



MOTION SHEET

CITY COUNCIL *of* SALT LAKE CITY

TO: City Council Members

FROM: Ben Luedtke and Kira Luke
Budget & Policy Analyst and Constituent Liaison

DATE: July 11, 2017

RE: **MOTION SHEET – Civil Penalty Ordinance**

MOTION 1 – Close

I move that the Council close the public hearing.

Note: The Council held a work session briefing on June 6. If the hearing is closed, this item will be scheduled for a vote on July 25.

MOTION 2 – Continue

I move that the Council continue the public hearing and proceed to the next agenda item.





COUNCIL STAFF REPORT

CITY COUNCIL of SALT LAKE CITY

TO: City Council Members

FROM: Ben Luedtke and Kira Luke
Budget & Policy Analyst and Constituent Liaison

DATE: June 6, 2017

RE: Civil Penalty Ordinance

Item Schedule:

Briefing: June 6, 2017
Set Date: June 13, 2017
Public Hearing: July 11, 2017
Potential Action: July 25, 2017

ISSUE AT-A-GLANCE

The Administration is proposing creation of a new business fine, i.e. enacting Chapter 5.88 Enforcement, within City Code *Title V Business Taxes, Licenses and Regulations*. The civil penalties ordinance would provide a new enforcement tool to the Business Licensing Division. A business in violation of Title V could be issued a fine before the infraction escalates to a criminal misdemeanor level, which requires a police officer to issue a criminal citation. When the fine goes unpaid the City could seek a legal judgment and lien against the business property. The Administration reports this tool would act as a significant deterrent because liens affect property owners' credit access and ratings and typically must be resolved before a property can be sold or transferred. If the deterrent effect is realized, this ordinance may free up some police officer time because fewer criminal citations would be issued.

Goal of the briefing: Discuss the civil penalty ordinance with the Administration, confirm whether to hold a public hearing (as has been the Council's practice with the implementation of new fees/fines), and provide direction on whether the Council supports the ordinance as written.

Summary of Ordinance by Section

5.88.010 Violations of Title: Penalties – Establishes all violations of *Title V Business Taxes, Licenses and Regulations* as subject to the civil penalty ordinance.

5.88.020 Issuance of Misdemeanor Citations, Civil Notices of Violations and Warnings –

(A) In accordance with state law, a peace officer is authorized to issue misdemeanor citations. Business Licensing enforcement officers do not share this power.

(B) A peace officer or Business Licensing enforcement officer may issue a civil notice of violation. The notice must include applicable penalties, remedial measures to correct the violation, and deadline for compliance.

(C) A peace officer or Business Licensing enforcement officer may issue a written warning per their discretion. The ordinance states for a "demonstrable good cause." (See policy question #5).

5.88.030 Enforcement Involving Notices of Violation –

(A) Designates jurisdiction with the City's small claims court.

(B) Allows violations to be contested before a city hearing officer.



(C) Sets preponderance of evidence as the hearing standard (a.k.a. 51% or greater likelihood of truth).

(D) Lists affirmative defenses under which a hearing officer may dismiss a notice of violation.

(E) Establishes option to appeal hearing officer decision to the small claims court.

(F) If specific enforcement provisions are listed in other chapters within Title V, then they supersede the process in Chapter 5.88. The chapters with specific enforcement provisions include:

- 5.08 Burglary and Robbery Alarm Systems, 5.09 Fire Alarms, 5.14 Rental Dwellings, 5.15 Landlord/Tenant Initiative, 5.20 Video Services Systems, 5.21 Cable Communications Service Standards, 5.51 Alcohol Establishments and Off Premise Beer Retailers, 5.61 Sexually Oriented Businesses, 5.71 Ground Transportation Requirements, and 5.72 Taxicabs.

5.88.040 Penalties for Civil Violations –

(A) Lists penalties for multiple violations within a 24 month period as follows:

1. Written warning for first violation
2. \$250 civil penalty for second violation
3. \$500 civil penalty for third violation
4. \$500 civil penalty for fourth violation and one year probation
5. If a notice of violation is issued during the probation period under the same ordinance, then a \$500 civil penalty, revocation of business license and mandatory six month waiting period begins before reapplication for a business license will be accepted.

(B) Establishes 24-month period for counting multiple violations.

(C) Confirms business license revocation will follow due process requirements in Chapter 5.02 sections 250, 260 and 290.

(D) Reaffirms specific enforcement provisions in other chapters within Title V supersedes the process in Chapter 5.88.

Housekeeping Changes – Along with enacting the proposed Chapter 5.88 ordinance the Administration also transmitted a couple dozen minor housekeeping changes to ensure consistent language and procedures throughout Title V.

POLICY QUESTIONS

1. **Penalties Sufficient for Deterrence** – The Council may wish to discuss with the Administration, are the proposed civil penalties sufficient to achieve the desired deterrence effect? Could the penalties be viewed as a cost of doing business that some property owners may absorb without changing the behaviors in violation of City Code?
2. **Compliance, Cooperation, and Contributing Businesses** – The Council may wish to confirm or discuss the intended purpose of the ordinance: is it to work collaboratively with businesses to resolve issues that may be causing detrimental impacts to their surrounding areas? The Council may wish to ask whether the ordinance provides enough leeway for both time and opportunity to work with business license holders for successful resolutions, and then also to apply fines if the business license holder is not participating in resolution.
3. **24-Month Period for Counting Multiple Violations** – The Council may wish to discuss with the Administration why the 24-month period was proposed and if a longer time period might be more effective at deterring violations.
4. **Administrative Hearing Process** – The Council may wish to ask the Administration for a status update on creating an administrative hearing process as an alternative to small claims court. Would this alternative route be more efficient? Are additional resources needed to implement the process?
5. **Process, Criteria and Deadline for Compliance** – The Council may wish to discuss with the Administration the pros and cons of delegating discretion to enforcement officers when setting criteria and deadlines for compliance. The proposed ordinance confers significant discretion for enforcement

officers to issue written warnings for “demonstrable good cause.” Would additional guidance be helpful such as minimum or maximum time periods for a business to resolve the violation? Do other sections of City Code contain guidance for enforcement which could be applied to the proposed civil penalties ordinance?

- a. Section 5.88.020 of the proposed ordinance states the notice of violation must include applicable penalties, remedial measures to correct the violation, and deadline for compliance.

ADDITIONAL & BACKGROUND INFORMATION

24-Month Period for Counting Multiple Violations

Multiple violations and the escalating civil penalty amounts are calculated within a 24-month time period. For example, if a property received a violation in January 2015, a second violation in December 2016 and a third violation in March 2017, the March violation would be counted as a second violation (with the same penalties as the December 2016 violation).

The Administration reports the 24-month calculation is used in several city ordinances and state laws including animal violations (City Code 8.15.027(b)), lobbyist disclosure and regulation act (Utah Code 36-11-401), and criminal nonsupport of children (Utah Code 76-7-201(3) (c)). The City and state also use 36-month calculations for some offenses such as alcohol violation (City Code 5.51.080).

Civil Penalties in Other City Departments

The City has issued civil penalties related to zoning enforcement for decades. City Code Title 21A, *Chapter 20 Enforcement*, outlines the procedures for discovering violations, allowable fines, and the appeals process. The ordinance states in section 21A.20.050, “If the violations are not corrected by the citation deadline, civil fines shall accrue at twenty five dollars (\$25.00) a day per violation for properties in residential zoning districts and one hundred dollars (\$100.00) per day per violation for properties in nonresidential zoning districts.” Examples of zoning violations are failure to abate weeds, storing garbage/junk/hazardous materials in a yard, off premise signs, and illegal structures.

City Code also contains *Chapter 1.12 Code Violations and General Penalty* which sets a maximum daily civil penalty of \$1,000 for any person found in violation of City Code (not including criminal violations).

The Administration reports civil penalties could be expanded in the future to other city departments. This could create a more consistent enforcement structure across the city.

Straw Purchases

A straw purchase involves a person buying property on behalf of another person who is unable, or does not want, to complete the transaction themselves. Some straw purchases are intended avoid enforcement and other sanctions, however, not all straw purchases are illegal. Sometimes straw purchases are made to conceal illegal activities, avoid legal sanctions/requirements, or to create a clean slate when penalties are tied to the owner rather than the property. The Administration reports anecdotal indications that straw purchases are an ongoing problem, however, insufficient data is available to quantify the frequency or magnitude of the problem. The proposed ordinance would not completely prevent straw purchases from occurring. The deterrent effect is anticipated to decrease straw purchases because transferring property is more difficult when the City records a lien against a property for violations of City Code.

