

1. April 15, 2020 - Agenda

Documents:

[041520.PCM.COURTESY.PDF](#)

2. April 15, 2020 - Packets

Documents:

[ITEM A1 - CODE ENFORCEMENT PC REPORT 4-15-2020.PDF](#)

[ITEM B1 - PEDICAB PC REPORT - 4-15-2020 \(1\).PDF](#)

3. Public Comment Letters

Documents:

[PUBLIC COMMENT - R. PRAETZEL.PDF](#)

[PUBLIC COMMENT - N. GOODELL.PDF](#)



118 Lion Blvd ◦ PO Box 187 ◦ Springdale, UT 84767 ◦ (435) 772-3434

**PLANNING COMMISSION NOTICE AND AGENDA**  
THE SPRINGDALE PLANNING COMMISSION WILL HOLD A REGULAR REMOTE MEETING  
ON WEDNESDAY, APRIL 15, 2020 AT 5:00 PM

**This Commission meeting will not have an anchor location and will be conducted entirely via electronic means. Commission members will connect remotely. The meeting will be available to the public for live viewing. If you do not have access to the internet, you can join the audio via telephone.**  
**\*\*Please see electronic login information below.**

**Attending Clerk: Katy Brown**

**Approval of the agenda**

**General discussion and announcements**

**A. Action Items**

1. Public Hearing – Ordinance Revision: Changes to Chapter 10-4 of the Town Code regarding the Town's process for enforcement of code violations, including clarifications allowing for civil penalties for code violations.

**B. Information/Discussion/Non-Action Items**

1. General discussion of the possible allowance of pedicab businesses in Springdale.

**C. Adjourn**

**\*\*Persons Interested in accessing the meeting can login using the following link:**

<https://zoom.us/j/215446130?pwd=Mk1USEhmRmhCYkRyVDJTTUtdQ2NpQT09>

Meeting ID: 215 446 130

Password: 009520

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**The Town of Springdale complies with the Americans with Disabilities Act by providing accommodations and auxiliary communicative aids and services for all those citizens in need of assistance. Persons requesting these accommodations for Town sponsored public meetings, services, programs, or events should call Springdale Town Clerk Darci Carlson (435.772.3434) at least 24 hours before the meeting.**

Packet materials for agenda items will be available by April 10, 2020 at: <https://www.springdaletown.com/AgendaCenter/Planning-Commission-7>



**Memorandum**

**To:** Planning Commission  
**From:** Thomas Dansie, Director of Community Development  
**Date:** April 10, 2020  
**Re:** **Ordinance Amendment: Changes to Title 10 Clarifying Code Enforcement Processes**

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The attached ordinance revises the Town process for code enforcement. The ordinance impacts both land use (Title 10) and non-land use portions of the Town Code. Because the ordinance impacts Title 10 the Commission must review the ordinance and make a recommendation to the Town Council.

The Town currently uses a criminal enforcement process for violations of the Town Code. This process is lengthy and complex. It has strict standards for gathering evidence and proving violations. It is expensive for the Town to administer since it involves legal proceedings.

The proposed ordinance amendment allows the Town to use a civil enforcement process for code violations. With the proposed process, the Town will be able to have swifter and more efficient process to resolve code violations. The Town will be able to impose and collect penalties for code violations more quickly, which should prompt faster compliance with the code. Of course, compliance without imposing penalties is always the Town's goal, but having the threat of a quick and efficient process to impose penalties will allow lead to faster compliance from violators.

Coincidentally, the Utah State Legislature recently amended the state law concerning code enforcement. Criminal enforcement of code violations is now only allowed in very limited circumstances. The proposed ordinance amendment will allow the Town to comply with the recently amended state law.

The Town will retain the ability to use criminal enforcement of violations in limited instances, as allowed by state law. However, with the proposed ordinance amendment the vast majority of code violations will be resolved using a civil process.

The proposed ordinance amendment is attached.

**Public Comment**

Staff has not received any public comment on the proposed ordinance amendment.

**Sample Planning Commission Recommendation**

The Commission may wish to use the following sample language when making a recommendation to the Town Council:

*The Commission recommends **approval/denial** of the proposed ordinance amendment establishing a civil process for enforcement of code violations. This motion is based on the following findings:*

[LIST FINDINGS]

## **Code Enforcement Process Revisions Proposal**

### **1-4-4: CIVIL ENFORCEMENT ~~OFFOR~~ VIOLATIONS OF TITLE 10:**

The Town may ~~elect to~~ impose civil penalties for the violation of any requirement, regulation or other provision contained in ~~this code~~ Title 10. When imposing a civil penalty~~ies~~ for violation of any requirement, regulation or other provision contained in Title 10, the town shall follow the procedure in this section. Civil enforcement of any violation is only one option for enforcement. Nothing in this section removes the Town's ability to use criminal proceedings or other enforcement strategies authorized by state law and this code in the resolution of code violations. ~~This section does not apply to parking violations. The process for civil enforcement of parking violations is established in Chapter 6-2.~~

A. Notice of violation. Upon inspection and discovery that any provision of ~~this code~~ Title 10 is being violated, the director of community development or code enforcement officer, or designee, shall provide written notice of the violation to the property owner, and in addition, may provide written notice of the violation to any other responsible party.

