cremation expenses	500	-	500
Office supplies	-	-	-
Utilities - water	-	-	-
Travel/Mileage	-	-	-
Computer equipment/Software	-	2,500	2,500
Professional and technical	9,584	42,000	42,000
Sundry charges	-	-	-
Total Administration	\$ 10,084	\$ 44,500	\$ 45,000
Total Expenses	\$ 10,084	\$ 44,500	\$ 45,000
Surplus/Deficit	\$ (9,485)	\$ -	\$ (500)

Communities that Care

	Actual to 8/31/2024	FY 2024 Budget	Projected
Revenues			
Intergovernmental	-	-	-
Operating transfers in	-	-	-
State Liquor allotment	24,949	20,000	24,949
Grants - Magna CTC	8,333	125,000	125,000
Grants- Safety & Success	-	500,000	500,000
Donations	-	-	-
Other revenue	-	-	-
Total Revenues	\$ 33,282	\$ 645,000	\$ 649,949
Expenses - Administration			
Wages	11,176	65,000	65,000
Employee Benefits	4,427	30,000	30,000
Social Security Tax	-	-	-
Medicare	-	-	-
Medical Insurance	-	-	-
Retirement Contribution	-	-	-
Liquor funds	-	-	-
Awards	2,358	-	2,358
Subscriptions\Memberships	-	-	-
Travel/Mileage	12,769	-	12,769
Office Expense and Supplies	421	-	421
Training and seminars	-	-	-
Contractors	250	-	250
Programs (Afterschool)	-	-	-
Communications & PR	-	-	-
School support tshirts	-	-	-
School support website	188	-	188
Youth court	36	-	36
Safety & success	4,161	500,000	500,000
Beer funds	-	20,000	20,000
Reserves	-	30,000	30,000
Total Administration	\$ 35,786	\$ 645,000	\$ 661,022
Total Expenses	\$ 35,786	\$ 645,000	\$ 661,022
Surplus/Deficit	\$ (2,504)	\$ -	\$ (11,073)

DATE TUESDAY JUNE 11, 2024

THE MAGNA CITY COUNCIL, STATE OF UTAH, MET ON TUESDAY, JUNE 11, 2024, PURSUANT TO ADJOURNMENT ON TUESDAY, MAY 28, 2024, AT THE HOUR OF 6:00 P.M. AT THE WEBSTER CENTER AT 8952 WEST MAGNA MAIN STREET (2700 SOUTH), MAGNA, UT 84044.

COUNCIL MEMBERS PRESENT: TRISH HULL
MICK SUDBURY
STEVE PROKOPIS
ERIC BARNEY, Mayor

EXCUSED: AUDREY PIERCE

OTHERS IN ATTENDANCE: PAUL ASHTON, LEGAL COUNSEL
DAVID BRICKEY, CITY MANAGER

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Mayor Barney, Chair, presided.

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Pledge of Allegiance

The Pledge of Allegiance to the Flag of the United States of America was recited.

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Magna/Yuzawa Educational Group

Tomoko Moses read a letter from Mayor Tamura of Yuzawa, Japan, congratulating Mayor Barney on his new position. Cyprus and Hunter High Schools have become partners to ensure student safety and communications. She introduced two students who went to Yuzawa and said their time there was a beautiful experience.

Student participants introduced themselves and expressed gratitude to the Council for its support.

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Public Comments

Rob Hurst stated he has planned the United Steel Workers yearly event for 48 of the 67 years it has been held. The permits for the event were approved with the exception of the beer garden. The woman at the Municipal Services District (MSD) informed them that the Magna Council would not approve the beer permit. He would like the Council to reconsider the request as there has not been a single incident stemming from their event. He has not heard back on if the fee waiver he requested has been approved.

Mayor Barney stated the beer garden permit was just sent to him this morning and a decision has not been made and the fee waiver is going through the process.

Steiner Anderson stated he has an issue with a permit for the property located at 7545 West 3100 South. He emailed Mr. Brickey a PowerPoint with details and is hoping for a variance or a change in designation for the garage to be used as the primary residence.

Lars Anderson stated two years ago, a permit was granted to build a 2,500 square-foot detached garage with a roughed-in second floor for a possible future apartment. It wasn't approved as an ADU due to county regulations. He asked the city to either allow the taller structure to become the primary residence, approve the final inspection despite the roughed-in plumbing, or change ADU rules to permit the apartment. Their goal was to move into the second-floor apartment while reconstructing the main house.



2023 Financial Audit – Online PowerPoint Presentation

Stewart Okobia, Finance Director, Greater Salt Lake Municipal Services District (MSD), presented the 2023 financial audit. It serves as the sole metric for MSD payments and includes financial statements covering all cities and towns, including specific sections for Magna.

Council Member Prokopis asked if there were any findings.

Mr. Okobia stated there were none.



Unified Police Department (UPD)

Chief Craig stated the Sheriff's Office separation plan is progressing smoothly despite equipment and furniture relocation challenges. With 20 days left, they expect initial staffing shortages but are confident in their plan. He will email the council the monthly crime statistics.

Council Sudbury asked where UPD will house its headquarters.

Chief Craig stated Millcreek City is allowing UPD to use space in its city hall until a new location is determined.

Council Member Hull thanked Chief Craig and Detective Holt for their Fourth of July support. She inquired about the current status of gang activity and youth issues, asking if challenges have improved.

Chief Craig stated that gang activity has calmed down. They continue to pursue warrants and evidence for ongoing investigations involving various crimes beyond vandalism.

DATE TUESDAY JUNE 11, 2024

Council Member Hull asked if issues or calls regarding the recreation center have increased with the free passes.

Chief Craig stated there have not been issues at the recreation center, but there have been some at the library.



Public Hearings

Proposed Increases for Elected Officials

THIS BEING THE TIME heretofore set for a public hearing to receive public comment regarding a proposed increase for elected officials, appointed/statutory officers, and executive municipal officers for Magna City.

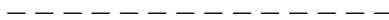
David Brickey, City Manager stated this is a public hearing to consider Council and executive staff salaries before implementation. Magna's Council has not had a pay raise in nearly 10 years. The proposal suggests increasing the Council's total salary from \$60,000 to up to \$88,000. The public hearing allows for community input, and a QR code outside the building links to an email for sending comments to the City Manager, which will be shared with the Council.

Council Member Sudbury, seconded by Council Member Hull, moved to open the Public Hearing to receive public comments. The motion passed unanimously.

Dan Peay stated in the first year as a Magna Metro Township, the five members chose to forgo their salaries. After seeing other cities drawing full salaries, they eventually did the same and, two years later, adjusted their pay to match other cities. They aimed to avoid appearing as another layer of government, but now as a city, it seems more apparent. He is not against the change.

Jeff White spoke in support of the Council's compensation but stressed the need for common sense and a thorough understanding of decisions. He feels the Council has not done enough research and sought expert advice. Mr. White believes the public would support their pay if due diligence was done and urges the Council to fulfill their responsibilities effectively.

Council Member Hull, seconded by Council Member Sudbury, moved to close the Public Hearing. The motion passed unanimously.



Proposed Fiscal Year 2025 Magna City Municipal Fee Schedule

THIS BEING THE TIME heretofore set for a public hearing to receive public comment regarding the 2025 Magna City Municipal Fee Schedule.

DATE TUESDAY JUNE 11, 2024

David Brickey stated that although a resolution to adopt a fee schedule was adopted six months ago, the Council must consider the fee schedule as a city during each budget cycle.

Council Member Sudbury, seconded by Council Member Hull, moved to open the Public Hearing to receive public comments. The motion passed unanimously.

Jeff White suggested that when the Council changes fees, it would help citizens if the current and new fees, along with reasons for the changes, are printed side by side for better understanding.

Council Member Hull, seconded by Council Member Sudbury, moved to close the Public Hearing. The motion passed unanimously.