Process to Appeal Civil Penalty

A property owner may appeal the civil penalty with a city hearing officer from the Civil Unit within the Finance Department. Hearings can be held via email, in person at the City & County Building, or online. The Salt Lake City Justice Court small claims court would hold jurisdiction over further appeals for civil penalties. If either side appealed the Justice Court judge’s decision then the case would move to the County’s Third District Court and begin de novo (case starts all over from the beginning). An administrative hearing process is being developed as an alternative to the small claims court. This would be available to all city departments unless City Code identifies a specific process for handling violations and appeals.

Civil Penalties in Other Utah Cities

The Administration reports West Valley City uses a civil penalties structure similar to the proposed ordinance. Their ordinance has a wider application for violation of any city code, whereas the proposed ordinance is only applicable for violations of Salt Lake City Code *Title V Business Taxes, Licenses and Regulations*. Other Utah cities enacted civil penalty ordinances to address violations of city code, however, not all apply to business

licensing. Some of these cities include: Centerville, Clearfield, Provo, Saratoga Springs, Syracuse, and West Jordan.

Budget Impact

The budget impact is unknown because there is no data from which to project future revenues. If enacted by the Council, the Administration plans to closely monitor the monetary penalties issued and the collection rate. A six-month update about the budget impact could be provided to the Council.

Salt Lake County Stricter Business License Revocation Standard for Massage Therapy

Some jurisdictions tightened the threshold for business license revocation rather than increasing fines. In May, 2016, the Salt Lake County Council lowered the threshold for business license revocation to two violations during a one year period. The violations can be a criminal offense and/or state professional licensing rule violations. This new standard applies to the person holding the business license and persons subleasing the license holder's commercial space. For example, if a strip mall tenant sub-leases commercial space to a massage therapist who receives two or more violations within one year then the tenant's business license could be revoked.

"5.07.020 - Grounds for license suspension or revocation.

G. Has contracted with two or more independent contractors whose business licenses were subsequently revoked in final unappealable decisions during a twelve-month period for engaging in unlawful conduct under the Utah Massage Therapy Practice Act or Prostitution under the Utah Criminal Code on the licensee or permittee's leased or owned premises."

ATTACHMENTS

1. Redlined Legislative Version of Chapter 5.88
2. Clean Version of Chapter 5.88



CITY COUNCIL TRANSMITTAL


Patrick Leary, Chief of Staff

Date Received: April 6, 2017
Date sent to Council: April 7, 2017

TO: Salt Lake City Council
Stan Penfold, Chair

DATE: 4/6/17

FROM: Mary Beth Thompson 

SUBJECT: Civil Penalty Ordinance

STAFF CONTACT: Mary Beth Thompson, Salt Lake City Chief Financial Officer, (801) 535-6403; James Allred, City Licensing Manager, (801) 535-6473

COUNCIL SPONSOR: Erin Mendenhall

DOCUMENT TYPE: Ordinance

RECOMMENDATION: Approve Ordinance

BUDGET IMPACT: N/A

BACKGROUND/DISCUSSION: This ordinance is an effort to get businesses to come into compliance with City ordinance. Certain businesses attempt to skirt enforcement using such methods as straw type purchases to create new ownership. The civil penalty ordinance will allow us to take immediate action on business activity at the time of the violation and will address business activity regardless of ownership. In addition, recent state statute changes limit business license enforcement officials to civil enforcement only, thereby limiting criminal enforcement to sworn police officers. By implementing this ordinance, license enforcement staff will have better tools to obtain the necessary compliance with businesses in the City.

PUBLIC PROCESS: N/A

Ordinance No. _____ of 2017

(Providing civil penalties for violations of business licensing ordinances)

An ordinance enacting Chapter 5.88 of the Salt Lake City Code to provide for the imposition of civil penalties for violations of the ordinances set forth in Title 5 of the Salt Lake City Code; amending Sections 5.02.290, 5.14.030, 5.14.060, 5.14.070, 5.14.080, 5.14.085, 5.14.090, 5.14.120, 5.14.130, 5.15.010, 5.15.050, 5.15.070, 5.71.310, and 5.72.890; and repealing Sections 5.28.150, 5.65.200, 5.68.110, 5.84.220 and 5.85.070.

WHEREAS, Title 5 of the Salt Lake City Code sets forth ordinances governing business taxes, licenses and regulations; and

WHEREAS most violations of the ordinances set forth in Title 5 of the Salt Lake City Code are punishable as criminal misdemeanors; and

WHEREAS, the City Council of Salt Lake City, Utah has determined that providing the City with the option of addressing violations of the ordinances set forth in Title 5 of the Salt Lake City Code as civil violations, rather than criminal misdemeanors, promotes the best interests of the City and the City's citizens;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Salt Lake City, Utah, as follows:

SECTION 1. That Chapter 5.88 of the Salt Lake City Code is hereby enacted to read as follows:

CHAPTER 5.88
ENFORCEMENT

5.88.010: VIOLATIONS OF TITLE; PENALTIES

5.88.020: ISSUANCE OF MISDEMEANOR CITATIONS, CIVIL NOTICES OF VIOLATION, AND WARNINGS:

5.88.030: ENFORCEMENT INVOLVING NOTICES OF VIOLATION:

5.88.040: PENALTIES FOR CIVIL VIOLATIONS:

5.88.010: VIOLATIONS OF TITLE; PENALTIES:

Any person who violates any mandate or prohibition contained in this title shall be penalized according to the provisions of this title or the provisions of Salt Lake City Code section 1.12.050 or its successor section.

5.88.020: ISSUANCE OF MISDEMEANOR CITATIONS, CIVIL NOTICES OF VIOLATION, AND WARNINGS:

A. Misdemeanor Citations: A peace officer is authorized to issue a misdemeanor citation to any person upon a charge of violating any provisions of this title. The form of the misdemeanor citation, and proceedings to be handled upon the basis of the citation, shall conform to the provisions of the Utah code of criminal procedure, including, but not necessarily limited to, sections 77-7-18 through 77-7-22, or their successor sections.

B. Civil Notices Of Violation:

1. Where violations of this title are committed, a peace officer or business licensing enforcement officer may issue a civil notice of violation to such violator in lieu of a misdemeanor citation.

2. A notice of violation issued pursuant to subsection (B)(1) of this section, shall identify the penalties applicable to each violation listed in the notice of violation as set forth in section 5.88.040 of this chapter or its successor section.

3. Remedial Measures

a. If the violations identified in the notice of violation require remedial action on the part of the person charged, then the notice of violation shall identify each remedial measure that must be taken and shall indicate the compliance date by which such measures must be completed.

b. Compliance with all remedial requirements referred to in the notice of violation by the compliance date shown thereon shall result in the dismissal of the penalty. Refusal or failure to comply with any remedial requirements referred to in the notice of violation by the deadline set as the compliance date will result in the imposition of the full penalty amount.

C. Warnings: In appropriate instances, and for demonstrable good cause, a peace officer or business licensing enforcement officer may issue a written warning to the offending party and forego the imposition of any penalties.

5.88.030: ENFORCEMENT INVOLVING NOTICES OF VIOLATION:

A. Notices of violation shall be adjudicated as civil violations in the small claims court in accordance with the procedures set forth in title 2, chapter 2.75 of this code.