1. The notice of violation shall: (1) indicate the nature of the violation; (2) order the necessary action to correct the violation; (3) establish a reasonable time period for the necessary corrective actions to be completed (the "warning period"); and (4) state that the property owner and other responsible party (if any) will be subject to civil penalties if the violation is not corrected within the warning period.

2. The warning period shall be the minimum time period reasonably necessary to correct the violation, given the nature of the violation and the amount of effort needed to correct the violation. The warning period could be as short as several hours or as long as several weeks.

3. The notice of violation shall be delivered personally or mailed to the owner of record at the address shown on the records of the county recorder, or to a person designated, in writing, by the owner of record as the owner's agent for the purpose of receiving notice of an ordinance violation. The notice of violation may also be delivered personally or mailed to any other responsible party. Personal delivery or mailing of the written notice shall serve to start the warning period.

B. Civil Citation. If the violation remains uncorrected at the end of the warning period, the director of community development or code enforcement officer may issue a civil citation to the property owner and/or other responsible party.

1. The civil citation shall be personally delivered, or mailed to property owner, as shown on the records of the county recorder.

2. The civil citation shall serve to start imposition and accrual of civil penalties. The civil citation shall state that civil penalties are being assessed to the property owner and/or other responsible party for each day the violations persists, beginning on the date the civil citation is personally delivered or mailed.

C. Referral to Police Department: The director of community development or code enforcement officer may refer any violation to the chief of police for an immediate criminal enforcement action, as allowed by state law.

D. Daily violations. Each day a violation is continued or maintained after the date the civil citation is either personally delivered or mailed is considered a separate violation and shall give rise to a separate civil penalty for each day of violation. The filing of an appeal does not stop the daily accrual of any penalty unless the civil hearing officer ultimately dismisses the citation.

E. Civil Penalties. A ~~v~~violations of ~~the~~any provisions of ~~this code~~Title 10 shall result in a civil penaltiesy pursuant to the following schedule:

<u>Violation</u>	<u>Penalty</u>
<u>General penalty for any violations not otherwise specified</u>	<u>\$100 per day</u>
<u>Grading construction violations (Section 10-15B-6)</u>	<u>\$350 per day</u>
<u>Grading without a permit (Section 10-15B-13)</u>	<u>\$1,000 per day</u>
<u>Short term rentals in a residential zone (sections 10-9A-14(A)) and 10-9B-13(A))</u>	<u>\$1,000 per day</u>

F. Correction of violation required. ~~P~~The payment of a civil penaltyies does not relieve the obligation to correct the violation. The property owner or other responsible party is required to correct the violation regardless of whether or not the civil penalty has been paid. ~~If a violation remains uncorrected after payment of civil penalties, the town may immediately issue additional citations for the uncorrected violation, without the need to send an additional notice of violation.~~

G. Citation Appeal. Any person who has received a civil citation and who wishes to dispute the violation may appeal the citation in writing to the civil hearing officer within 15 calendar days after the citation has been issued. If a person who has received a citation does not appeal within 15 days, the right to an appeal is lost. In such case, the person shall be responsible for both correcting the violation and paying all applicable civil penalties.

H. Appeal Procedures.

1. The Town Manager shall appoint the civil hearing officer. ~~The civil hearing officer shall not be an employee of the Town, and shall have expertise and experience in land use administration, civil proceedings, and local government operation.~~

2. The hearing officer shall adopt rules of procedure that govern the review and adjudication of civil citation appeals. Such rules shall provide meaningful opportunity for the appellant to present evidence documenting one of the following defenses:

a. At the time of the citation and at all times ensuing, the alleged violation did not and does not exist.

b. At the time of citation, compliance with the subject ordinance(s) would have violated the criminal laws of the state.

c. Compliance with the subject ordinance(s) would have presented an imminent and irreparable physical injury to persons or property.

d. The violation and failure to correct the violation were both caused by a force majeure event such as war, act of nature, or civil disturbance.

3. After reviewing the appeal, the civil hearing officer may dismiss the citation only on a finding that one of the four defenses in paragraph 2 above applies to the appeal. If the hearing officer finds none of the defenses apply, the hearing officer shall uphold the citation and associated civil penalties. If the hearing officer upholds the citation, daily civil penalties shall continue to accrue after the hearing until the violation is corrected.

4. If the hearing officer upholds the citation, the hearing officer may, in the interest of justice and on behalf of the Town, enter into an agreement for the delayed or periodic payment of the civil penalty by the violator.

5. If the civil hearing officer upholds the citation, the hearing officer may partially or wholly abate the civil penalties for one of the following reasons only:

a. The violation was corrected promptly after the issuance of the civil citation and at the time of the appeal hearing the violation does not exist.

b. There has been a change in the actual ownership of the property where the violation exists since the time the citation was written, and the new owner is not related by blood, marriage, adoption, or common ownership to the prior owner.

I. Late Fees. A late fee will be assessed for any unpaid civil penalty in instances where daily penalties are not accruing (such as when a violation has been corrected on the property but the civil penalty imposed by a citation for the earlier violation has not been paid, or when the violation was transitory and the unpaid civil penalty was only imposed for the period of time the violation existed). In such cases, a late fee equivalent to 25% of the civil penalty will be assessed 30 days after the date the civil citation is issued, or 15 days after the date of the appeal hearing, whichever is later. The property owner shall pay any late fee that is assessed in accordance with this section.