Proposed Fiscal Year 2025 Magna City, Greater Salt Lake Municipal Services District (MSD) Administrative Budget

THIS BEING THE TIME heretofore set for a public hearing to receive public comment regarding the 2025 Magna City budget.

Council Member Sudbury, seconded by Council Member Hull, moved to open the Public Hearing to receive public comments. The motion passed unanimously.

There was no public comment.

Council Member Prokopis, seconded by Council Member Hull, moved to close the Public Hearing. The motion passed unanimously.

Proposed Municipal Energy, Sales and Use Tax and Municipal Telecommunications License Tax

THIS BEING THE TIME heretofore set for a public hearing to receive public comment regarding a proposed municipal energy, sales and use tax and municipal telecommunications license tax.

Paul Ashton stated these taxes, which can be used for funding government services, are already used by most cities. The main issue is addressing expected shortfalls in public safety funding, especially for policing, as the Salt Lake Valley Law Enforcement Service Area (SLVLESA) has hit its tax cap. The legislature authorized cities to impose these taxes to cover the gap.

Currently, the Municipal Energy Tax (MET) is set at 6 percent, and the telecommunication tax is at 3.5 percent, based on utility and phone bills. They expect to raise \$1.5 to \$2 million, which

should help cover next year’s public safety funding needs. This year, they used reserve funds, but this is not sustainable.

Council Member Sudbury asked about the projected policing shortfall.

Mr. Ashton stated it is difficult to estimate; however, Richard Moon is assessing the gap between SLVLESA and actual needs. The legislature might not raise the SLVLESA cap unless the city demonstrates a commitment by using existing tools to collect and allocate funds accordingly.

Council Member Prokopis stated that utilities and telecommunications may already charge these fees to users. Cities not implementing the tax miss out on revenue from service providers. Implementing the tax would not necessarily raise costs for users.

Mr. Ashton pointed out that tax collection varies by location, with other cities successfully implementing it across their areas. In places like the Webster Center, some bills do not reflect the tax yet. Collection will not start until October 1st, pending agreements with the Utah State Tax Commission and utilities, making it an earlier option compared to other potential taxes for next year.

Council Member Sudbury, seconded by Council Member Hull, moved to open the public hearing to receive public comments. The motion passed unanimously.

Jeff White asked if implementing the communication tax meant the money is already available and just needs to be collected from the Tax Commission, or if it would be a new tax imposed on all listed energy providers.

Mr. Ashton stated it depends on the boundaries in some places.

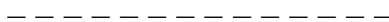
Council Member Hull, seconded by Council Member Sudbury, moved to close the Public Hearing. The motion passed unanimously.



Consent Agenda

Minutes

Council Member Hull, seconded by Council Member Sudbury, moved to approve the minutes of the Magna Metro Township Council meeting held on April 9, 2024. The motion passed unanimously.



Appoint Mayor Eric Barney as Magna City’s Representative on the Municipal Services District Board

DATE TUESDAY JUNE 11, 2024

The Council reviewed the following Resolution appointing Mayor Barney to the Greater Salt Lake Municipal Services District Board of Trustees:

RESOLUTION NO. 2024-06-04

Date: June 11, 2024

A RESOLUTION APPOINTING MAYOR ERIC BARNEY AS MAGNA CITY'S REPRESENTATIVE TO THE GREATER SALT LAKE MUNICIPAL SERVICES DISTRICT BOARD OF TRUSTEES

WHEREAS, Magna City (hereafter "Magna City") is a member entity of the Greater Salt Lake Municipal Services District (the "MSD"); and

WHEREAS, during the 2024 legislative session, the Utah Legislature passed H.B. 35, which converted the metro townships of Copperton, Emigration Canyon, Kearns, Magna, and White City into cities and towns, based on their populations, effective May 1, 2024; and

WHEREAS, previously, when Magna City was a metro township, Section 17B-2a-1106 (2)(b)(ii) of the Utah Code automatically designated the mayor of each metro township to serve as their municipality's designated representative to the MSD Board of Trustees; and

WHEREAS, effective May 1, 2024, H.B. 35 repealed section 17B-2a-1106 (2)(b)(ii) of the Utah Code; and

WHEREAS, now that Magna City is a city, Section 17B-2a-1106 (2)(b)(i) of the Utah Code requires the Magna City Council (the "Council") to appoint a representative to the MSD Board of Trustees; and

WHEREAS, the Council desires to reappoint Mayor Eric Barney to serve as Magna City's representative to the MSD Board of Trustees.

NOW, THEREFORE, IT IS RESOLVED BY THE MAGNA CITY COUNCIL EFFECTIVE IMMEDIATELY, that the Council reappoints Mayor Paulina Flint as Magna City's representative on the MSD Board of Trustees.

ADOPTED AND APPROVED at a duly called meeting of the Magna City Council on this 11th day of June, 2024.

MAGNA CITY:

ATTEST

/s/ ERIC G. BARNEY
Mayor

/s/ LANNIE CHAPMAN
Salt Lake County, Clerk Recorder

Council Member Hull, seconded by Council Member Sudbury, moved to approve Resolution No. 2024-06-04, appointing Mayor Eric Barney to serve as the Magna City

DATE TUESDAY JUNE 11, 2024

Representative on the Greater Salt Lake Municipal Services District Board of Trustees. The motion passed unanimously.

The “Magna City” as the Official Name, Seal and Logo adoption

The Council reviewed Ordinance No. 2024-O-07 to adopt ‘Magna City’ as the city’s name, along with a seal and logo. It was suggested to table the decision and revisit it on June 25th.

Council Member Hull, seconded by Council Member Sudbury, moved to table Ordinance No. 2024-O-07 and revisited it on June 25th. The motion passed unanimously.



Discussion Items

Consideration of Resolution 2024-06-03: 2024 Certified Property Tax Rate for Magna City

David Brickey stated the Council must decide on adopting the energy tax to potentially offset property taxes and increase revenue. Funding is needed for several capital projects, including repairing roads in Magna, with one road needing at least \$2 million. Operational costs for public works will swiftly deplete these funds.

Mayor Barney stated that the Council sets a budget amount, which the county assessor uses to determine the property tax rate based on property values. This rate is reassessed annually.

Council Member Prokopis asked Mr. Brickey for guidance on setting the initial tax rate.

Mr. Brickey suggested an initial \$2 million taking into consideration the Unified Police Department (UPD) separation. This amount should cover expenses for at least two years before needing another tax increase.

Council Member Prokopis asked if the MET could generate quicker revenue for the city, possibly starting as early as October. Alternatively, going through truth and taxation this year would delay any tax increase for residents until November 2025, coinciding with property tax deadlines.

Mayor Barney stated that collection could begin as early as January if residents were paying quarterly.

Mr. Brickey stated he plans to meet with Salt Lake County Engineering to compile a top ten list, which he will share with the Council via email.

DATE TUESDAY JUNE 11, 2024

Council Member Hull, seconded by Council Member Prokopis, moved to have a special meeting on June 18, 2024, at 6:00 pm for the Resolution No. 2024-06-03 Adopting the 2024 Certified Property Tax Rate for Magna City. The motion passed unanimously.

Magna City Mantle Park Materials

Mayor Barney stated the area known as Mantle Park, next to the Empress Theater on Main Street, has been under construction. The original plan had to be amended due to budget constraints, which removed some critical components, particularly the lighting. Businesses and residents, along with input from Matt Starley and others, expressed that lighting was essential. The original lighting plan received pushback to costs. Salt Lake County Engineering is here to present a lighting plan and what those costs are.

Moria Gray, Salt Lake County Municipal Economic Development Manager, stated the original Council-approved plan included one light pole and three up-lights. Two other options were to add two extra poles for an additional \$24,000 or add two extra light poles and four bollard lights for an additional \$78,000.

Council Member Prokopis stated \$78,000 is a lot of money for such a small park. He asked where the funding is coming from.

Ms. Gray stated the funding is from the RDA.