- B. Any person having received a notice of violation, as provided in this chapter, may appear before a hearing officer and present and contest such alleged violation.
- C. The burden to prove any defense shall be upon the person raising such defense. Nothing herein shall affect the city's burden to prove each element of the underlying charge by a preponderance of evidence.
- D. If the hearing officer finds that no violation as set forth in the notice of violation has occurred or that such a violation has occurred but one or more of the affirmative defenses set forth in this section is applicable, the hearing officer may dismiss the notice of violation and release the recipient of the notice from liability thereunder or the hearing officer may reduce the penalty associated therewith. Such affirmative defenses are:
 - 1. At the time of the receipt of the notice of violation, the person receiving such notice of violation:
 - a. Was not an owner or other responsible party with respect to the business at issue; and
 - b. Did not engage in any actions or omissions that contributed to the violation at issue;
 - 2. Compliance with the subject ordinances would have presented an imminent and irreparable injury to persons or property;
 - 3. All remedial requirements outlined in the notice of violation were completed on or before the compliance date;
 - 4. Such other mitigating circumstances expressly described in this title that correspond to specific violations of an ordinance in this title; or
 - 5. Such other mitigating circumstances as may be approved by the city attorney's office.
- E. Any person not satisfied with the outcome of their appearance before the hearing officer with respect to the notice of violation they received, may appear before the small claims court to contest such alleged violation.
- F. If the alleged ordinance violation involves an ordinance located in chapters 5.08, 5.09, 5.14, 5.15, 5.20, 5.21, 5.51, 5.61, 5.71, or 5.72 of this title, then the more specific enforcement provisions and processes set forth the chapter that corresponds to the violation shall supersede the provisions of this section.

5.88.040: PENALTIES FOR CIVIL VIOLATIONS:

- A. The following penalties shall be imposed where a notice of violation is issued for a violation of the city ordinances set forth in this title:

1. Where a notice of violation has been issued for a first violation of a city ordinance, such notice of violation shall constitute a written warning.
2. Where a notice of violation has been issued for a second violation of a city ordinance, the recipient of such notice of violation shall pay a civil penalty of \$250.
3. Where a notice of violation has been issued for a third violation of a city ordinance, the recipient of such notice of violation shall pay a civil penalty of \$500.
4. Where a notice of violation has been issued for a fourth or subsequent violation of a city ordinance, the recipient of such notice of violation shall:

- a. Pay a civil penalty of \$500; and
- b. Shall be placed on probation for a period of one year from the date on which the notice of violation was issued.

5. If, during the period of probation specified in subsection (A)(4)(b), a notice of violation is issued for a violation of the same ordinance that resulted in such probation, then:

- a. The recipient of such notice of violation shall pay a civil penalty of \$500;
- b. The business license of the recipient of such notice of violation shall be revoked; and
- c. The recipient of such notice of violation may not reapply for a new business license for at least six (6) months from the date of revocation.

B. Any reference to second, third, fourth, and subsequent violations refers to repeat violations of the same city ordinance that occur within a twenty-four (24) month period.

C. The city may not revoke a business license pursuant to subsection (A)(5)(b) without satisfying the due process requirements set forth in sections 5.02.250, 5.02.260, and 5.02.290 of this title.

D. If the alleged ordinance violation involves an ordinance located in chapters 5.08, 5.09, 5.14, 5.15, 5.20, 5.21, 5.51, 5.61, 5.71, or 5.72 of this title, then the more specific enforcement provisions and processes set forth in the chapter that corresponds to the violation shall supersede the provisions of this section.

SECTION 2. That Section 5.02.290 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.02.290: HEARINGS HELD BEFORE A HEARING EXAMINER:

At the conclusion of any hearing held as provided in section 5.02.260 of this chapter, or its successor section, the hearing examiner shall issue or adopt written findings of fact and conclusions of law and an order which is based upon and supported by the evidence presented at the hearing. Such findings, conclusions and order shall have full force and effect upon issuance, and shall be binding upon all parties as of the date and time of such issuance. The city and the licensee or applicant may appeal such findings, conclusions and order to a court of competent jurisdiction within thirty (30) days of the date on which the hearing examiner issues such findings, conclusions and order.

SECTION 3. That Section 5.14.030 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.030: LICENSE; APPLICATION:

An application for a rental dwelling business license shall be made to the license office of the city, and shall include the following information:

- A. The location and address of the rental dwelling(s);
- B. The number, within each rental dwelling, of:
 - 1. Dwelling units, or
 - 2. Lodging or sleeping rooms, if the dwelling is a fraternity, sorority, boarding, or rooming house;
- C. The name, address, and telephone number of each of the following:
 - 1. The applicant,
 - 2. The owner of the fee title interest,
 - 3. The owner of any equitable interest,
 - 4. The local operating agent,
 - 5. The resident manager, if any, and
 - 6. For each corporate and out of state resident rental dwelling owner, the designation of a legal representative and agent for service of process as provided in section 5.14.050 of this chapter;

- D. A certification by the owner, or owner's agent, that to the best of such person's knowledge or belief, the premises comply with ordinance requirements shown on a checklist provided by the city as part of a rental dwelling business license application; and
- E. The signature of the owner of the premises, and the operator if different, agreeing to comply with applicable ordinances and to authorize inspections as provided in this chapter.

SECTION 4. That Section 5.14.060 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.060: INVESTIGATION; BY CITY:

- A. An original application for a rental dwelling business license may be referred for approval to the departments listed in sections 5.14.070 and 5.14.080 of this chapter, or their successors. Upon such referral the directors of such departments, or their designees, shall determine, based on the self-certification provided by an applicant under subsection 5.14.030(D) of this chapter and any other relevant information, if an inspection is needed to determine whether or not the rental dwelling at issue complies with the self-certification standards established by the city. Inspections shall not be performed for single-family residences, duplexes, or newly constructed buildings unless the city conducts such inspections due to cause or complaint.
- B. The criteria governing scheduled city inspections performed pursuant to this chapter shall be the self-certification standards established by the city. Notwithstanding the foregoing, the city shall not require an owner of a legal nonconforming rental dwelling to make physical changes to such dwelling unless the change is for a permissible purpose as specified in Utah code section 10-9a-511.5 or its successor section.
- C. Nothing in this chapter shall be construed to prevent the city from performing inspections triggered by cause or complaint. The city shall have discretion to determine what constitutes cause or complaint sufficient to trigger an inspection by the city. An inspection triggered by either cause or complaint shall be performed pursuant to the criteria and processes set forth in title 18, chapter 18.50 of this code.
- D. Whenever it is necessary to make an inspection to enforce any provisions of this chapter, or whenever the city has reasonable cause to believe a code violation exists in any building or upon any premises which makes such building or premises unsafe, dangerous or hazardous, the city's duly authorized representative may, upon obtaining permission of the owner or other person having charge or control of the premises or dwelling unit, or upon obtaining a warrant, enter a residential property or premises to inspect it or to perform any other duties imposed by this chapter.

SECTION 5. That Section 5.14.070 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.070: INVESTIGATION; BY FIRE DEPARTMENT:

An original application for a license for a rental dwelling with three (3) or more dwelling units, may be referred to the fire department for investigation as to whether or not the rental dwelling at issue complies with the self-certification standards established by the city. Within a reasonable time after such referral, the fire department shall report to the license office as to the fitness of the applicant regarding compliance with said standards. Notwithstanding the foregoing, an initial inspection of a newly constructed building shall not be performed unless the city conducts such inspection due to cause or complaint. After a license has been granted, the fire department shall inspect the licensed premises should the city subsequently have cause to believe that the licensed premises no longer comply with the pertinent standards. Upon confirming that such is the case, the fire department shall report that fact to the license office, at which time such office will inform the mayor, or the mayor's designee, and take action in regards to the revocation of the license as the mayor or designee deems just and proper in light of the facts of the case and applicable provisions of this chapter.

SECTION 6. That Section 5.14.080 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.080: INVESTIGATION; BY BUILDING SERVICES AND CIVIL ENFORCEMENT DIVISION:

An original application for a license for a rental dwelling with three (3) or more dwelling units, may be referred to the building services and civil enforcement division for investigation as to whether or not the rental dwelling at issue complies with the self-certification standards established by the city. Within a reasonable time after such referral, the building services and civil enforcement division shall report to the license office the fitness of the applicant regarding compliance with said standards. Notwithstanding the foregoing, an initial inspection of a newly constructed building shall not be performed unless the city conducts such inspection due to cause or complaint. Should the city subsequently have cause to believe that the premises no longer comply with the aforementioned standards, the building services and civil enforcement division shall perform an inspection of the licensed premises. If the licensed premises are not in compliance with the pertinent standards, then the building services and civil enforcement division shall report such noncompliance to the license office, at which time the license office shall inform the mayor or the mayor's designee, and take action regarding the revocation of said license as the mayor or designee deems just and proper in light of the facts of the case and applicable provisions of this chapter.