J. Collection of Civil penalties. The town may file a civil action to collect any unpaid amount under this ChapterSection. The violator and any responsible person shall pay for all costs of collection, including but not limited to attorney's fees and costs.

#### **1-4-5: CIVIL ENFORCEMENT FOR OTHER VIOLATIONS:**

This section governs the procedure for civil penalties issued for violations of the Springdale Town Code, except as specifically provided in subsection A below. Civil enforcement of any violation is only one option for enforcement. Nothing in this section removes the Town's ability to use criminal proceedings or other enforcement strategies authorized by state law and this code in the resolution of code violations.

A. Exclusions. Section 1-4-5 does not apply to any code violation that is governed under Section 1-4-4 or Chapter 6-2.

B. Civil Citation. Upon inspection and discovery that any provision of this code is being violated, the director of community development, the chief of police, a code enforcement officer, or designee, may

issue a civil citation to the violator, property owner, and/or other responsible party. The civil citation will be issued via personal delivery or mail. Delivery of the civil citation shall serve to start imposition and accrual of any civil penalties. The civil citation may state that civil penalties are being assessed to the violator, property owner, and/or other responsible party for each day the violation persists, beginning on the date the civil citation is personally delivered or mailed.

C. Referral to Police Department: The director of community development or code enforcement officer may refer any violation to the chief of police for an immediate criminal enforcement action, as allowed by state law.

D. Daily violations. If provided in the citation, each day a violation is continued or maintained after the date the civil citation is personally delivered or mailed is considered a separate violation and shall give rise to a separate civil penalty for each day of violation. The filing of an appeal does not stop the daily accrual of any penalty unless the civil hearing officer ultimately dismisses the citation.

E. Civil Penalties. A violation of any provision of this code shall result in a civil penalty pursuant to the following schedule:

<u>Violation</u>	<u>Penalty</u>
<u>General penalty for any violation not otherwise specified</u>	<u>\$100 per instance or day</u>
<u>Operating a business without a license (3-1-4)</u>	<u>\$500 per day</u>
<u>Weed violation (Chapter 4-3A)</u>	<u>\$50 per day</u>
<u>Noise violation (Chapter 4-3B)</u>	<u>\$350 per instance</u>
<u>Building without a permit (Section 9-1-4)</u>	<u>\$500 per day</u>

F. Correction of violation required. The payment of a civil penalty does not relieve the obligation to correct the violation. The violator, property, and/or responsible party is required to correct the violation regardless of whether the civil penalty has been paid.

G. Citation Appeal. Any person who has received a civil citation and who wishes to dispute the violation may appeal the citation in writing to the civil hearing officer within 15 calendar days after the citation has been issued. If a person who has received a citation does not appeal within 15 days, the right to an appeal is lost. In such case, the person shall be responsible for both correcting the violation and paying all applicable civil penalties.

H. Appeal Procedures.

1. The Town Manager shall appoint the civil hearing officer.
2. The hearing officer shall adopt rules of procedure that govern the review and adjudication of civil citation appeals. Such rules shall provide meaningful opportunity for the appellant to present evidence documenting one of the following defenses:

- a. At the time of the citation and at all times ensuing, the alleged violation did not occur or did not exist.
- b. At the time of citation, compliance with the subject ordinance(s) would have violated the criminal laws of the state.
- c. Compliance with the subject ordinance(s) would have presented an imminent and irreparable physical injury to persons or property.
- d. The violation and failure to correct the violation were both caused by a force majeure event such as war, act of nature, or civil disturbance.

3. After reviewing the appeal, the civil hearing officer may dismiss the citation only on a finding that one of the four defenses in paragraph 2 above applies to the appeal. If the hearing officer finds none of the defenses apply, the hearing officer shall uphold the citation and associated civil penalties.

4. If the hearing officer upholds the citation, the hearing officer may, in the interest of justice and on behalf of the Town, enter into an agreement for the delayed or periodic payment of the civil penalty by the violator.

5. If the civil hearing officer upholds the citation, the hearing officer may partially or wholly abate the civil penalties for one of the following reasons only:

- a. The violation was corrected promptly after the issuance of the civil citation and at the time of the appeal hearing the violation does not exist.
- b. There has been a change in the actual ownership of the property where the violation exists since the time the citation was written, and the new owner is not related by blood, marriage, adoption, or common ownership to the prior owner.

I. Late Fees. A late fee will be assessed for any unpaid civil penalty in instances where daily penalties are not accruing (such as when a violation has been corrected on the property but the civil penalty imposed by a citation for the earlier violation has not been paid, or when the violation was transitory and the unpaid civil penalty was only imposed for the period of time the violation existed). In such cases, a late fee equivalent to 25% of the civil penalty will be assessed 30 days after the date the civil citation is issued, or 15 days after the date of the appeal hearing, whichever is later. The property owner shall pay any late fee that is assessed in accordance with this section.

J. Collection of Civil penalties. The town may file a civil action to collect any unpaid amount under this Section. The violator and any responsible person shall pay for all costs of collection, including but not limited to attorney's fees and costs.