Mayor Barney stated the request is for Magna to cover the additional costs for lighting that were presented. American Rescue Plan Act (ARPA) and Coronavirus Aid Rescue Economic Security (CARES) funds that expire on December 31st are available.

Form of Government

Mayor Barney stated House Bill 35 gave the cities the option to change the form of government. The following are three forms of government the Council can consider.

1. Mayor-Council: In this form, the elected mayor serves as the chief executive and has significant authority over city administration, while the city council functions as the legislative body, passing ordinances and approving the budget.
2. Council-Manager: The city council acts as the legislative body and appoints a professional city manager who oversees day-to-day operations. The mayor, often a member of the council, has limited administrative powers, and the city manager handles most executive functions.

3. Council-Mayor: In this structure, the city council holds most of the legislative and executive powers, while the mayor's role is largely ceremonial with limited executive authority. The council collectively manages city administration and decision-making.

Council Member Hull asked if the strong mayor would be a full-time employee.

David Brickey, City Manager, stated that under the strong mayor form of government, the mayor is anticipated to be a full-time position, as making a strong mayor part-time would be unusual.

Mayor Barney stated the code requires hiring a recorder, treasurer, engineer, and attorney in a council-mayor government. A chief administrative officer is needed only if specified by resolution.

Council Member Prokopis supports the current 5-member, 5-district governance but is open to redistricting to four districts with a mayor elected at large due to costs. He opposes implementing a strong mayor system, citing the city's size and recent election interest, and is against expanding the council due to limited competition for seats.

Paul Ashton stated that population data will be reviewed to evenly distribute districts based on census data or estimates from sources like the Kem Gardner Policy Institute.

Mayor Barney initially favored a 6-member council (weak mayor form) but found many mayors prefer a strong mayor system for its efficiency and quick decision-making. He noted governance challenges in cities with weak mayors reliant on city managers.

Council Member Hull asked Mr. Brickey, drawing on his experience as a city manager across different cities, for his perspective on the preferable form of government.

Mr. Brickey outlined challenges transitioning from city attorney under a city manager to a strong mayor system in West Jordan, highlighting turnover and hiring issues without contractual stability. Under a weak mayor system, employees are less insistent on contracts. When evaluating strong mayors, consider their backgrounds in government work – engineers, accountants, lawyers. A strong mayor often prioritizes popularity over effective service.

Mayor Barney highlighted his meeting with Mr. Brickey in Millcreek, noting their unique governance structure that integrates contractors for efficiency. He suggested reviewing Millcreek's organizational chart as a potential model.

Mr. Brickey stated in Millcreek, the mayor works with contracted experts for guidance on city planning, development, and staff management.

Mr. Ashton stated the importance of making a decision promptly, whether the council maintains the 5-member format or considers changes. He stressed the need for timely preparation of documents and resolutions for redistricting or other forms to avoid missing deadlines.

DATE TUESDAY JUNE 11, 2024

Mayor Barney suggested adding this topic to the June 18th agenda.

Audio Issues, Set Up, Location

Mayor Barney noted recent complaints about recent audio setup issues affecting large audiences' ability to hear. The Council is considering future meeting accommodation options. David Brickey previously proposed \$17,000 for five gooseneck microphones to improve sound quality for each Council member. He urged the importance of considering options and using American Rescue Plan Act (ARPA) and Coronavirus Aid Rescue Economic Security (CARES) funds before year's end for significant long-term improvements.

Magna City Streetlights Improvements

Mayor Barney discussed upgrading Magna's streetlights in response to resident complaints, inspired by Kearns' use of American Rescue Plan Act (ARPA) funds for LED retrofits. He mentioned receiving standards from the Salt Lake Municipal Services District (MSD) and plans to address issues on 3100 South, exploring options such as installing new poles or retrofitting existing fixtures with brighter LEDs.

Council Member Prokopis asked about the amount of ARPA funds available.

Mayor Barney stated \$2.2 million.

Brian Tucker, Planning Manager, Greater Salt Lake Municipal Services District, stated that a Thursday meeting with Region II discussed the traffic light warrant at the Cordero and 8400 West intersections. He will report the outcome and plan a follow-up meeting to determine next steps.

File #OAM2024-001069 Street Vacation Located at 2943 South Dora Street

Justin Smith, Planner I, Greater Salt Lake Municipal Services District (MSD), stated the applicant applied for a planned unit development (PUD) in 2022. The PUD will feature 10 units. The original design ran into issues with slope and being unable to run sewer uphill. The applicant has proposed flipping the PUD and vacating Dora Street.

Mayor Barney stated that no decision can be made now, but it will be on the next agenda for a vote.

Miguel Munevar stated he would agree to make the road either public or private to solve the problem. He requested an updated modification, noting that moving the road would resolve the issue.



Manager / City Attorney Updates

David Brickey reported a successful open house with over 180 attendees and positive feedback. He answered resident questions. All Magna emails are now moved to .gov. Emails now include a notice about transitioning to magna.utah.gov.

Paul Ashton stated .org emails will be active for six months to ensure proper notification of the new .gov address, which can be forwarded automatically.

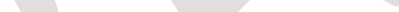
Mr. Brickey discussed ideas for organizing a Magna City meeting with the MSD and service providers. This involves Clerk staff, Long-Range Planning, Code Enforcement, Building Division, Economic Development, Finance, Engineering, and Public Works.



Council Reports

Wasatch Front Waste and Recycling District (WFWRD)

Council Member Sudbury stated WFWRD will begin redoing their parking lot for big trucks within the next three months.



Unified Police Department (UPD) / Salt Lake Valley Law Enforcement Service Area (SLVLESA)

Council Member Prokopis stated UPD and Sheriff's Office separation is progressing for a July 1st target. They resolved 55 contracts and are finalizing shared facilities like property, evidence, and forensics. Cooperation may extend another year with full separation aimed for by July 2025. UPD headquarters is moving from the Sheriff's Office building, with some shared facilities remaining temporarily. The sheriff has made job offers, and UPD is resizing without layoffs. Despite challenges such as space constraints at the Magna precinct, overall progress is positive.



*Unified Fire Authority (UFA)
Communities That Care (CTC)*

Council Member Hull stated UFA will meet next week. Progress with CTC is positive, she suggested the new Youth Court members be sworn in by the mayor in August.



DATE TUESDAY JUNE 11, 2024

Greater Salt Lake Municipal Services District (MSD)

Mayor Barney stated he will provide a report at the next Council meeting and will attend virtually on Tuesday. He will be out from July 5th to 17th, with Council Member Pierce chairing in his absence.

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THERE BEING NO FURTHER BUSINESS to come before the Council at this time, the meeting was adjourned.

ATTEST:

By _____
City Recorder

CHAIR, MAGNA CITY COUNCIL

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MAGNA CITY ORINANCE
NO. 2024-O-13

**AN ORDINANCE OF MAGNA CITY COUNCIL AMENDING TITLE 12 OF
MUNICIPAL CODE, PROVISIONS ON CODE ENFORCEMENT AND
COMMUNITY PRESERVATION**

RECITALS

WHEREAS, Magna City ("Magna") adopted each county ordinance in effect at the time of its incorporation as a Metro Township pursuant to Utah Code Ann. Subsection 10-2a-414(3)(2023), which ordinance continued in force upon its conversion to a City, pursuant to Utah Code Ann. § 10-1-201.5(6)(2024), and Magna has authority to amend or repeal such ordinance when it determines it is necessary; and

WHEREAS, Magna ship is a municipality and has authority to regulate and enforce its code pursuant to Utah Code; and

WHEREAS, Magna has authority to adopt ordinances and land use controls necessary for the use and development of land within its municipal boundaries in accordance with the Municipal Land Use, Development, and Management Act, ("MLUDMA"), Title 10, Section 9a, Utah Code, to protect public health, safety, and welfare; and

WHEREAS, the Magna City Council deems it necessary to amend its ordinances in order to ensure compliance with State Statute, encourage conformity with the Magna General Plan, promote ease of use for residents and staff, and preserve the unique character of the Magna community; and for the protection and preservation of the public health, safety and general welfare.