SECTION 7. That Section 5.14.085 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.085: LIMITATION ON SCHEDULED INSPECTIONS:

A. Single-Family Residences Or Duplexes:

1. The city will not inspect a rental dwelling that qualifies as either a single-family residence or a duplex unless such inspection is triggered by cause or complaint.
2. The owner of a rental dwelling that qualifies as either a single-family residence or a duplex will periodically be required to submit a signed representation that the rental dwelling meets the city's self-certification standards. This signed representation shall be submitted prior to the city's issuance of the original business license and shall be submitted every three (3) years thereafter.

B. Rental Dwellings With Three Or More Dwelling Units:

1. The city will conduct scheduled inspections of rental dwellings with three (3) or more dwelling units not more than once every four (4) years. Such scheduled inspections shall be conducted as follows:
 - a. The criteria governing the city's inspection shall be confined to the self-certification standards established by the city.
 - b. The percentage of dwelling units that will be inspected as part of the scheduled inspection shall be as follows:
 - (1) Three (3) to ten (10) unit buildings: No more than thirty five percent (35%) of the dwelling units.
 - (2) Eleven (11) to twenty (20) unit buildings: No more than twenty percent (20%) of the dwelling units.
 - (3) Twenty one (21) or greater unit buildings: No more than fifteen percent (15%) of the dwelling units.
 - c. If a scheduled inspection of the dwelling units selected for inspection in accordance with subsection B1b of this section reveals violations of the self-certification standards, then the city may inspect the remaining dwelling units in that rental dwelling.
 - d. The city shall provide rental dwelling owners notice that dwelling units are to be inspected at least thirty (30) days prior to the inspection date.
2. The owner of a rental dwelling with three (3) or more dwelling units will periodically be required to submit a signed representation that the rental dwelling meets the city's self-certification standards. This signed representation shall be submitted prior to the city's

issuance of the original business license and shall be submitted every two (2) years thereafter.

- C. Cause Or Complaint: The city may inspect rental dwellings at any time if such inspection is triggered by cause or complaint.

SECTION 8. That Section 5.14.090 of the *Salt Lake City Code* shall be, and hereby is, amended to read as follows:

5.14.090: ISSUANCE OF LICENSE:

The mayor, or the mayor's designee, after receiving any required recommendations from the fire department and the building services and civil enforcement division, shall act upon a rental dwelling business license application with respect to granting or denying the same, as provided under chapter 5.02 of this title.

SECTION 9. That Section 5.14.120 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.120: ENFORCEMENT:

- A. In addition to any other remedies authorized by law or in this title, if the notified party fails to repair or secure the property in question, the city may pursue any one or more of the following additional remedies:

1. Notice Of Deficiency: The supervisor of housing enforcement may record with the Salt Lake County recorder's office a notice of any conditions that violate the self-certification standards established by the city. The notice shall be mailed to all notified parties.

2. Criminal Action: Violations of the provisions of self-certification standards established by the city may be punishable as a class B misdemeanor upon conviction.

3. Civil Action: Violations of self-certification standards established by the city may also be enforced by injunction, mandamus, abatement, civil penalties or any other appropriate action in law or equity.

- B. Civil penalties may be imposed according to the following procedures:

1. Notice Of Violation:

a. If the housing inspector finds that any provision of this chapter is being violated, the housing inspector shall provide a written notice to the property owner and to any other person determined to be responsible for such violation. The written notice shall indicate the nature of the violation and order the action

necessary to correct it. Additional written notices may be provided at the housing inspector's discretion.

b. The written notice shall state what action the housing inspector intends to take if the violation is not corrected. The written notice shall include information regarding the established warning period for the indicated violations and shall serve to start any warning periods provided in this chapter.

c. Such written notice issued by the housing inspector shall be deemed sufficient and complete when served upon the person cited:

(1) Personally by the inspector or his or her representative; or by mailing, postage prepaid, by certified mail or commercial courier addressed to the person cited at the last known address appearing on the records of the county recorder; and

(2) By posting notice on the property where said violation(s) occurs.

d. In cases when delay in enforcement would seriously threaten the effective enforcement of this chapter, or pose a danger to the public health, safety or welfare, the housing inspector may seek enforcement without prior written notice by invoking any of the fines or remedies authorized in this chapter.

e. If the violation remains uncured within five (5) days after the expiration of the warning period, a second notice of violation shall be delivered by mail, postage prepaid, addressed to the person cited at the last known address appearing on the records of the county recorder. The second notice of violation shall identify the date on which the civil fines shall begin to accrue.

2. Amount Of Penalty: Civil penalties shall accrue as follows:

a. Violations of the self-certification standards established by the city: Fifty dollars (\$50.00) per violation per day. If more than ten (10) violations exist, the daily penalties shall double.

b. Failure to obey an interpretation, decision or requirement of the housing advisory and appeals board: Twenty five dollars (\$25.00) per violation per day.

3. Daily Violations: Each day a violation continues after the citation deadline shall give rise to a separate civil penalty.

4. Compliance: Accumulation of penalties for violations, but not the obligation for payment of penalties already accrued, shall stop upon correction of the violation.

5. Recurring Violations: In the case where a violation, which had been corrected, reoccurs within six (6) months of the initial correction, the city will begin enforcement of

said recurring violation and penalties will begin accruing after a ten (10) day warning period.

6. Appeals:

a. Appeals Contesting The Existence Of A Violation:

(1) Appeals contesting the existence of the violation must be filed with the housing advisory and appeals board pursuant to section 5.14.125 of this chapter within thirty (30) days from the date the original notice of violation was issued.

b. Appeals Contesting The Amount Of The Penalties Imposed:

(1) The mayor, or his/her designee, shall appoint such hearing officer as the mayor, or his/her designee, deems appropriate to consider matters relating to the violation of this chapter. The hearing officer shall have the authority to hear evidence, reduce or eliminate penalty amounts, and to make such equitable adjustments as he/she deems appropriate.

(2) Any person receiving a notice of violation may appear before a hearing officer to appeal the amount of the penalty imposed. However, no party may appear before a hearing officer until violations identified have been corrected and a notice of compliance has been issued.

(3) The hearing officer shall maintain complete and permanent records of all inspections and decisions.

(4) The burden to prove any defense shall be upon the person raising such defense.

(5) Commencement of any action to remove or reduce penalties shall not relieve the responsibility of any person cited to make payment of subsequently accrued civil penalties nor shall it require the city to reissue any of the notices required by this chapter.

(6) The hearing officer may adjust, reduce or eliminate penalties or create payment plans relating to penalties accrued by the person cited. In the administration of this duty, the hearing officer may reduce or eliminate penalties based upon any circumstance or other equitable consideration the hearing officer finds to be applicable. In cases where the administrative process has not been followed by the division, the hearing officer has the authority to reduce or eliminate penalties.

(7) Payment plans may be created by the hearing officer. Although the hearing officer has the ultimate authority in establishing the payment

schedule, the minimum payment schedule provided by the department of community and neighborhoods should be followed. Once a payment schedule has been developed by the hearing officer, and agreed to by the person cited, failure to submit any two (2) payments as scheduled will require payment of the entire amount of the original fine immediately.

SECTION 10. That Section 5.14.130 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.130: REFUSAL TO PERMIT INSPECTIONS:

If a rental dwelling business license holder, or an agent of such business license holder, refuses to permit the city to conduct an inspection authorized under this chapter, then the city has adequate grounds to:

- A. Revoke the rental dwelling business license that corresponds to the rental dwelling at issue;
- B. Disqualify the rental dwelling at issue from participation in the city's landlord/tenant initiative pursuant to chapter 5.15 of this title;
- C. After obtaining a warrant, enter a residential dwelling at issue to inspect it or to otherwise perform duties imposed by this chapter; and/or
- D. Pursue any and all other remedies available to the city.

SECTION 11. That Section 5.15.010 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.15.010: ESTABLISHMENT OF LANDLORD/TENANT INITIATIVE PROGRAM:

A. Purpose And Intent: The city council finds:

- 1. A significant portion of the city's housing stock consists of rental dwellings;
- 2. Proper management of rental dwelling housing is important to the health, safety, and welfare of persons residing in such housing as well as to city residents generally; and
- 3. A rental dwelling owner, or the owner's agent, who manages the owner's rental dwellings in accordance with applicable provisions of this chapter, thereby reducing demand for city services to such dwellings, shall receive a reduction in the disproportionate rental fee payable under section 5.04.070 of this title.