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#### **4-3-6: ABATEMENT PROCEDURE:**

##### **A. Nuisance Inspector:**

1. Established: There is hereby established the position of nuisance inspector, whose duties it shall be to enforce the provisions of this chapter, as well as chapter 3A and chapter 3B. More than one person may be appointed to act as inspector under this section.

2. Duties: The nuisance inspector shall:

a. Perform all functions necessary to enforce the provisions of this chapter, chapter 3A and chapter 3B.

b. Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance ~~with the provisions of this chapter~~.

c. Obtain an inspection warrant from the court or obtain the property owner's permission prior to entering any building or structure, fenced or gated yard, or other private area.

3. Existence Of Objectionable Condition: If ~~he~~ a nuisance inspector concludes there exists an objectionable condition or activity in violation of this chapter, chapter 3A or chapter 3B, the nuisance, inspector may:

a. Ascertain the names of the owners, according to county tax records, and occupants and descriptions of the premises where such objects, conditions, or activities exist.

b. Serve notice in writing upon the owner and occupant of such premises, either personally or by mailing notice prepaid, addressed to the owner and occupant at their last known post office address(es) as disclosed by the records of the county assessor, or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the nuisance within such reasonable time as the nuisance inspector may designate, based on the nature of the nuisance and the amount of time reasonably necessary to correct the nuisance; provided, that any person notified pursuant to this subsection shall be given at least ten (10) days following the date of service of such notice, to correct the objectionable condition. The notice shall:

(1) Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.

(2) Inform the person that in the event he fails or neglects to correct the objectionable condition within the time designated by the nuisance inspector, the town may issue a citation and pursue correction of the objectionable condition through civil or criminal proceedings.

(3) Inform the person that failure to correct the violation within the time given in the notice will be considered a demonstration of the person's intent to create and perpetuate the nuisance.

B. Criminal Proceedings: Notwithstanding the other provisions of this title, the issuance of a citation by an officer (including the nuisance inspector, if the nuisance inspector is a regular police officer) and the commencement of criminal proceedings for the purpose of imposing penalties for violations of this chapter, chapter 3A, or chapter 3B shall not be conditioned upon prior issuance of a notice or the granting to the defendant an opportunity to abate or remove the nuisance.

C. Abatement By Town Of Weeds And Nuisances On Property: If any owner, occupant, or other person having interest in land where a nuisance on property (according to sections 4-3-2 and 4-3-5 of this chapter) or a weed nuisance (according to chapter 3A of this title) exists shall, after being duly noticed pursuant to this section, fail to eradicate, destroy, or otherwise remove the nuisance from the property

within the time limit given in the notice, the nuisance inspector may issue a civil or criminal citation, and may, under order of the court, employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the town. The owner of the property where the objectionable objects or conditions have been removed or destroyed shall reimburse the town for this abatement as provided in this section.

1. Itemized Statement: The nuisance inspector shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant, or both, or to persons having an interest in the property, demanding payment within thirty (30) days of the date of mailing. The notice shall be deemed delivered when mailed by certified mail, addressed to the last known address of the property owner, occupant or person having an interest in the property.

2. Failure To Make Payment: In the event the owner, occupant or person having an interest in the property fails to make payment of the amount set forth in the statement to the town treasurer within the thirty (30) days, the nuisance inspector~~town treasurer~~ shall refer the matter to the county treasurer as provided in subsection D of this section.

D. Collection: In the event that the nuisance inspector~~town treasurer~~ refers the expenses of destruction or removal to the county treasurer for inclusion in the tax notice of the property owner, he the town treasurer shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver three (3) copies of the statement to the county treasurer within ten (10) days after the end of the thirty (30) day period provided for in subsection C2 of this section.

E. Civil Enforcement: In lieu of criminal enforcement, ~~the~~ town may elect to pursue enforcement of any nuisance through imposing civil penalties, pursuant to section 1-4-4. The Town may also elect to pursue enforcement through a civil lawsuit, ~~in lieu of criminal enforcement~~. If the town prevails in such a suit, the property owner shall be obligated to pay the cost of abating the nuisance and the town's reasonable attorney fees and costs expended in such suit.

#### **4-3-7: PENALTY FOR FAILURE TO COMPLY:**

A. ~~Class C Misdemeanor~~Criminal Penalty: Except in the case of weeds (as provided in chapter 3A of this title) and noise (as provided in chapter 3B of this title), If the Town elects to pursue enforcement of this chapter through criminal citations, any owner, occupant or person having an interest in property subject to this chapter who shall fail to comply with the notice or order given pursuant to this chapter, chapter 3A, or chapter 3B, or who is issued a criminal citation for a nuisance which results in a conviction, shall be guilty of a class C misdemeanor for each offense and shall be subject to a fine as provided in section 1-4-1 of this code.

B. Criminal Proceedings: Compliance by any owner, occupant or person to whom a notice has been given as provided in this chapter, chapter 3A, or chapter 3B, subsequent to expiration of the notice period, shall not be admissible in any criminal proceeding brought pursuant to this section.

C. Civil Penalty: If the Town elects to pursue civil enforcement of this chapter, chapter 3A, or chapter 3B, any owner, occupant, responsible party, or person having an interest in property subject to this chapter who fails to comply with the notice or order given pursuant to this chapter, or who is issued a civil citation which is upheld by the hearing officer, shall be subject to fines as established in section 1-4-4.