BE IT ORDAINED BY MAGNA CITY COUNCIL as follows:

1. Title 12 is repealed and replaced in its entirety with the revised Title 12 attached hereto as **Attachment 1**.
2. Severability. If a court of competent jurisdiction determines that any part of these Ordinances is unconstitutional or invalid, then such portion(s) of these Ordinances, or specific application of these Ordinances, shall be severed from the remainder, which shall continue in full force and effect.
3. Implementation. Magna staff are instructed to take any administrative steps needed to prepare and finalize Attachment 1 for publication to Municode, including but not limited

to making any formatting, grammatical, or other non-substantive changes to the Ordinances that may be needed.

4. Posting and Effective Date. After Magna staff have prepared Attachment 1 for publication to Municode, the staff shall post the attached summary pursuant to Utah Code § 10-3-711(1)(b); and publish Attachment 1 to Municode. This ordinance will become effective as of the date the summary is posted and Attachment 1 is published to Municode.

This Ordinance is effective upon posting as required by law.

[Execution on following page]

ADOPTED AND APPROVED at a duly called meeting of the Magna City Council on this 24th Day of September 2024.

MAGNA CITY

By: Eric G. Barney, Mayor

ATTEST:

APPROVED AS TO FORM:

City Recorder

City Attorney

Voting:

Council Member Barney voting _____

Council Member Prokopis voting _____

Council Member Hull voting _____

Council Member Sudbury voting _____

Council Member Pierce voting _____

(Complete as Applicable)

Date ordinance summary was published on the Utah Public Notice Website per Utah Code §10-3-711: _____

Effective date of ordinance: _____

SUMMARY OF MAGNA CITY
ORDINANCE NO. 2024- -

On the ____ day of _____, 2024 the Magna City Council enacted Ordinance No. 2024-__-__ that adopts a new and updated version of Titles 12 (Code Enforcement and Community Preservation) of the Magna Municipal Code (“MMC”) and repeals and replaces in its entirety the prior version of Title 12.

MAGNA CITY COUNCIL

Eric Barney, Mayor

ATTEST

APPROVED AS TO FORM:

CITY ATTORNEY

City Recorder

Voting:

Council Member Barney voting ____
Council Member Prokopis voting ____
Council Member Hull voting ____
Council Member Sudbury voting ____
Council Member Pierce voting ____

A complete copy of Ordinance No. 2024-____-__ is available in the office of the Magna City Recorder, 2001 South State Street, N2-700, Salt Lake City, Utah.

Title 12 CODE ENFORCEMENT AND COMMUNITY PRESERVATION

Chapter 12.02 General

Chapter 12.04 Administrative Code Enforcement Procedures

Chapter 12.06 Administrative and Judicial Remedies

Chapter 12.08 Recover of Code Enforcement Penalties and Costs

12.02 General

12.02.010 Short Title

12.02.020 Authority

12.02.030 Declaration of Purpose

12.02.040 Scope

12.02.02.050 Existing Ordinances and Laws Continued*

12.02.060 Criminal Prosecution Right

12.02.070 Effect of Headings

12.02.080 Validity of Title – Severability

12.02.090 No Mandatory Duty – Civil Liability

12.02.100 General Rules of Interpretation of Ordinances

12.02.110 Definitions Applicable to Title Generally

12.02.111 Acts Include Causing, Aiding and Abetting

12.02.200 Part 2 – Service Requirements

12.02.210 Service of Process

12.02.220 Construction Notice of Recorded Documents

12.02.300 Part 3 - General Authority and Offenses

12.02.310 General Enforcement Authority

12.02.320 Adoption of Policy and Procedures

12.02.330 Authority to Inspect

12.02.340 Administrative Warrant Procedure

12.02.350 Power to Issue Citations

12.02.360 False Information or Refusal Prohibited

12.02.370 Failure to Obey a Subpoena

12.02.010 Short Title*

Title 12 shall be known as the "Code Enforcement and Community Preservation Program."

12.02.020 Authority*

Magna promulgates this Code pursuant to Utah Code Ann. §§ 10-3-702- 703.7; 10-3-716; 10-8-60; 10-11-1, *et seq.*; and 76-10-801, *et seq.*.

12.02.030 Declaration Of Purpose*

Magna finds enforcement of its Code and applicable state codes throughout the municipality to be 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 comprehensive code enforcement starts with the drafting of precise regulations that can be effectively applied in administrative code enforcement hearings and judicial proceedings that use a combination of judicial and administrative remedies to achieve fair and equitable compliance, and which address the failure to comply through judicial action.

12.02.040 Scope*

The provisions of this Title may be applied to any violation of Magna Code as an additional remedy to achieve compliance.

12.02.050 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 the title or ordinance as an additional enforcement remedy and with any other applicable laws. If there is a conflict between this Title and another provision of Magna Code, this Title shall control.

12.02.060 Criminal Prosecution Right*

Magna has sole discretion in deciding whether to file a civil or criminal case or both for the violation of any of its ordinances. The enactment of the administrative remedies in this Title shall not interfere with Magna's right to prosecute ordinance violations as criminal offenses in a court of law. Magna may use any of the remedies available under the law in both civil and criminal prosecution. If Magna decides 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. Magna may at its discretion proceed with a civil enforcement action under this Title in district court without first holding an administrative hearing or exhausting other administrative remedies.

12.02.070 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.

12.02.080 Validity Of Title - Severability*

If any provision of this Title is held to be invalid or unconstitutional by a court of competent jurisdiction, the decision of invalidity or unconstitutionality shall not affect the other provisions of this Title which can be given effect without the invalid or unconstitutional provision.

12.02.090 No Mandatory Duty - Civil Liability*

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

12.02.100 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.
- (4) Any word or phrase used in this Title, and not specifically defined, shall be construed according to the context and approved usage of the language.

12.02.110 Definitions Applicable To Title Generally*

The following words and phrases, as used in this Title, shall be construed as defined in this section, unless the context or subject matter requires a different meaning as specifically defined elsewhere in this Title

and specifically stated to apply:

- (1) "Abate" or "Abatement" means any action Magna may take on public or private property and any adjacent property as may be necessary to remove or alleviate a violation, including demolition, removal, eviction of persons, repair, boarding, 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 Code § 1.16.
- (4) "Animal Control Administrator" means the supervisor of the Animal Control Division, established in the Code § 8.1.
- (5) "Chief Building Official" means the official authorized and responsible for planning, directing, and managing the building inspection activities within Magna.
- (6) "Council" means the Magna Council.
- (7) "Code Enforcement Lien" means a lien recorded to collect outstanding civil penalties, administrative fees, or costs.
- (8) "Code Enforcement Performance Bond" means a bond posted by a responsible person to ensure compliance with Magna Code, applicable state titles, a judicial action, or an administrative code enforcement order.
- (9) "County" means Salt Lake County, Utah.
- (10) "Courtesy Notice" means a written notice prepared by an enforcement official that informs a responsible person of a minor violation and notifies the responsible person of the necessary actions that are required to correct the minor violation.
- (11) "Department" means Magna's Planning and Development Services Department, or its designee.
- (12) "Director" means the director of Magna's Planning and Development Services Department or the director's authorized agent or any other person or entity and authorized agent directed to provide code enforcement services.
- (13) "Enforcement Official" means any person authorized to enforce violations of Magna Code or applicable state codes.
- (14) "Financial Institution" means any person or entity that holds a recorded mortgage or deed of trust on a property.
- (15) "Fire Department" means the applicable entity that is authorized and responsible for providing fire and emergency services to Magna.
- (16) "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; or acts of nature adverse to performing required acts.
- (17) "Hazardous Materials" means the same as that term is defined in Utah Code Section 10-11-1.
- (18) "Imminent Life Safety Hazard" means any condition that creates a present, extreme, or immediate danger to life, property, health, or public safety.
- (19) "Magna" means Magna City, a municipal corporation or city under state law' pursuant to Utah Code Subsection 68-3-12.5(6).
- (20) "Legal Interest" means any interest that is represented by a document, including 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.
- (21) "Major Violation" means any nuisance or other violation as defined in Magna Code, state code or Utah state courts, to include, without limitations, any:
 - a. land use that does not conform to existing zoning of the property;
 - b. unauthorized collection of motor vehicles that are unlicensed, unregistered, or inoperable;
 - c. accumulations of trash, litter, illegal dumping, which occupy a combined area more than 50 square feet;
 - d. weeds that occupy a combined area that exceeds 100 square feet or increase the risk of fire spreading to a neighboring property;
 - e. unauthorized use of any public street or sidewalk, including news racks, merchandise displays, mobile food vending, or other illegal uses.
 - f. illegal advertising;