B. Establishment Of Landlord/Tenant Initiative Program: There is hereby established a voluntary incentive program, to be known as the landlord/tenant initiative (sometimes also

referred to as a "good landlord program") wherein disproportionate rental fees payable under section 5.04.070 of this title will be reduced for any owner of a rental dwelling who meets the requirements of this chapter.

1. All applicants for a rental dwelling business license shall be informed of the availability of the program.
2. The costs that constitute disproportionate costs and the amounts that are reasonably related to the costs of services provided by the city shall be as set forth in a disproportionate costs study adopted by the city council by ordinance.

SECTION 12. That Section 5.15.050 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.15.050: COMPLETION OF TRAINING PROGRAM:

- A. First Time Applicants: Unless exempt under section 5.15.015 of this chapter, a first time applicant to the landlord/tenant initiative program shall complete the required training set forth in section 5.15.020 within six (6) months of submitting the landlord/tenant initiative program application to the city. The applicant's failure to timely complete the training shall constitute a failure to meet the requirements for admittance into the landlord/tenant initiative program. The applicant who fails to meet the requirements is deemed not admitted to the landlord/tenant initiative program and shall not be eligible for the disproportionate rental fee reduction for the entirety of the term of such rental dwelling business license.
- B. License Renewal Applicants: A rental dwelling owner who renewed the owner's business license for calendar year 2011 is automatically eligible for admission into the landlord/tenant initiative program for 2012 upon completion of aforementioned applications and training within six (6) months after renewal. A rental dwelling owner who needs to obtain a business license shall, upon application, be allowed to pay the discounted disproportionate cost fee but shall complete the obligations of the program within six (6) months or shall pay the remaining rental dwelling disproportionate cost fee.
- C. New Rental Properties: A rental dwelling owner who acquires one or more new rental properties or misses an admission deadline as described herein may request a review for admission by the license office. The license office shall review all such requests and make a determination of admission within thirty (30) days after a review request is received.

SECTION 13. That Section 5.15.070 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.15.070: DISQUALIFICATION:

- A. License Office Duties: If the license office receives evidence that a rental dwelling owner or the owner's agents have, with respect to any residential dwelling, violated the provisions of this chapter or the owner's rental dwelling management agreement with the city, the license supervisor shall:
1. Notify the rental dwelling business license holder of the violation and the basis for such action by either:
 - a. Certified mail;
 - b. Personal service; or
 - c. Mailing a copy of the notice to the rental dwelling business license holder and posting a copy of the same notice at the rental dwelling; and
 2. Assess the rental dwelling business license holder for any disproportionate rental fees corresponding to such rental dwelling that were reduced under this chapter for the currently applicable license period.
- B. Appeal: A rental dwelling owner or agent who receives a notification and assessment as provided in subsection A of this section may appeal such action to the mayor, or the mayor's designee, by filing a written request for a hearing with the city's business licensing supervisor. The hearing shall be conducted pursuant to the procedures set forth in sections 5.02.260 and 5.02.290 of this title or their successor sections.
- C. Finding Of Noncompliance: If it is determined that a rental dwelling business license holder has not complied with the requirements of the landlord/tenant initiative program with respect to a particular rental dwelling during any portion of the licensing period for which a reduction was provided, the rental dwelling at issue, shall be disqualified from the program, and the disproportionate rental fee reduction that corresponds to such rental dwelling shall be disallowed for the entirety of the term of such rental dwelling business license. The rental dwelling business license holder shall pay the full disproportionate rental fee for such rental dwelling for that year.
- D. Readmission: After disqualification, the rental dwelling at issue may qualify for readmission to the landlord/tenant initiative program in the next licensing year only if the rental dwelling business license holder has corrected the problems leading to disqualification and has paid all amounts due in the prior year.

SECTION 14. That Section 5.71.310 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.71.310: ENFORCEMENT PROCEDURES; CIVIL NOTICE OF GROUND TRANSPORTATION VIOLATION:

Civil notices under this chapter, other than those involving revocations, suspensions; denials or approvals of a business license, operator's badge, department automated vehicle identification

tags and department inspection seal; may be contested pursuant to the procedures and processes governing the adjudication of civil notices of violation as set forth in Salt Lake City Code section 5.88.030 or its successor section.

SECTION 15. That Section 5.72.890 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

**5.72.890: ENFORCEMENT PROCEDURES; CIVIL NOTICE OF GROUND
TRANSPORTATION VIOLATION:**

Civil notices under this chapter, other than those involving revocations, suspensions; denials, or approvals of a business license, operator's badge, department automated vehicle identification tags and department inspection seal; may be contested pursuant to the procedures and processes governing the adjudication of civil notices of violation as set forth in Salt Lake City Code section 5.88.030 or its successor section..

SECTION 16. That Section 5.28.150 of the Salt Lake City Code is hereby repealed.

SECTION 17. That Section 5.65.200 of the Salt Lake City Code is hereby repealed.

SECTION 18. That Section 5.68.110 of the Salt Lake City Code is hereby repealed.

SECTION 19. That Section 5.84.220 of the Salt Lake City Code is hereby repealed.

SECTION 20. That Section 5.85.070 of the Salt Lake City Code is hereby repealed.

SECTION 21. That this ordinance shall become effective on the date of publication.

Passed by the City Council of Salt Lake City, Utah, this _____ day of
_____, 2017.

CHAIRPERSON

ATTEST:

CITY RECORDER

Transmitted to the Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

ATTEST:

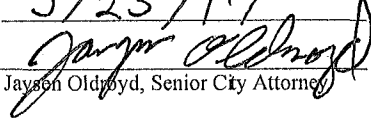
CITY RECORDER

(SEAL)

Bill No. _____ of 2017.

Published: _____.

HB_ATTYY-#60137-v2-Civil_Penalties

APPROVED AS TO FORM	
Date:	3/23/17
By:	
Jayson Oldroyd, Senior City Attorney	

Ordinance No. ____ of 2017

(Providing civil penalties for violations of business licensing ordinances)

An ordinance enacting Chapter 5.88 of the Salt Lake City Code to provide for the imposition of civil penalties for violations of the ordinances set forth in Title 5 of the Salt Lake City Code; amending Sections 5.02.290, 5.14.030, 5.14.060, 5.14.070, 5.14.080, 5.14.085, 5.14.090, 5.14.120, 5.14.130, 5.15.010, 5.15.050, 5.15.070, 5.71.310, and 5.72.890; and repealing Sections 5.28.150, 5.65.200, 5.68.110, 5.84.220 and 5.85.070.

WHEREAS, Title 5 of the Salt Lake City Code sets forth ordinances governing business taxes, licenses and regulations; and

WHEREAS most violations of the ordinances set forth in Title 5 of the Salt Lake City Code are punishable as criminal misdemeanors; and

WHEREAS, the City Council of Salt Lake City, Utah has determined that providing the City with the option of addressing violations of the ordinances set forth in Title 5 of the Salt Lake City Code as civil violations, rather than criminal misdemeanors, promotes the best interests of the City and the City's citizens;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Salt Lake City, Utah, as follows:

SECTION 1. That Chapter 5.88 of the Salt Lake City Code is hereby enacted to read as follows:

CHAPTER 5.88
ENFORCEMENT

5.88.010: VIOLATIONS OF TITLE; PENALTIES
5.88.020: ISSUANCE OF MISDEMEANOR CITATIONS, CIVIL NOTICES OF VIOLATION, AND WARNINGS:
5.88.030: ENFORCEMENT INVOLVING NOTICES OF VIOLATION:
5.88.040: PENALTIES FOR CIVIL VIOLATIONS:

5.88.010: VIOLATIONS OF TITLE; PENALTIES:

Any person who violates any mandate or prohibition contained in this title shall be penalized according to the provisions of this title or the provisions of Salt Lake City Code section 1.12.050 or its successor section.

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5.88.020: ISSUANCE OF MISDEMEANOR CITATIONS, CIVIL NOTICES OF VIOLATION, AND WARNINGS:

A. Misdemeanor Citations: A peace officer is authorized to issue a misdemeanor citation to any person upon a charge of violating any provisions of this title. The form of the misdemeanor citation, and proceedings to be handled upon the basis of the citation, shall conform to the provisions of the Utah code of criminal procedure, including, but not necessarily limited to, sections 77-7-18 through 77-7-22, or their successor sections.