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**4-3A-3: PENALTY:**

It shall be an infraction, subject to penalty ~~commensurate with a class C misdemeanor~~ as provided in section ~~1-4-1 1-4-4~~ of this code, for any person owning or occupying real property to allow weeds to grow higher on such property than is permitted by this chapter ~~or not to remove from such property any cuttings of such weeds or any refuse, unsightly or deleterious objects after having been given notice from the nuisance inspector as provided in chapter 3 of this title.~~

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**4-3B-3: PENALTY:**

It shall be an infraction, subject to penalty ~~commensurate with a Class C misdemeanor~~ as provided in section ~~1-4-1 1-4-4~~ of this Code, for any person to make, continue, or cause to be made or continued any noise prohibited by this chapter.

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**10-4-1: PERMITS TO CONFORM:**

All departments, officials and public employees of the town who are vested with duty or authority to issue permits or licenses shall conform to the provisions of this title and shall issue no permit, license or certificate for uses, buildings, structures, signs or purposes where the same would be in conflict with the provisions of this title. Any such permit, license or certificate, issued in conflict with the provisions of this title, intentionally or otherwise, shall be null and void ab initio.

**10-4-2: ENFORCEMENT:**

~~It shall be the duty of t~~he director of community development ~~(or any designee) or his designate,~~ and the ~~police chief/code enforcement officer are authorized,~~ to enforce the provisions of this title, entering actions in court if necessary, and failure to do so shall not legalize any violations of such provisions. The town council may, by resolution or ordinance, from time to time entrust administration of this title, in whole or in part, to an additional officer or officers of the town, without amendment to this title.

**10-4-3: INSPECTION:**

The town officials authorized to enforce the provisions of this title, as specified in section [10-4-2](#) of this chapter, are authorized to inspect or to have inspected all buildings, signs and structures in the course of their construction, modification or repair, and to inspect land uses to determine compliance with zoning ordinance provisions. These officials shall use the right to enter any building for the purpose of determining the use, or to enter premises for the purpose of determining compliance with this title; provided, that such right of entry is to be used only at reasonable hours. In no case shall entry be made into any occupied building in the absence of the owner or tenant thereof without written permission of an owner, or written order of a court of competent jurisdiction, except in cases of extreme emergency.

#### **10-4-4: NUISANCE:**

Any building, structure or sign erected, installed, constructed, altered, enlarged, converted, moved or maintained contrary to provisions of this title; or the use of any land, building or structure contrary to provisions of this title; or the excavation, fill, grading, stripping or moving of topsoil, sand, earth, landforms or watercourses contrary to provisions of this title; or any other action or inaction contrary to the provisions of this title, shall be and the same is hereby declared to be unlawful and a public nuisance.

#### **10-4-5: UNLAWFUL USE PROHIBITED:**

A. No land, building or structure shall may be used for any purpose or use not allowed in the zone in which such land, building or structure is located.

B. Violation of any of the provisions contained in this title is prohibited. Any person who violates the provisions of this title shall be subject to the criminal and civil penalties set forth in this chapter.

#### **10-4-5: ABATEMENT:**

A. Procedure: The town or any owner of real estate within the town in which violations of this title or violations of state statutes regulating zoning occur or are about to occur may, in addition to other remedies provided by law, institute:

1. Injunctions, mandamus, abatement or any other appropriate actions; or
2. Proceedings to prevent, enjoin, abate or remove the unlawful building, use or act. The town attorney retains the discretion to determine whether, under the law, an action or proceeding for abatement should be instituted.

B. Violation Established For Injunction: The town need only establish the violation to obtain the injunction.

C. Withholding Of Permits: The town may further enforce this title by withholding building permits, certificates of occupancy and zoning compliance, business licenses or other such licenses or permits necessary for a landowner to proceed to lawfully occupy or use a building, structure or premises.

**10-4-6: PENALTIES:**

The Town may elect to enforce the provisions of this title through either civil proceedings or criminal proceedings, as allowed by state law.

A. Civil proceedings: Any person, firm, association, partnership, or corporation, whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this title shall be subject to civil penalties as established in section 1-4-4. Such person, firm or corporation violating this title shall be deemed to be guilty for a separate offense for each and every day during which any portion of any violation of any provision of this title is permitted or continued by such person, firm or corporation and shall be punished as herein stated and provided.

B. Criminal proceedings: Any person, firm, association, partnership, or corporation, whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this title shall be guilty of a class C misdemeanor, and subject to penalty as provided in section 1-4-1 of this code, except for violations that are subject to the limitation provided in Utah Code section 10-3-703, in which case the criminal penalty shall be an infraction. Such person, firm or corporation violating this title shall be deemed to be guilty for a separate offense for each and every day during which any portion of any violation of any provision of this title is permitted or continued by such person, firm or corporation and shall be punished as herein stated and provided.

**10-4-7: REMEDIES:**

All remedies concerning this title shall be cumulative and not exclusive. Conviction and punishment of any person hereunder shall not relieve such persons from the responsibility of correcting prohibited conditions, or removing prohibited buildings, structures, signs or improvements, and shall not prevent the enforced correction or removal thereof. The town reserves the right to seek any remedies provided under local and state law, including but not limited to injunctions.