- g. illegal residing in a Recreational Vehicle
 - h. open storage of items; or
 - i. any other violation of Magna Municipal Code that is not specifically defined as a minor violation.
- (22) "Municipality" or "City" means the area within the territorial municipal limits of Magna, and such territory outside the area over which Magna has jurisdiction or control.
- (23) "Minor violation" means the following violations of Magna Municipal Code:
- a. accumulations of trash, litter, or illegal dumping, which occupy a combined area less than 50 square feet; or
 - b. weeds which occupy a combined area less than 100 square feet and do not increase the risk of fire spreading to a neighboring property.
- (24) "Notice of Compliance" means a document issued by Magna, representing that the violations outlined in the notice of violation have been remedied and the property is in compliance with applicable codes.
- (25) "Notice of Satisfaction" means a document or form approved by the Director or designee, which states that all outstanding civil penalties and costs have been paid in full, negotiated to an agreed amount, or resolved by a subsequent administrative or judicial decision. The property shall also be in compliance with the requirements of the notice of violation.
- (26) "Notice of Violation" means a written notice prepared by an enforcement official that informs a responsible person of any code violation and orders the person to take certain actions to correct the violation.
- (27) "Oath" includes any affirmation or oath.
- (28) "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.
- (29) "Program" means the Code Enforcement and Community Enhancement Program authorized under this Title.
- (30) "Property Owner" means the record owner of real property based on the county assessor's records.
- (31) "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 quiet use of property in a neighborhood, community, or by a considerable number of persons. A public nuisance also has the same meaning as set forth in the Utah statute.
- (32) "Recreational Vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is either self-propelled or pulled by or on another vehicle, including truck campers, camper trailers, motorhomes, vehicles converted to have living facilities, or other vehicles used as sleeping or living accommodations.
- (33) "Residing" as it relates to a Recreational Vehicle means a rebuttable presumption that a Recreational Vehicle is being used as a residential unit if the Recreational Vehicle is occupied at any time between the hours of 1:00 a.m. and 5:00 a.m. for more than 14-consecutive days within a 6-month period. This presumption may be rebutted upon a showing of substantial evidence that the Recreational Vehicle is not used for sleeping, toilet facilities, food preparation, or showering.
- (34) "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.
- (35) "Treasurer" means the Magna Treasurer as designated pursuant to Utah Code Ann. § 10-3c-203.
- (36) "Written" includes handwritten, typewritten, photocopied, computer printed, or facsimile, whether in physical or electronic form.

12.02.111 Acts Include Causing, Aiding And Abetting*

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

12.02.200 Part 2 - Service Requirements*

12.02.210 Service Of Process*

- (1) If service in person or by mail is required to be given under this Title, service shall be made in accordance with Utah Code Ann. § 10-11-2 unless another form of service is required by law.
- (2) If service complies with the requirements of this Part, it shall be considered to be 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 persons shall not affect the validity of any proceedings.

12.02.220 Construction Notice Of Recorded Documents*

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

12.02.300 Part 3 - General Authority and Offenses*

12.02.310 General Enforcement Authority*

If the Director or enforcement official finds that a violation of Magna Code or applicable state code has occurred or continues to exist, the administrative enforcement procedure may be used as provided in this Title. The Director or any designated enforcement official has the authority and power necessary to enforce compliance with the provisions of Magna Code and applicable state code provisions, including issuing notices of violation or administrative citations, inspecting public or private property, abating public and private property, or using other judicial and administrative remedies available pursuant to Magna Code or state statute. Magna may elect to proceed with an action in District Court without first exhausting administrative remedies.

12.02.320 Adoption of Policy and Procedures*

In compliance with the Utah Administrative Code, 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. The policies and procedures may vary based on the circumstances of each matter before the Administrative Law Judge.

12.02.330 Authority to Inspect*

The Director or any designated enforcement official is authorized to enter upon any property or premises to inspect and ascertain if the person is complying with Magna Code or applicable state code provisions and to make any necessary examination or survey in the performance of the enforcement duties with either the permission of the responsible person, land owner, or upon obtaining a search warrant. If the responsible person refuses to allow the enforcement official to enter the property, the enforcement official shall obtain a search warrant. The Director or any designated enforcement official may not enter a property, except to access the front door, without permission or a warrant. Any inspection entry, examination, or survey shall be done in a reasonable manner based upon probable cause. The Director or any designated enforcement official may obtain evidence viewable from any public street, sidewalk, adjacent property or location where the responsible person has given authorization for entry without a warrant.

12.02.340 Administrative Search Warrant Procedure

(1) The Director or any designated enforcement official may apply for an administrative search warrant with the Administrative Law Judge upon a showing of probable cause to believe that a violation of the Magna Code or an applicable state code has occurred, is occurring, or is about to occur. The showing of probable cause shall be based on specific and articulable facts or circumstances and shall be supported by a sworn affidavit or a verified complaint.

(2) A search warrant shall be issued by the Administrative Law Judge upon a finding of probable cause to believe that a violation of the Magna Code or an applicable state code has occurred, and that a search of private property is necessary to investigate and enforce such ordinance.

(3) A search warrant shall specify the property to be searched and, if applicable, the items to be seized.

(4) The search warrant shall be executed by a designated enforcement official in accordance with the Fourth Amendment to the United States Constitution and Utah law.

(5) The search warrant shall be executed in a reasonable manner, taking into account the nature of the ordinance being enforced, the nature of the property being searched, and the presence of any individual(s) on the property.

(6) A report of the execution of the search warrant shall be made in writing and filed with the Administrative Law Judge that issued the warrant. The report shall include a description of the property searched, the items seized, and any other information required by law or court order.

(7) No person shall refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection, and who presents appropriate credentials and warrant, nor shall any person obstruct, hamper or interfere with any such inspection.

(8) Nothing in this section shall be construed to prevent prompt inspection without consent or appropriate warrant in emergency situations.

12.02.350 Power to Issue Citations*

The Director or any designated enforcement official is authorized to issue a misdemeanor citation or administrative citation if there is reasonable cause to believe that the person is committing or has committed a violation of the Magna Code or state code in the enforcement official's presence.

12.02.360 False Information or Refusal Prohibited*

It shall be unlawful for any person to make a false statement or refuse to give his or her name or address with intent to deceive or interfere with a duly authorized Magna official or agent, including to the Director or any authorized enforcement officials, when in the performance of official duties under the provisions of this Title. A violation of this Section is a class B misdemeanor.