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B. Civil Notices Of Violation:

1. Where violations of this title are committed, a peace officer or business licensing enforcement officer may issue a civil notice of violation to such violator in lieu of a misdemeanor citation.

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2. A notice of violation issued pursuant to subsection (B)(1) of this section, shall identify the penalties applicable to each violation listed in the notice of violation as set forth in section 5.88.040 of this chapter or its successor section.

3. Remedial Measures

a. If the violations identified in the notice of violation require remedial action on the part of the person charged, then the notice of violation shall identify each remedial measure that must be taken and shall indicate the compliance date by which such measures must be completed.

b. Compliance with all remedial requirements referred to in the notice of violation by the compliance date shown thereon shall result in the dismissal of the penalty. Refusal or failure to comply with any remedial requirements referred to in the notice of violation by the deadline set as the compliance date will result in the imposition of the full penalty amount.

C. Warnings: In appropriate instances, and for demonstrable good cause, a peace officer or business licensing enforcement officer may issue a written warning to the offending party and forego the imposition of any penalties.

5.88.030: ENFORCEMENT INVOLVING NOTICES OF VIOLATION:

A. Notices of violation shall be adjudicated as civil violations in the small claims court in accordance with the procedures set forth in title 2, chapter 2.75 of this code.

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B. Any person having received a notice of violation, as provided in this chapter, may appear before a hearing officer and present and contest such alleged violation.

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C. The burden to prove any defense shall be upon the person raising such defense. Nothing herein shall affect the city's burden to prove each element of the underlying charge by a preponderance of evidence.

D. If the hearing officer finds that no violation as set forth in the notice of violation has occurred or that such a violation has occurred but one or more of the affirmative defenses set forth in this section is applicable, the hearing officer may dismiss the notice of violation and release the recipient of the notice from liability thereunder or the hearing officer may reduce the penalty associated therewith. Such affirmative defenses are:

1. At the time of the receipt of the notice of violation, the person receiving such notice of violation:

a. Was not an owner or other responsible party with respect to the business at issue; and

b. Did not engage in any actions or omissions that contributed to the violation at issue;

2. Compliance with the subject ordinances would have presented an imminent and irreparable injury to persons or property;

3. All remedial requirements outlined in the notice of violation were completed on or before the compliance date;

4. Such other mitigating circumstances expressly described in this title that correspond to specific violations of an ordinance in this title; or

5. Such other mitigating circumstances as may be approved by the city attorney's office.

E. Any person not satisfied with the outcome of their appearance before the hearing officer with respect to the notice of violation they received, may appear before the small claims court to contest such alleged violation.

F. If the alleged ordinance violation involves an ordinance located in chapters 5.08, 5.09, 5.14, 5.15, 5.20, 5.21, 5.51, 5.61, 5.71, or 5.72 of this title, then the more specific enforcement provisions and processes set forth the chapter that corresponds to the violation shall supersede the provisions of this section.

5.88.040: PENALTIES FOR CIVIL VIOLATIONS:

A. The following penalties shall be imposed where a notice of violation is issued for a violation of the city ordinances set forth in this title:

1. Where a notice of violation has been issued for a first violation of a city ordinance, such notice of violation shall constitute a written warning.

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2. Where a notice of violation has been issued for a second violation of a city ordinance, the recipient of such notice of violation shall pay a civil penalty of \$250.

3. Where a notice of violation has been issued for a third violation of a city ordinance, the recipient of such notice of violation shall pay a civil penalty of \$500.

4. Where a notice of violation has been issued for a fourth or subsequent violation of a city ordinance, the recipient of such notice of violation shall:

a. Pay a civil penalty of \$500; and

b. Shall be placed on probation for a period of one year from the date on which the notice of violation was issued.

5. If, during the period of probation specified in subsection (A)(4)(b), a notice of violation is issued for a violation of the same ordinance that resulted in such probation, then:

a. The recipient of such notice of violation shall pay a civil penalty of \$500;

b. The business license of the recipient of such notice of violation shall be revoked; and

c. The recipient of such notice of violation may not reapply for a new business license for at least six (6) months from the date of revocation.

B. Any reference to second, third, fourth, and subsequent violations refers to repeat violations of the same city ordinance that occur within a twenty-four (24) month period.

C. The city may not revoke a business license pursuant to subsection (A)(5)(b) without satisfying the due process requirements set forth in sections 5.02.250, 5.02.260, and 5.02.290 of this title.

D. If the alleged ordinance violation involves an ordinance located in chapters 5.08, 5.09, 5.14, 5.15, 5.20, 5.21, 5.51, 5.61, 5.71, or 5.72 of this title, then the more specific enforcement provisions and processes set forth the chapter that corresponds to the violation shall supersede the provisions of this section.

SECTION 2. That Section 5.02.290 of the Salt Lake City Code shall be, and hereby is, amended to read as follows: ▾

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5.02.290: HEARINGS HELD BEFORE A HEARING EXAMINER:

At the conclusion of any hearing held as provided in section [5.02.260](#) of this chapter, or its

successor section, the hearing examiner shall issue or adopt written findings of fact and conclusions of law and an order which is based upon and supported by the evidence presented at the hearing. Such findings, conclusions and order shall have full force and effect upon issuance, and shall be binding upon all parties as of the date and time of such issuance. The city and the licensee or applicant may appeal such findings, conclusions and order to a court of competent jurisdiction within thirty (30) days of the date on which the hearing examiner issues such findings, conclusions and order.

SECTION 3. That Section 5.14.030 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.030: LICENSE; APPLICATION:

An application for a rental dwelling business license shall be made to the license office of the city, and shall include the following information:

- A. The location and address of the rental dwelling(s);
- B. The number, within each rental dwelling, of:
 - 1. Dwelling units, or
 - 2. Lodging or sleeping rooms, if the dwelling is a fraternity, sorority, boarding, or rooming house;
- C. The name, address, and telephone number of each of the following:
 - 1. The applicant,
 - 2. The owner of the fee title interest,
 - 3. The owner of any equitable interest,
 - 4. The local operating agent,
 - 5. The resident manager, if any, and
 - 6. For each corporate and out of state resident rental dwelling owner, the designation of a legal representative and agent for service of process as provided in section [5.14.050](#) of this chapter;
- D. A certification by the owner, or owner's agent, that to the best of such person's knowledge or belief, the premises comply with ordinance requirements shown on a checklist provided by the city as part of a rental dwelling [business](#) license application; and

- E. The signature of the owner of the premises, and the operator if different, agreeing to comply with applicable ordinances and to authorize inspections as provided in this chapter.

SECTION 4. That Section 5.14.060 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.060: INVESTIGATION; BY CITY:

- A. An original application for a rental dwelling business license may be referred for approval to the departments listed in sections [5.14.070](#) and [5.14.080](#) of this chapter, or their successors. Upon such referral the directors of such departments, or their designees, shall determine, based on the self-certification provided by an applicant under subsection [5.14.030\(D\)](#) of this chapter and any other relevant information, if an inspection is needed to determine whether or not the rental dwelling at issue complies with the self-certification standards established by the city. Inspections shall not be performed for single-family residences, duplexes, or newly constructed buildings unless the city conducts such inspections due to cause or complaint.
- B. The criteria governing scheduled city inspections performed pursuant to this chapter shall be the self-certification standards established by the city. Notwithstanding the foregoing, the city shall not require an owner of a legal nonconforming rental dwelling to make physical changes to such dwelling unless the change is for a permissible purpose as specified in Utah code section 10-9a-511.5 or its successor section.
- C. Nothing in this chapter shall be construed to prevent the city from performing inspections triggered by cause or complaint. The city shall have discretion to determine what constitutes cause or complaint sufficient to trigger an inspection by the city. An inspection triggered by either cause or complaint shall be performed pursuant to the criteria and processes set forth in [title 18, chapter 18.50](#) of this code.
- D. Whenever it is necessary to make an inspection to enforce any provisions of this chapter, or whenever the city has reasonable cause to believe a code violation exists in any building or upon any premises which makes such building or premises unsafe, dangerous or hazardous, the city's duly authorized representative may, upon obtaining permission of the owner or other person having charge or control of the premises or dwelling unit, or upon obtaining a warrant, enter a residential property or premises to inspect it or to perform any other duties imposed by this chapter.