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**Memorandum**

**To:** Planning Commission

**From:** Thomas Dansie, Director of Community Development / Katy Brown, Deputy Town Clerk

**Date:** April 10, 2020

**Re:** **Pedicabs and Potential Impacts on Springdale Planning Initiatives**

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**Overview**

The Town Council has asked town staff to research the possibility of allowing pedicabs to operate in Springdale. Pedicabs are human powered cycles designed to carry multiple passengers. They provide an additional transportation option for people to circulate through a community. They primarily provide short trip transportation for hire. Because they are slower than car or transit, pedicabs cater to riders who are more interested in the experience of a pedicab ride than they are about speed of transportation.

Based on the Council's direction, town staff researched pedicab regulations in other communities and began working on a draft pedicab ordinance. During this process staff identified a number of issues that could complicate pedicab operation in Springdale. Staff requested additional direction from the Council regarding these issues. The Council directed staff to conduct additional targeted research of other tourist oriented and resort communities that allow pedicabs. Staff is now in the process of completing this research.

Several members of the Planning Commission expressed interest in discussing pedicabs, and how pedicabs operating in Springdale could affect other Planning Commission initiatives. Some of these initiatives could include the Commission's recent work with streetscape enhancement planning, as well as the ongoing efforts to promote pedestrian and bicycle infrastructure and amenities (see Section 9.1 of the General Plan).

The Commission should have a general discussion about how pedicabs could promote or hinder the Town's ability to accomplish other planning objectives. Since regulation of pedicabs is not a land use issue, the Commission will not be forwarding a formal recommendation on a detailed ordinance to the Council. Rather, the Commission will be forwarding general recommendations about the compatibility of pedicabs with other community development initiatives.

Copies of staff's report to the Town Council and pertinent Town Council Meeting Minutes are attached to this report.



### ***Memorandum***

**To:** Mayor, Town Council  
**From:** Tom Dansie, Director of Community Development/ Katy Brown, Business Licensing  
**Date:** April 1 2020  
**Re:** **April 8, 2020 Town Council Meeting**  
**Discussion of Potential Pedicab Ordinance**

### ***Background***

The Council recently received feedback from a prospective pedicab business license applicant regarding the Town's prohibition of "peddler"-type businesses, which includes pedicabs. The Council subsequently directed staff to draft an ordinance that would allow pedicab businesses in Town.

### ***Ordinance Summary***

Using Salt Lake City's pedicab ordinance as a rough guide, staff prepared a draft ordinance for Springdale which would allow pedicabs, subject to the following regulations:

- Pedicabs are required to have standard safety features such as hydraulic brakes, brake lights, front and rear driving lights, side reflectors, and turn signals.
- Pedicab operators are required to have a valid motor vehicle operator license, as well as a Springdale-specific pedicab operator license.
- Each pedicab unit must display an identification tag showing the unit as being registered with the Town.
- Only 20 pedicab units may be licensed to operate in the Town at any one time.
- Pedicabs are only allowed to operate on SR-9, Lion Blvd, Winderland Lane, Paradise Road, Canyon Springs Drive (between SR9 and the bridge), and Desert Springs Drive.
- Pedicabs are not allowed to operate on the sidewalk, except to temporarily load and unload passengers.
- Pedicab operators must receive safety training in the safe operation of pedicabs prior to obtaining a pedicab operator's license.
- Pedicabs must not operate within 350 feet of another pedicab.
- Pedicabs may not be used for mobile advertising.
- Pedicab operators may not offer services to unaccompanied minors.

### ***Pedicab Concerns***

Staff circulated the proposed pedicab draft to the streets and police departments. These departments raised general concerns about pedicabs operating in the Town. These concerns are summarized below:

- The ordinance allows anyone with a driver's license (e.g. 16-year-old minors) to operate a pedicab. There may be safety concerns with allowing relatively inexperienced drivers to operate a pedicab on a street as busy as SR9.

- Slow moving pedicabs could create an obstruction in the bike lane, causing other bike lane users to ride in the travel lane to pass.
- Pedicabs operating next to parked cars could be impacted by car doors opening into the bike lane as the pedicab passes.
- Staging areas for pedicabs could create an obstruction / nuisance.
- Pedicabs loading or unloading passengers on the sidewalk could create an obstruction on the sidewalk for other sidewalk users.
- Pedicab businesses could lead to bike rental companies also renting pedicabs, thus increasing the number of pedicab type cycles operating in the Town (this could happen now, regardless of what happens with the pedicab ordinance).
- Because there are no controlled intersections in Town, it could be difficult for pedicabs travelling on one side of the road to make a left-hand turn across traffic to access the other side of the road.
- Nighttime visibility of the pedicabs could be problematic.
- Because much of the vehicle traffic in Springdale is tourist traffic, tourists unfamiliar with the roadway and the presence of pedicabs in the bike lanes could create potential conflicts with pedicabs.

#### ***Other Municipalities Experience***

Staff has made inquiries to Cedar City and Salt Lake City (the two known municipalities in Utah with currently active pedicab operations) to see if they have had experience with these (or other) concerns. The Cedar City Business License Clerk reported that neither she nor the Cedar City Chief of Police have experienced any safety issues with pedicabs operating in Cedar City. However, Cedar City pedicab traffic is mostly centered around the Shakespeare Festival on less busy streets. Staff has not heard back from Salt Lake City.