12.02.370 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 12.04 Administrative Code Enforcement Procedures

- 12.04.010 Authority
- 12.04.020 Courtesy Notice
- 12.04.030 Notice of Violation
- 12.04.040 Failure to Bring Property Into Compliance
- 12.04.050 Inspections
- 12.04.200 Part 2 - Emergency Abatement*
- 12.04.210 Authority to Abate*
- 12.04.220 Procedures for Abatement*
- 12.04.300 Part 3 – Emergency Abatement*
- 12.04.310 Authority*
- 12.04.320 Procedures*
- 12.04.230 Notice of Emergency Abatement*
- 12.04.400 Part 4 - Abatement of Hazardous Materials
- 12.04.420 Notice Of Hazardous Material Abatement*
- 12.04.430 Certified Decontamination Specialist*
- 12.04.500 Part 5 - Hearing Procedures*
- 12.04.510 Declaration of Purpose*
- 12.04.520 Authority and Scope of Hearings*
- 12.04.530 Request for Administrative Code Enforcement Hearing*
- 12.04.540 Hearings and Orders*
- 12.04.550 Notification of Administrative Code Enforcement Hearing*
- 12.04.560 Disqualification of Administrative Law Judge*
- 12.04.570 Powers of The Administrative Law Judge*
- 12.04.580 Procedures at Administrative Code Enforcement Hearing*
- 12.04.590 Failure to Attend Administrative Code Enforcement Hearing*
- 12.04.591 Administrative Code Enforcement Order*
- 12.04.595 Failure to Comply With Order*
- 12.04.600 Part 6 - Administrative Enforcement Appeals*
- 12.04.610 Appeal of Administrative Code Enforcement Hearing Decision*

12.04.010 Authority*

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

12.04.020 Courtesy Notice*

(1) If the Director or any designated enforcement official determines that a minor violation has occurred, the Director or enforcement official may issue a courtesy notice to a responsible person by leaving a courtesy notice with the responsible person or affixing the notice to the door or gate of the property. The courtesy notice shall include the following information:

- 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 descriptions of the 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 statement that if the violation has not been remedied within 7 days, the designated enforcement official will issue a notice of violation consistent with the requirements of this chapter.
- h. The name and contact information of the code enforcement official who may be contacted regarding the courtesy notice.

(2) The issuance of a courtesy notice is discretionary, and an enforcement official may proceed with the issuance of a notice of violation without first issuing a courtesy notice.

12.04.030 Notice of Violation*

(1) If the Director or any designated enforcement official determines that a major violation of the Magna Code or applicable state codes has occurred or continues to exist or a minor violation continues to exist, the Director or enforcement official may 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 descriptions of the 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 or appeal the notice of violation, which date shall be at least fifteen 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 if the responsible person fails to comply with the terms and deadlines as prescribed in the notice of violation, which may include criminal prosecution; civil penalties; revocation of permits; recordation of the notice of violation; withholding of future municipal permits; abatement of the violation by Magna and re-payment to Magna for the costs of the abatement; other costs incurred by Magna; administrative fees; and any other legal remedies;
- i. Civil penalties shall 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 shall accrue daily until the property is brought into compliance;
- k. Only one notice of violation is required for any 12-month period, and civil penalties begin immediately upon any subsequent violation of the notice. The responsible person may request a hearing on the renewed violation by following the same procedure as provided for the original notice;
- l. Procedures to appeal the notice and request a hearing, including the amount of the appeal fee, as provided in the adopted fee schedule and consequences for failure to request one, including that failure to appeal waives all defenses to the notice of violation and the Director, or designee, may order the abatement of the property without a subsequent hearing or order; and
- m. Procedures to request an inspection after the violation has been abated.

- (2) The notice of violation shall be served by one of the methods of service listed in Section 12.2.210 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.

12.04.040 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:
- a. civil penalties shall be owed to Magna for each and every subsequent day of violation;
 - b. If the responsible party does not request a hearing on the notice of violation within the required period specified in the notice of violation, the Director may
 - i. schedule the abatement of violations on the property specified in the notice of violation;
 - ii. schedule a default hearing with the Administrative Law Judge; or
 - iii. bring an enforcement and abatement action in the district court.
- (2) Failure to comply with the notice of violation is a Class C misdemeanor.

12.04.050 Inspections*

It shall be the duty of the responsible person served with a notice of violation to request in writing an inspection when the responsible person's 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.

12.04.200 Part 2 - Abatement

12.04.210 Authority To Abate*

The Director is authorized to enter upon any property or premises to abate the violation of Magna 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, including assessment of the costs on the County tax rolls.

12.04.220 Procedures For Abatement*

- (1) The Director may abate a violation pursuant to this Part after providing notice under this Title and by following the process set forth in Utah Code § 10-11-3 or any applicable successor statute if the Responsible Party:
- a. Does not abate a violation within the time period prescribed in a notice; and
 - b. Did not file a request for an administrative code enforcement hearing under this Title.
- (2) The Director may request a default hearing 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 § 10-11-3 or any applicable successor statute.
- (3) The Director may use Magna personnel or a private contractor acting under the Director's or Magna' direction to abate the violation.
- (4) Magna 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 Magna performs the actual abatement pursuant to a notice of violation or administrative code enforcement order, the Director may still assess the costs incurred by Magna against the responsible person.

(6) In compliance with Utah Code § 10-11-3 or any applicable statute, the Director shall prepare an itemized statement of the work performed when the abatement is completed on the responsible person.

(7) 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 § 10-11-3 or any applicable successor statute.

12.04.300 Part 3 - Emergency Abatement*

12.04.310 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, grade, and remove that portion of the building or site to prevent further collapse or 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 for good 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.

12.04.320 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 Magna during the emergency abatement process shall be assessed and recovered against the responsible person through the procedures provided in this Title.

(2) The Director may also pursue any other valid and legal administrative or judicial remedy to abate any remaining violations.

12.04.330 Notice Of Emergency Abatement*

After an emergency abatement, Magna 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.

12.04.400 Part 4 – Abatement of Hazardous Materials*

12.04.410 Authority*

If the Director determines that a structure has been closed to occupancy or entry by a local health department due to contamination from hazardous materials, the Director may appoint a municipal inspector for the purpose of implementing and complying with the provisions of Utah Code 10-11-1. The

Director may authorize abatement of the interior of the structure to eliminate or remove hazardous materials within a structure that has been closed to occupancy or entry by a local health department or fire department.

12.04.420 Notice of Hazardous Material Abatement*

(1) If the Director or any designated enforcement official determines that a structure has been closed by the local health department or fire department for hazardous materials, the Director or enforcement official will issue a notice of hazardous material abatement to a responsible person.

(2) The notice of hazardous material abatement shall include the following information and shall comply with Utah Code § 10-11-2 or the applicable successor statute:

- 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 descriptions of the 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 hazardous material abatement or appeal the notice of hazardous material abatement, which date shall be at least 180 days from the date of service;
- h. Explanation of the consequences if the responsible person fails to comply with the terms and deadlines as prescribed in the notice of violation, which may include criminal prosecution; civil penalties; revocation of permits; recordation of the notice of violation; withholding of future municipal permits; abatement of the violation by Magna and re-payment to Magna for the costs of the abatement; other costs incurred by Magna; administrative fees; and any other legal remedies;
- i. Civil penalties shall begin to accrue immediately on expiration of the date to correct violations or the appeal and administrative proceeding process is completed;
- j. The amount of the civil penalty on each violation and that the penalty shall accrue daily until the property is brought into compliance;
- k. Procedures to appeal the notice and request a hearing, including the amount of the appeal fee, as provided in the adopted fee schedule, and consequences for failure to request one, including that failure to appeal waives all defenses to the notice of hazardous material abatement and the Director, or designee, may order the abatement of the property without a subsequent hearing or order; and
- l. Procedures to request an inspection after the violation has been abated.

(3) The notice of hazardous material abatement shall be served by one of the methods of service listed in Section 12.02.210 of this Title.

12.04.430 Certified Decontamination Specialist*

A responsible party, owner, or occupant must use a certified decontamination specialist to abate hazardous materials as described in Utah Code § 19-6-906.

12.04.430 Restricting Access*

The Director may issue an order limiting or restricting access to a structure and the real property appurtenant to the structure while the municipal inspector or a certified decontamination specialist destroys, removes, or abates hazardous materials within the structure.

12.04.500 Part 5 - Demolitions*

12.04.510 Authority*

If the Director determines that a property or building requires demolition, the Director may demolish or remove the offending structure, or exercise any or all of the powers listed in this Title 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.