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SECTION 5. That Section 5.14.070 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.070: INVESTIGATION; BY FIRE DEPARTMENT:

An original application for a license for a rental dwelling with three (3) or more dwelling units, may be referred to the fire department for investigation as to whether or not the rental dwelling at

issue complies with the self-certification standards established by the city. Within a reasonable time after such referral, the fire department shall report to the license office as to the fitness of the applicant regarding compliance with said standards. Notwithstanding the foregoing, an initial inspection of a newly constructed building shall not be performed unless the city conducts such inspection due to cause or complaint. After a license has been granted, the fire department shall inspect the licensed premises should the city subsequently have cause to believe that the licensed premises no longer comply with the pertinent standards. Upon confirming that such is the case, the fire department shall report that fact to the license office, at which time such office will inform the mayor, or the mayor's designee, and take action in regards to the revocation of the license as the mayor or designee deems just and proper in light of the facts of the case and applicable provisions of this chapter.

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SECTION 6. That Section 5.14.080 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.080: INVESTIGATION; BY BUILDING SERVICES AND CIVIL ENFORCEMENT DIVISION:

An original application for a license for a rental dwelling with three (3) or more dwelling units, may be referred to the building services and civil enforcement division for investigation as to whether or not the rental dwelling at issue complies with the self-certification standards established by the city. Within a reasonable time after such referral, the building services and civil enforcement division shall report to the license office the fitness of the applicant regarding compliance with said standards. Notwithstanding the foregoing, an initial inspection of a newly constructed building shall not be performed unless the city conducts such inspection due to cause or complaint. Should the city subsequently have cause to believe that the premises no longer comply with the aforementioned standards, the building services and civil enforcement division shall perform an inspection of the licensed premises. If the licensed premises are not in compliance with the pertinent standards, then the building services and civil enforcement division shall report such noncompliance to the license office, at which time the license office shall inform the mayor or the mayor's designee, and take action regarding the revocation of said license as the mayor or designee deems just and proper in light of the facts of the case and applicable provisions of this chapter.

Deleted: set forth in the city's administrative rules

SECTION 7. That Section 5.14.085 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.085: LIMITATION ON SCHEDULED INSPECTIONS:

A. Single-Family Residences Or Duplexes:

1. The city will not inspect a rental dwelling that qualifies as either a single-family residence or a duplex unless such inspection is triggered by cause or complaint.
2. The owner of a rental dwelling that qualifies as either a single-family residence or a duplex will periodically be required to submit a signed representation that the rental

dwelling meets the city's self-certification standards. This signed representation shall be submitted prior to the city's issuance of the original business license and shall be submitted every three (3) years thereafter.

B. Rental Dwellings With Three Or More Dwelling Units:

1. The city will conduct scheduled inspections of rental dwellings with three (3) or more dwelling units not more than once every four (4) years. Such scheduled inspections shall be conducted as follows:

a. The criteria governing the city's inspection shall be confined to the self-certification standards established by the city.

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b. The percentage of dwelling units that will be inspected as part of the scheduled inspection shall be as follows:

(1) Three (3) to ten (10) unit buildings: No more than thirty five percent (35%) of the dwelling units.

(2) Eleven (11) to twenty (20) unit buildings: No more than twenty percent (20%) of the dwelling units.

(3) Twenty one (21) or greater unit buildings: No more than fifteen percent (15%) of the dwelling units.

c. If a scheduled inspection of the dwelling units selected for inspection in accordance with subsection B1b of this section reveals violations of the self-certification standards, then the city may inspect the remaining dwelling units in that rental dwelling.

d. The city shall provide rental dwelling owners notice that dwelling units are to be inspected at least thirty (30) days prior to the inspection date.

2. The owner of a rental dwelling with three (3) or more dwelling units will periodically be required to submit a signed representation that the rental dwelling meets the city's self-certification standards. This signed representation shall be submitted prior to the city's issuance of the original business license and shall be submitted every two (2) years thereafter.

C. Cause Or Complaint: The city may inspect rental dwellings at any time if such inspection is triggered by cause or complaint.

SECTION 8. That Section 5.14.090 of the *Salt Lake City Code* shall be, and hereby is, amended to read as follows:

5.14.090: ISSUANCE OF LICENSE:

The mayor, or the mayor's designee, after receiving any required recommendations from the fire department and the building services and civil enforcement division, shall act upon a rental dwelling business license application with respect to granting or denying the same, as provided under chapter 5.02 of this title.

SECTION 9. That Section 5.14.120 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.120: ENFORCEMENT:

- A. In addition to any other remedies authorized by law or in this title, if the notified party fails to repair or secure the property in question, the city may pursue any one or more of the following additional remedies:

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1. Notice Of Deficiency: The supervisor of housing enforcement may record with the Salt Lake County recorder's office a notice of any conditions that violate the self-certification standards established by the city. The notice shall be mailed to all notified parties.

Deleted: set forth in the city's administrative rules

2. Criminal Action: Violations of the provisions of self-certification standards established by the city may be punishable as a class B misdemeanor upon conviction.

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3. Civil Action: Violations of self-certification standards established by the city may also be enforced by injunction, mandamus, abatement, civil penalties or any other appropriate action in law or equity.

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- B. Civil penalties may be imposed according to the following procedures:

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1. Notice Of Violation:

a. If the housing inspector finds that any provision of this chapter is being violated, the housing inspector shall provide a written notice to the property owner and to any other person determined to be responsible for such violation. The written notice shall indicate the nature of the violation and order the action necessary to correct it. Additional written notices may be provided at the housing inspector's discretion.

b. The written notice shall state what action the housing inspector intends to take if the violation is not corrected. The written notice shall include information regarding the established warning period for the indicated violations and shall serve to start any warning periods provided in this chapter.

c. Such written notice issued by the housing inspector shall be deemed sufficient and complete when served upon the person cited:

(1) Personally by the inspector or his or her representative; or by mailing, postage prepaid, by certified mail or commercial courier, addressed to the person cited at the last known address appearing on the records of the county recorder; and

Deleted: , return receipt requested,

(2) By posting notice on the property where said violation(s) occurs.

d. In cases when delay in enforcement would seriously threaten the effective enforcement of this chapter, or pose a danger to the public health, safety or welfare, the housing inspector may seek enforcement without prior written notice by invoking any of the fines or remedies authorized in this chapter.

e. If the violation remains uncured within five (5) days after the expiration of the warning period, a second notice of violation shall be delivered by mail, postage prepaid, addressed to the person cited at the last known address appearing on the records of the county recorder. The second notice of violation shall identify the date on which the civil fines shall begin to accrue.

2. Amount Of Penalty: Civil penalties shall accrue as follows:

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a. Violations of the self-certification standards established by the city: Fifty dollars (\$50.00) per violation per day. If more than ten (10) violations exist, the daily penalties shall double.

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b. Failure to obey an interpretation, decision or requirement of the housing advisory and appeals board: Twenty five dollars (\$25.00) per violation per day.

3. Daily Violations: Each day a violation continues after the citation deadline shall give rise to a separate civil penalty.

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4. Compliance: Accumulation of penalties for violations, but not the obligation for payment of penalties already accrued, shall stop upon correction of the violation.

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5. Recurring Violations: In the case where a violation, which had been corrected, reoccurs within six (6) months of the initial correction, the city will begin enforcement of said recurring violation and penalties will begin accruing after a ten (10) day warning period.

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6. Appeals:

a. Appeals Contesting The Existence Of A Violation:

(1) Appeals contesting the existence of the violation must be filed with the housing advisory and appeals board pursuant to section 5.14.125 of this chapter within thirty (30) days from the date the original notice of violation was issued.

b. Appeals Contesting The Amount Of The Penalties Imposed:

Deleted: Fines

(1) The mayor, or his/her designee, shall appoint such hearing officer as the mayor, or his/her designee, deems appropriate to consider matters relating to the violation of this chapter. The hearing officer shall have the authority to hear evidence, reduce or eliminate penalty amounts, and to make such equitable adjustments as he/she deems appropriate.

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(2) Any person receiving a notice of violation may appear before a hearing officer to appeal the amount of the penalty imposed. However, no party may appear before a hearing officer until violations identified have been corrected and a notice of compliance has been issued.

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(3) The hearing officer shall maintain complete and permanent records of all inspections and decisions.