#### ***Requested Direction from the Council***

Staff requests the Council consider the concerns presented above and decide whether or not to continue to support pedicab operations in Springdale. If the Council is still supportive of pedicabs in Springdale, staff will finalize the draft ordinance. In particular, staff will address the concerns presented above in the ordinance. If the Council is not still supportive of pedicabs staff will not continue work on the ordinance.

**DRAFT EXCERPT FROM THE 4/8/20 TOWN COUNCIL MEETING – Approval pending.**

**C. Legislative Action Items**

**Discussion and possible direction to staff concerning an ordinance regulating pedicab businesses in Springdale:**

In a previous meeting, the Council heard comment from a pedicab business owner about operating in Springdale. Based on staff analysis, it was determined the Town's current ordinance would prohibit a pedicab business. Council therefore directed staff to prepare an ordinance amendment that would allow pedicabs in Springdale.

As staff worked on a draft ordinance, some foundational concerns about pedicabs were identified by the Police Department and Streets Department related to safety and impacts to other transportation users. These should be considered by the Council before ordinance language was refined.

Mr. Aton asked if most pedicabs would be motor-assisted.

- Mr. Dansie said the initial pedicab business request would not use electric-assist vehicles, but language was included in the ordinance since there was a potential to use them in the future.

Mr. Aton envisioned pedal-assist only and wanted to understand the need for hydraulic brakes and an operator's license.

- Mr. Dansie said these requirements covered the eventuality for electric-assist, but also due to the weight of these bikes and the passengers, the bikes needed more than a mechanical brake to be safe.

Ms. Zumpft was not opposed to the idea but expressed concern about potential hazards. She recognized Springdale did not have a lot of side streets. If the ordinance moved forward, Ms. Zumpft wanted to include provisions that pedicabs not stop traffic or halt in the bike lanes. Another concern was in their ability to make left-hand turns. She wanted to make sure this was the right idea for Springdale.

As a bicyclist, Ms. Elger understood it would be complicated to load and unload. She questioned if there was enough width on SR-9. Ms. Elger felt the issues identified were fairly unmanageable. Ms. Elger noted the Town had a shuttle system to address moving people. She could not support the idea at this point.

Chief Brecke acknowledged Mr. Dansie and Deputy Clerk Katy Brown for their work on the ordinance draft. He raised concern about conflicts between pedicabs and pedestrians using the crosswalks. Also, due to the weight factor and the hilly topography in Town, Chief Brecke said pedicabs may be traveling rather slowly causing other bikes in the bike lane to navigate around them. It would be important to deal with any potential conflicts between foot traffic, other bikes, and vehicles in the road. Other municipalities had more real estate to move passengers around compared to Springdale.

Mr. Aton questioned how Salt Lake City handled the traffic issues with pedicabs on their roads and in their bike lanes.

- Mr. Dansie said Ms. Brown reached out to Salt Lake City. They did not have any issues other than pedicabs initially abiding by speed limits.

Mr. Aton understood the objections but was not ready to 'pass' on the idea since it gave people a way to move through Town slowly and see all the businesses. This was a positive.

- Mayor Smith agreed. He said there was no pressure to get a pedicab business up and going at this moment. Mayor Smith suggested the original requestor be consulted on ways to overcome concerns.
- Ms. Elger wanted staff to reach out to other pedicab owners as well and explore more business models.

- Staff would conduct research in other states and resort towns to see what else could be added to the discussion.

Mr. Aton said pedicabs offered an opportunity for visitors to stop at more places than shuttle stops. He favored additional study to see if something could work in Springdale.

**Motion by Randy Aton to have staff continue to research this item and reach out to other tourist communities that have pedicab operations and see how they handle concerns. Seconded by Lisa Zumpft.**

**Elger: No**

**Zumpft: Aye**

**Player: Aye**

**Aton: Aye**

**Smith: Aye**

**Motion passed.**

**From:** [Rick Praetzel](#)  
**To:** [tdansie@springdaletown.com](mailto:tdansie@springdaletown.com); [Springdale](#)  
**Subject:** Comment on upcoming Planning Commission public hearing regarding ordinance revision to Chapter 10-4 of the Town Code  
**Date:** Monday, April 13, 2020 9:48:32 AM

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Tom and Darci,

I am pretty concerned about the general direction the Town seems to be moving on furthering the general government interference with Life, Liberty, and the Pursuit of Happiness.

The irony I see in the Town's own words, which repeat in our Town Code and in notices of public hearings, is that legislating and threatening the public into submission to many hundreds of rules does not serve "to protect the village character and small town atmosphere". Rather it serves to do just the opposite. The Town government is now a threat to any resident who has a complaint lodged against them and what they are doing on their private property. It is clear to me that the Town of Springdale routinely ventures outside its authority as enumerated by State statute. Our current model for handling reporting and prosecution of code violations promotes distrust of government and distrust between community members. The fact that we have a code enforcement officer in a town of 600 people is a failure of leadership.

We have so many code violations because we have too much code. The drafting of so much overbearing code seems to come from the idea: The people are stupid and they can't be trusted. We'll manage their lives for them.