12.04.420 Procedures*

Once the Director has determined that the Magna Chief Building Official 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.

12.042.400 Part 4 – Administrative Citations*

12.042.410 Declaration Of Purpose*

The Council finds that there is a need for an alternative method of enforcement for violations of the Magna Code and applicable state codes which do not relate to land use violations. 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 Magna Code or applicable state codes.

12.042.420 Authority*

Any person violating a provision of the Magna Code or applicable state codes may be issued an administrative citation by an enforcement official as provided in this Part.

A civil penalty shall be assessed by means of an administrative citation issued by the enforcement official and shall be payable directly to the Magna Treasurer's Office, or other offices designated to receive payment on behalf of Magna.

Penalties assessed by means of an administrative citation shall be collected in accordance with the procedures specified in the remedies section of this Title.

12.042.430 Procedures*

(1) Upon discovering any violation of the Magna 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.

HISTORY

Adopted by Ord. [19-07-01](#) on 7/22/2019

12.042.440 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.

12.042.450 Civil Penalties Assessed*

- (1) The City 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 City.

12.04.500 Part 5 – Appeal and Hearing Procedures*

12.04.510 Declaration Of Purpose*

The Council finds that there is a need to establish uniform procedures for administrative code enforcement hearings conducted pursuant to Magna 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.

12.04.520 Authority and Scope of Hearings*

The Administrative Law Judge shall preside over hearings of Magna Code violations. The Administrative Law Judge shall develop policies and procedures to regulate the hearing process for any violation of

Magna Code and applicable state codes that are handled pursuant to the administrative abatement procedures, emergency abatement procedures, demolition procedures, or administrative citation procedures. If there is a conflict between the appeal procedures in this Title and the appeal procedures in another code incorporated by Magna, this Title shall control.

12.04.530 Appeal and Request For Administrative Code Enforcement Hearing*

(1) A person served with one of the following documents or notices has the right to appeal by requesting an administrative code enforcement hearing, if the request is filed within 15 calendar days from the date of service of one of the following notices:

- a. Notice of violation;
- b. Notice of itemized bill for costs; or
- c. Notice of emergency abatement;

(2) A person served with a notice of hazardous material abatement shall have the right to appeal by requesting an administrative code enforcement hearing, if the request is filed within 180 calendar days from the date of service.

(3) The request for hearing shall be made in writing and filed with the Director or as otherwise indicated in the notice of violation. The request shall contain the following:

- a. the case number,
- b. the address of the violation,
- c. a statement of the legal and factual basis supporting the overturning the notice of violation; and
- d. the signature of the responsible party.

(4) The request for hearing shall be accompanied by payment of the appeal fee the amount of which shall be provided forth in the Magna Fee Schedule.

(5) Failure to provide all the information required in Subsection 12.02.530(2) and payment of the appeal fee required in Subsection 12.02.530 (3), may result in the dismissal of the appeal without a hearing.

(6) As soon as practicable after receiving the written notice of the request for hearing, the Director shall schedule a date, time, and place for the hearing with the Administrative Law Judge and serve a Notice of Hearing on the responsible party.

(7) Failure to request a hearing as provided shall constitute a waiver of the right to a hearing and a waiver of the right to appeal the action.

12.04.540 Hearings And Orders*

(1) If the responsible person fails to request a hearing before the expiration of the 15 calendar day required deadline, the Director may:

- a. Schedule the abatement of the property and serve a notice of abatement on the responsible party.
- b. Request a default hearing, with the Administrative Law Judge and notify the responsible person of the date, time, and place of the hearing by one of the methods listed in Section 12.2.210.

(2) A default hearing may be scheduled for all cases that have outstanding or unpaid civil penalties, fines, fees and/or costs due to Magna before collection.

(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 Magna Code or applicable law:

- a. Waive or reduce the fines which have accumulated;
- b. Postpone an abatement action by Magna; or
- c. Excuse the responsible person's failure to request a hearing within the 15-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.

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 Magna issues a Notice of Compliance stating when the violations were actually abated.

12.04.550 Notification Of Administrative Code Enforcement Hearing*

(1) The Administrative Law Judge or Magna shall provide written notice of the day, time, and place of the hearing to a responsible person as soon as practicable prior to the date of the hearing with the format and contents of the hearing provided in accordance with rules and policies promulgated by the Administrative Law Judge.

(2) The notice of hearing shall be served by any of the methods of service listed in Section 12.1.210 of this Title.

12.04.560 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 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 shall 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 may 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 Magna Council.

(5) Upon receipt of a motion to disqualify, the Magna Council will schedule and notice the matter for review at its next regular scheduled meeting. The Magna Council may, in its sole discretion, elect to hold a special meeting to hear the motion before its next regularly scheduled meeting. The Magna 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 Magna Council shall determine whether the motion is legally sufficient to warrant disqualification. If the Magna Council determines that disqualification is warranted, it will assign the matter to another Administrative Law Judge. If the Magna Council determines that the motion to disqualify is not legally sufficient, it will remand the matter back to the Administrative Law Judge.

12.04.570 Powers of the Administrative Law Judge*

(1) The Administrative Law Judge has the authority to conduct an adjudicative proceeding, determine if any violation of Magna Code exists, order compliance with Magna Code, and enforce compliance as provided in this Title on any matter subject to the provisions of the Title.

(2) The Administrative Law Judge may complete the attendance of a witness and production of a document or other evidence, administer an oath, take testimony, and receive evidence as necessary.

(3) 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.

(4) The Administrative Law Judge, at the request of any party to the hearing, may sign subpoenas for witnesses, documents, and other evidence. 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.

(5) 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 with that order, which includes the right to authorize Magna to enter and abate a violation; modifying an administrative code enforcement order; or, where extraordinary circumstances exist, granting a new hearing.

(6) 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.

12.04.580 Procedures at Administrative Code Enforcement Hearing*

(1) Administrative code enforcement hearings are intended to be informal. Formal rules of evidence and discovery do not apply; however, an informal exchange of discovery may be required. The request shall be in writing. Failure to request discovery may 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) Magna bears the burden of proof at an administrative code enforcement hearing to establish the existence of a violation of Magna 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. The Administrative Law Judge may accept testimony offered by proffer.

(5) All hearings are open to the public, but public notice is not required. All hearings shall be recorded. The recording may be audio or video. 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 is representing the responsible person at the hearing, notice of the attorney's name, address, and telephone number shall be provided to Magna at least one day prior to the hearing. If notice is not given, the hearing may be continued at Magna'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.

12.04.590 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 considered to have waived the right to a hearing, and will result in a default judgment, provided that proper notice of the hearing has been provided.

12.04.591 Administrative Code Enforcement Order*

- (1) Once all evidence and testimony are completed, the Administrative Law Judge shall issue, or cause the prevailing party to circulate, 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 Magna'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 Magna to enter the property and abate all violations, including demolitions and the removal of vehicles, garbage, animals, and other property kept in violation of Magna Code.
- (4) The Administrative Law Judge may revoke a kennel permit, an animal license, or the right to possess animals as provided in Magna 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.

12.04.595 Failure To Comply With Order*

Upon the failure of the responsible person to comply with the terms and deadlines set forth in the administrative code enforcement order, Magna may abate the violation as provided in this Title and use all appropriate legal means to recover the civil penalties and administrative costs to obtain compliance.

12.04.600 Part 6 - Administrative Enforcement Appeals*

12.04.610 Appeal of Administrative Code Enforcement Hearing Decision*

- (1) Any person adversely affected by any administrative decision made pursuant to 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, including the cost of a licensed court reporter transcribing all relevant recorded hearings. 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 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.

12.04.700 Part 7 – Administrative Citations*

12.04.710 Declaration of Purpose*

The Council finds there is a need for an enforcement of administrative violations that are not land use or nuisance violations of the Magna Code and applicable state code. 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 Magna Code or applicable State Code.

