

## ORDINANCE # 23-18

AN ORDINANCE REVISING TITLE 21 OF THE SANDY CITY MUNICIPAL CODE, CHAPTER 15, “SENSITIVE AREA OVERLAY ZONE” BY ADDING SECTION 7, “VIOLATIONS, ENFORCEMENT AND PENALTIES”; ALSO PROVIDING A SAVING CLAUSE AND EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, a request has been made to revise Title 21 of the Sandy City Municipal Code, Chapter 15, “Sensitive Area Overlay Zone” by adding Section 7, “Violations, Enforcement and Penalties”. The purpose of the code amendment is to establish an administrative procedure and penalties for violations within the Sensitive Area Overlay Zone to deter violations from occurring and establishing incentives to promptly cure the violation; and

WHEREAS, the Planning Commission held a public hearing on September 7, 2023, which meeting was preceded by notice posting in Sandy City Hall, the Sandy City Parks & Recreation Building, Salt Lake County Library – Sandy, on the Sandy City Website – <http://www.sandy.utah.gov>, and the Utah Public Notice Website – <http://pmn.utah.gov> on August 21, 2023; and

WHEREAS, following the public hearing before the Planning Commission, the Commission recommended the amendment to the City Council; and

WHEREAS, a public meeting was held by the Sandy City Council on October 3, 2023 to consider adoption of the proposed amendment; and

WHEREAS, the City Council has been given specific authority in Title 10, Chapter 9a, Utah Code Ann. to adopt land use regulations to regulate the erection, construction, reconstruction, alteration, repair and uses of buildings and structures, and the uses of land; and

WHEREAS, the State legislature has granted welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the City to pass ordinances which are reasonable and appropriate to the objectives of that power, i.e., providing for the public safety, health, morals, and welfare; and

WHEREAS, the forgoing legitimate governmental objectives are achieved by reasonable means, in that any adverse impact on private property value or use has been carefully balanced against the corresponding gain to the public; and the regulations have been calculated, on recommendation of City planning staff to permit property owners to beneficially use their properties for the practical purposes to which the property is reasonably adaptable; and procedures have been established by the Land Development Code and Utah Code Ann. Whereby appeals can be heard and decided if it is alleged that there is legislative or administrative error, or where a special exception or variance to the ordinance is required.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Sandy City, State of Utah, as follows:

Section 1. Amendment. Title 21 is amended as shown on **Exhibit “A”**, which is attached hereto and by this reference made a part hereof.

Section 2. Severable. If any part of this ordinance or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgement shall not affect, impair or invalidate the remainder of this ordinances or the application thereof to other persons and circumstances, but shall be confined in its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted of such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section 3. Effective. This ordinance shall become effective up on publication of a summary thereof.

PASSED AND APPROVED this 3 day of October, 2023.

DocuSigned by:

*Brooke D Sousa*

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Brooke D Sousa, Sandy City Council Chair

ATTEST:

DocuSigned by:

*Wendy D*

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City Recorder

10/10/2023

PRESENTED to the Mayor of Sandy City for her approval this \_\_\_\_\_ day of October, 2023.

10/10/2023

APPROVED this \_\_\_\_\_ day of October, 2023.



DocuSigned by:

*Monica Zoltanski*

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Monica Zoltanski, Mayor

ATTEST:

DocuSigned by:

*Wendy D*

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City Recorder

PUBLISHED this 10 day of October, 2023.

*Title 21 Chapter 15 Sensitive Area Overlay Zone is amended by adding Section 7 "Violations, Enforcement and Penalties" as follows:*

### **CHAPTER 21-15. SENSITIVE AREA OVERLAY ZONE**

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#### **Sec. 21-15-7. Violations, Enforcement and Penalties.**

- (a) *Violations.* It shall be a violation for any person to:
- (1) Perform any construction, grading, filling, clearing or land disturbance in the Sensitive Area Overlay without first obtaining required City approvals, or
  - (2) Fail to comply with the provisions of this Chapter.
- (b) *Stop-Work Order and Citation.* Upon a determination that a violation exists, the Director, or designee shall issue a citation and stop-work order, such that no further work shall be performed or approved, until otherwise authorized by the Community Development Department. Stop-work orders take effect immediately upon issuance.
- (c) *Unlawful Continuance.* Any person who continues any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to enforcement including additional fines and penalties as prescribed by local or state law.
- (d) *Enforcement.*
- (1) Enforcement may be done criminally, civilly, or administratively pursuant to Title 1 Chapter 4 of this Code.
  - (2) Upon a determination that a violation exists, the Director, or designee, shall contact the property owner in writing to issue an administrative citation pursuant to Title 1 Chapter 4 of this Code. Within the time stated in the citation, the responsible party shall submit an application to the Community Development Department in accordance with this Chapter to remove, mitigate, restore, or otherwise cure the violation.
  - (3) Remediation that requires alteration of hillsides containing 30 percent or greater slope may only be authorized by the Planning Commission upon recommendation of the Director and City Engineer.
- (e) *Fines.* Violations of this Chapter shall result in administrative fines pursuant to Table 1 shown below. Base fines shall be assessed for the initial violation and daily fines shall accrue in accordance with Title 1 Chapter 4 of this Code. The following periods of time shall not be assessed a daily fine:
- (1) The number of days under City review and processing of a complete permit application.
  - (2) Seasonal conditions such as snow, excessive moisture, or environmental factors that would prevent the physical remediation of the violation, as determined by the Director, or designee.

<b>Table 1</b>		
	<b>Base Fine</b>	<b>Daily Fine (additional to base fine)</b>
<b><u>Minor Violation – Encroachment less than 250 square feet of affected area</u></b>	\$1,000	\$10
<b><u>Intermediate Violation – Encroachment between 250 square feet and 1,000 square feet of affected area</u></b>	<u>\$3,000</u>	<u>\$18</u>
<b><u>Major Violation – Encroachment greater than 1,000 square feet of affected area</u></b>	\$5,000	\$25

- (f) *Abatement of Daily Fines for Correction and Payment.* The base fine shall not be forgiven or abated. The total daily fine amount may be partially abated after the violation is cured and inspected and approved by the City.

- (1) The Director, or designee, may reduce the total daily fine amount for promptly curing the violation pursuant to the following schedule:

Table 2		
	Length of Time to Cure	Reduction to Total Daily Fine Amount
<b>Minor <u>and Intermediate</u> Violations</b>	30 Days	100%
	60 Days	75%
	120 Days	50%
	180 Days	25%
	Over 180 days	0%
<b>Major Violation</b>	90 Days	75%
	180 Days	50%
	365 Days	25%
	Over 365 Days	0%

- (g) *Final Assessment.* The final assessment of the daily fine will be determined by the Director, or designee, and issued to the responsible party upon the earlier of the following to occur:

- (1) final approval of the corrective work by the City; or  
(2) expiration of the time for correction as set forth in the citation.

- (h) *Payment and Collection.* The City will give written notice to the responsible party of each assessed fine. Payment must be made within 30 days. Thereafter the City will take all lawful action to collect the assessed amount.

- (i) *Appeal.* A person may request an administrative hearing pursuant to Title 1 Chapter 4 of this Code.