The fundamental paradigm on which the Town seems to legislate is: The town government has infinite powers over any land that falls within the physical town limits and also has infinite powers over the behaviors of any people when they are within these physical limits. This, of course, is not true. The municipality's authority is limited to its enumerated powers. Numerous small towns in Ohio and Pennsylvania have disbanded their governments to remove this overbearing layer of government. In Amelia, Ohio, the mayor after being disbanded said: **"Everything we do is a public meeting -- open to the public," he said. "Nothing's been done in secrecy. They're more than welcome to come. Rarely do they ever come, until we did that one percent."** (note: The town enacted a 1% income tax which evidently was the last straw.)

Government always self reports as virtuous. In the case of Amelia, Ohio, the mayor was out of touch with the independent spirit of his constituents.

This challenging time may be a good one to reel the government back in to a posture of service rather than creating a steady stream of confining demands upon residents and businesses. The prospect of further legal force being put against community members for what they do on their own property may give a helpful bit of momentum to a majority of people in town who do not hover around government, but rather are here trying to live their lives.

It seems unconventional that the topic of amending code enforcement in town would go before the Planning Commission. I have searched for the ordinance that creates the Town of Springdale Planning Commission and specifies its authority and duties. Could you please

respond to me with the existence and location of that document.

As every town code item has the threat of physical force behind it, it should be the solemn commitment of Town government to protect the rights of its citizens, not to erode those rights. The only reason a free people would create a government is to provide for collective needs such as roads, clean water, and public safety AND to protect their rights.

Springdale has a reputation of having a challenge with one resident and solving it by taking another layer of freedom away from everyone. This is not problem solving. This is avoiding responsibility. The portrayal is that it serves "to protect the village character and small town atmosphere", but what it creates is an outward illusion of a beautiful and charming place to live. What visitors don't see is that it has no soul.

20 years ago, we were an authentic town of no pretense. Now we are an illusion of modern enlightenment. It's pretty embarrassing.

If the Town moves forward in adding more penalty options to rule the serfs, I would propose adding a section to the ordinance that levies criminal and civil penalties on Town officials who create rules to be enforced with State law enforcement agents and State Court when those rules fall outside the purview of the enumerated powers of municipalities in Utah by statute.

Now is a time to be looking at Town payroll and efficiency, not punishing the fortunate few who have found their way to Springdale, a one-time paradise.

Sincerely,

Rick

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[Spam](#)

[Not spam](#)

[Forget previous vote](#)

**REMEMBER:** Never give out your account information, password, or other personal information over e-mail.

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**From:** [dcd@infowest.com](mailto:dcd@infowest.com) on behalf of [tdansie@springdaletown.com](mailto:tdansie@springdaletown.com)  
**To:** "Nancy Goodell"  
**Cc:** [jburns@springdaletown.com](mailto:jburns@springdaletown.com); [bbruno@springdaletown.com](mailto:bbruno@springdaletown.com); "Marriott Mike"; [rrioux@springdaletown.com](mailto:rrioux@springdaletown.com); [jpitti@springdaletown.com](mailto:jpitti@springdaletown.com); [dmccomb@springdaletown.com](mailto:dmccomb@springdaletown.com); [tyoung@springdaletown.com](mailto:tyoung@springdaletown.com); [treacy\\_stone@nps.gov](mailto:treacy_stone@nps.gov); "Wixom Rick"; "Springdale"  
**Subject:** RE: Question Regarding Proposed Changes to Code Enforcement Process  
**Date:** Monday, April 13, 2020 1:28:40 PM

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Nancy-

Thanks for the comment and question.

The hearing officer will fill an analogous role to the judge in a criminal process. To ensure due process, there must be a way for a property owner to challenge the finding of violation and resultant citation. The judge fill this role in the criminal process. The hearing officer will fill that role in the civil process.

I hope this helps.

Thanks!

Tom

-----Original Message-----

From: Nancy Goodell <[goodellnancy@gmail.com](mailto:goodellnancy@gmail.com)>  
Sent: Monday, April 13, 2020 12:04 PM  
To: Dansie Thomas <[dcd@infowest.com](mailto:dcd@infowest.com)>  
Cc: [jburns@springdaletown.com](mailto:jburns@springdaletown.com); [bbruno@springdaletown.com](mailto:bbruno@springdaletown.com); Marriott Mike <[mmarriott@springdaletown.com](mailto:mmarriott@springdaletown.com)>; [rrioux@springdaletown.com](mailto:rrioux@springdaletown.com); [jpitti@springdaletown.com](mailto:jpitti@springdaletown.com); [dmccomb@springdaletown.com](mailto:dmccomb@springdaletown.com); [tyoung@springdaletown.com](mailto:tyoung@springdaletown.com); [treacy\\_stone@nps.gov](mailto:treacy_stone@nps.gov); Wixom Rick <[rwixom@infowest.com](mailto:rwixom@infowest.com)>  
Subject: Question Regarding Proposed Changes to Code Enforcement Process

Hello Tom,

I've reviewed the proposed code enforcement revisions. I'd like further clarification on the appointment and role of the civil hearing officer. It appears this person will have extensive power in deciding whether to pursue or dismiss a civil citation. Perhaps this can be addressed in Wednesday's meeting.

Thank you and stay well,

Nancy Goodell

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BEGIN-ANTISPAM-VOTING-LINKS