12.04.720 Authority*

(1) Any person violating any minor provision of the Magna Code or applicable state statutes 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 Magna Treasurer's Office, or other offices designated to receive payment on behalf of Magna.

(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.

12.04.730 Procedures*

(1) Upon discovering a violation of the Magna 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.

12.04.740 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.

12.04.750 Civil Penalties Assessed*

- (1) The 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 Magna.

Chapter 12.06 Administrative and Judicial Remedies*

- 12.06.100 Part 1 - Recordation of Notices Of Violation*
- 12.06.110 Declaration of Purpose*
- 12.06.120 Authority*
- 12.06.130 Procedures for Recordation*
- 12.06.140 Service of Notice of Recordation*
- 12.06.150 Failure to Request*
- 12.06.160 Notice of Compliance - Procedures*
- 12.06.170 Prohibition Against Issuance of Municipal Permits*
- 12.06.180 Cancellation of Recorded Notice of Violation*
- 12.06.200 Part 2 - Administrative Civil Penalties*
- 12.06.210 Authority*
- 12.06.220 Procedures for Assessing Civil Penalties*
- 12.06.230 Determination of Civil Penalties*
- 12.06.240 Modification of Civil Penalties*
- 12.06.250 Failure To Pay Penalties*
- 12.06.300 Part 3 – Costs*
- 12.06.310 Declaration of Purpose*
- 12.06.320 Authority*
- 12.06.330 Notification of Assessment Of Reinspection Fees
- 12.06.340 Failure To Timely Pay Costs*
- 12.06.400 Part 4 - Administrative Fees*
- 12.06.410 Administrative Fees*
- 12.06.500 Part 5 - Injunctions*
- 12.06.510 CML Violations - Injunctions*
- 12.06.600 Part 6 - Performance Bonds*
- 12.06.610 Performance Bond*

12.06.100 Part 1 - Recordation of Notices of Violation*

12.06.110 Declaration Of Purpose*

The Council finds that there is a need for alternative methods of enforcement for violations of Magna 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 Magna Code or applicable state codes.

12.06.120 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.

12.06.130 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 Magna'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.

12.06.140 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.

12.06.150 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.

12.06.160 Notice of Compliance - Procedures*

- (1) When the violation has 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 as provided in Section 12.2.210 of this Title, if the Director determines that the violation listed in the recorded notice of violation or order has been corrected;
- (4) All necessary permits have been issued and finalized;
- (5) All civil penalties assessed against the property have been paid or satisfied; and
- (6) The party requesting the notice of satisfaction has paid all administrative fees and costs.
- (7) 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.

12.06.170 Authority to Withhold Issuance of Municipal Permits

If a property is in violation, Magna may withhold business licenses; permits for kennels; or permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of the real property or the structure. Magna may withhold permits until a notice of satisfaction has been issued by the Director. Magna may not withhold permits that are necessary to obtain a notice of satisfaction or that are necessary to correct serious health and safety violations if violator has otherwise satisfied the compliance standards. Nothing in this section shall be construed as prohibiting Magna from denying a permit if the application is insufficient or denial is otherwise warranted.

12.06.180 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.

12.06.200 Part 2 - Administrative Civil Penalties*

12.06.210 Authority*

- (1) Any person violating any provision of Magna 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 Magna 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 pursuant to Magna policy, or at the judgment rate provided in Utah Code § 15-1-4 in the absence of Magna policy, on all outstanding civil penalties balances until the case has been paid in full.
- (5) Civil penalties for violations of any provision of Magna Code or applicable state codes shall be assessed pursuant to the Magna's applicable fee schedule.

12.06.220 Procedures For Assessing Civil Penalties*

If a responsible person fails to bring a violation into compliance by the required deadline and fails to request an administrative hearing appealing the notice, civil penalties shall be owed to Magna for each and every subsequent day of violation.

12.06.230 Determination Of Civil Penalties*

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

12.06.240 Modification Of Civil Penalties*

- (1) After the property is determined by the Chief Building Official to be in compliance with Magna Municipal Code, 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 if there is a finding of good cause based on the responsible person's claim of nonconforming use or conditional use and:
 - (3) Magna'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.

12.06.250 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.

12.06.300 Part 3 - Costs*

12.06.310 Declaration of Purpose*

(1) The Council finds that there is a need to recover costs incurred by enforcement officials and other Magna personnel who spend considerable time inspecting and re-inspecting properties throughout Magna in an effort to ensure compliance with Magna 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 Magna 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 Magna Code or applicable state codes.

12.06.320 Authority*

(1) If actual costs are incurred by Magna on a property to obtain compliance with provisions of Magna 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 Magna fee schedule as adopted in Magna's annual budget.

12.06.330 Notification of Assessment of Reinspection Fees

(1) Notification of any applicable re-inspection fees adopted by Magna shall be provided on the notice of violation served to the responsible person.

(2) Any 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.

12.06.340 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 Magna policy.

12.06.400 Part 4 - Administrative Fees*

12.06.410 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 Magna fee schedule.

12.06.600 Part 5 - Injunctions*

12.06.510 Violations - Injunctions*

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

12.06.700 Part 6 - Performance Bonds*

12.06.610 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 Magna 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 Magna. The bond shall not be used to offset the other outstanding costs and fees associated with the case.

Chapter 12.08 Recovery of Code Enforcement Penalties and Costs*

12.08.100 Part 1 - Code Enforcement Tax Liens*

12.08.110 Declaration of Purpose*

12.08.120 Procedures for Tax Liens Without A Judgement*

12.08.130 Procedures for Tax Liens With A Judgement*

12.08.140 Cancellation of Code Enforcement Tax Lien*

12.08.200 Part 2 - Writ of Execution*

12.08.201 Recovery of Costs By Writ Of Execution*

12.08.300 Part 3 - Writ of Garnishment*

12.08.310 Recovery of Costs By Writ Of Garnishment*

12.08.400 Part 4 - Allocation of Funds Collected Under Administrative Code Enforcement Hearing Program*

12.08.410 Abatement Fund*

12.08.420 Repayment of Abatement Fund*

12.08.430 Code Enforcement Administrative Fees And Cost Fund*

12.08.440 Allocation of Civil Penalties*

12.08.100 Part 1 - Code Enforcement Tax Liens*

12.08.110 Declaration Of Purpose*

The Council finds that recordation of code enforcement tax liens will assist in the collection of civil penalties, administrative costs, actual 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 Magna'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 Magna Code or applicable state codes.

12.08.120 Procedures For Tax Liens Without a Judgement*

- (1) Once Magna has abated a property, the Director shall prepare an Itemized Statement of Costs incurred in the removal and destruction of the violations and deliver them to the Director 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 the property owner that a code enforcement tax lien is being recorded for the amount of actual costs of abatement. Payment shall be due within 30 calendar days from the date of mailing.
- (3) Upon receipt of the Itemized Statement of Costs, the Director, 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.

12.08.130 Procedures For Tax Liens With A Judgement*

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

12.08.140 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 Responsible Person, 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.

12.08.200 Part 2 - Writ of Execution*

12.08.201 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.

12.08.300 Part 3 - Writ of Garnishment*

12.08.310 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.

12.08.400 Part 4 - Allocation of Funds Collected Under Administrative Code Enforcement Hearing Program*

12.08.410 Abatement Fund*

There is established a revolving fund to be known as the "Abatement Fund" to defray costs of administrative and judicial abatements as provided in Section 12.08.430. The fund shall be reimbursed by collection from the property or property owner as specified in this Title. The Magna 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.

12.08.420 Repayment Of 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 Magna Treasurer, who shall credit the appropriate amount to the Abatement Fund.

12.08.430 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 Magna Council for the enhancement of Magna's code enforcement efforts and to reimburse Magna 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 Magna Council. Magna Council shall establish accounting procedures in consultation with the Magna Auditor to ensure proper account identification, credit, and collection.

12.08.440 Allocation Of Civil Penalties*

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