(4) The burden to prove any defense shall be upon the person raising such defense.

(5) Commencement of any action to remove or reduce penalties shall not relieve the responsibility of any person cited to make payment of subsequently accrued civil penalties nor shall it require the city to reissue any of the notices required by this chapter.

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(6) The hearing officer may adjust, reduce or eliminate penalties or create payment plans relating to penalties accrued by the person cited. In the administration of this duty, the hearing officer may reduce or eliminate penalties based upon any circumstance or other equitable consideration the hearing officer finds to be applicable. In cases where the administrative process has not been followed by the division, the hearing officer has the authority to reduce or eliminate penalties.

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(7) Payment plans may be created by the hearing officer. Although the hearing officer has the ultimate authority in establishing the payment schedule, the minimum payment schedule provided by the department of community and neighborhoods should be followed. Once a payment schedule has been developed by the hearing officer, and agreed to by the person cited, failure to submit any two (2) payments as scheduled will require payment of the entire amount of the original fine immediately.

SECTION 10. That Section 5.14.130 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.130: REFUSAL TO PERMIT INSPECTIONS:

If a rental dwelling business license holder, or an agent of such business license holder, refuses to permit the city to conduct an inspection authorized under this chapter, then the city has adequate grounds to:

- A. Revoke the rental dwelling business license that corresponds to the rental dwelling at issue;
- B. Disqualify the rental dwelling at issue from participation in the city's landlord/tenant initiative pursuant to chapter 5.15 of this title; Deleted: business license holder
- C. After obtaining a warrant, enter a residential dwelling at issue to inspect it or to otherwise perform duties imposed by this chapter; and/or Deleted: g
- D. Pursue any and all other remedies available to the city. Deleted: and/or

SECTION 11. That Section 5.15.010 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.15.010: ESTABLISHMENT OF LANDLORD/TENANT INITIATIVE PROGRAM:

A. Purpose And Intent: The city council finds:

1. A significant portion of the city's housing stock consists of rental dwellings;
2. Proper management of rental dwelling housing is important to the health, safety, and welfare of persons residing in such housing as well as to city residents generally; and
3. A rental dwelling owner, or the owner's agent, who manages the owner's rental dwellings in accordance with applicable provisions of this chapter, thereby reducing demand for city services to such dwellings, shall receive a reduction in the disproportionate rental fee payable under section 5.04.070 of this title.

B. Establishment Of Landlord/Tenant Initiative Program: There is hereby established a voluntary incentive program, to be known as the landlord/tenant initiative (sometimes also referred to as a "good landlord program") wherein disproportionate rental fees payable under section 5.04.070 of this title will be reduced for any owner of a rental dwelling who meets the requirements of this chapter.

1. All applicants for a rental dwelling business license shall be informed of the availability of the program.
2. The costs that constitute disproportionate costs and the amounts that are reasonably related to the costs of services provided by the city shall be as set forth in a disproportionate costs study adopted by the city council by ordinance.

SECTION 12. That Section 5.15.050 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.15.050: COMPLETION OF TRAINING PROGRAM:

- A. First Time Applicants: Unless exempt under section 5.15.015 of this chapter, a first time applicant to the landlord/tenant initiative program shall complete the required training set forth in section 5.15.020 within six (6) months of submitting the landlord/tenant initiative program application to the city. The applicant's failure to timely complete the training shall constitute a failure to meet the requirements for admittance into the landlord/tenant initiative program. The applicant who fails to meet the requirements is deemed not admitted to the landlord/tenant initiative program and shall not be eligible for the disproportionate rental fee reduction for the entirety of the term of such rental dwelling business license.
- B. License Renewal Applicants: A rental dwelling owner who renewed the owner's business license for calendar year 2011 is automatically eligible for admission into the landlord/tenant initiative program for 2012 upon completion of aforementioned applications and training within six (6) months after renewal. A rental dwelling owner who needs to obtain a business license shall, upon application, be allowed to pay the discounted disproportionate cost fee but shall complete the obligations of the program within six (6) months or shall pay the remaining rental dwelling disproportionate cost fee.
- C. New Rental Properties: A rental dwelling owner who acquires one or more new rental properties or misses an admission deadline as described herein may request a review for admission by the license office. The license office shall review all such requests and make a determination of admission within thirty (30) days after a review request is received.

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SECTION 13. That Section 5.15.070 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.15.070: DISQUALIFICATION:

- A. License Office Duties: If the license office receives evidence that a rental dwelling owner or the owner's agents have, with respect to any residential dwelling, violated the provisions of this chapter or the owner's rental dwelling management agreement with the city, the license supervisor shall:

1. Notify the rental dwelling business license holder of the violation and the basis for such action by either:

a. Certified mail;

b. Personal service; or

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c. Mailing a copy of the notice to the rental dwelling business license holder and posting a copy of the same notice at the rental dwelling; and

2. Assess the rental dwelling business license holder for any disproportionate rental fees corresponding to such rental dwelling that were reduced under this chapter for the currently applicable license period.

B. Appeal: A rental dwelling owner or agent who receives a notification and assessment as provided in subsection A of this section may appeal such action to the mayor, or the mayor's designee, by filing a written request for a hearing with the city's business licensing supervisor. The hearing shall be conducted pursuant to the procedures set forth in sections 5.02.260 and 5.02.290 of this title or their successor sections.

C. Finding Of Noncompliance: If it is determined that a rental dwelling business license holder has not complied with the requirements of the landlord/tenant initiative program with respect to a particular rental dwelling during any portion of the licensing period for which a reduction was provided, the rental dwelling at issue, shall be disqualified from the program, and the disproportionate rental fee reduction that corresponds to such rental dwelling shall be disallowed for the entirety of the term of such rental dwelling business license. The rental dwelling business license holder shall pay the full disproportionate rental fee for such rental dwelling for that year.

D. Readmission: After disqualification, the rental dwelling at issue may qualify for readmission to the landlord/tenant initiative program in the next licensing year only if the rental dwelling business license holder has corrected the problems leading to disqualification and has paid all amounts due in the prior year.

SECTION 14. That Section 5.71.310 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.71.310: ENFORCEMENT PROCEDURES; CIVIL NOTICE OF GROUND TRANSPORTATION VIOLATION:

Civil notices under this chapter, other than those involving revocations, suspensions, denials or approvals of a business license, operator's badge, department automated vehicle identification tags and department inspection seal; may be contested pursuant to the procedures and processes governing the adjudication of civil notices of violation as set forth in Salt Lake City Code section 5.88.030 or its successor section.

SECTION 15. That Section 5.72.890 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.72.890: ENFORCEMENT PROCEDURES; CIVIL NOTICE OF GROUND TRANSPORTATION VIOLATION:

Deleted: notify the rental dwelling license holder of the violation and the basis for such action;

Deleted: owner, or any of the owners' rental dwelling units,

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Deleted: owner, together with all of the owner's rental dwelling units,

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Deleted: shall be heard by the Salt Lake City justice court

Deleted: Any named party may appear before a hearing officer and present and contest an alleged violation as provided in title 2, chapter 2.75 of this code, or its successor.

Deleted: B. The burden to prove any defense shall be upon the person raising such defense. Nothing herein shall affect the city's burden to prove each element of the underlying charge by a preponderance of evidence.¶

C. If the hearing officer finds that no violation of this chapter occurred, or that a violation occurred but one or more of the defenses set forth in this section is applicable, the hearing officer may dismiss the civil notice and release the named party from liability thereunder, or may reduce the penalty associated therewith as the officer shall determine. Such defenses are:¶

1. The civil notice does not contain the information required by this chapter;¶

2. Compliance with the subject ordinances would have presented an imminent and irreparable injury to persons or property; or¶

3. Such other mitigating circumstances as may be approved by the city attorney's office. ¶

Civil notices under this chapter, other than those involving revocations, suspensions, denials, or approvals of a business license, operator's badge, department automated vehicle identification tags and department inspection seal; may be contested pursuant to the procedures and processes governing the adjudication of civil notices of violation as set forth in Salt Lake City Code section 5.88.030 or its successor section.

SECTION 16. That Section 5.28.150 of the Salt Lake City Code is hereby repealed.

SECTION 17. That Section 5.65.200 of the Salt Lake City Code is hereby repealed.

SECTION 18. That Section 5.68.110 of the Salt Lake City Code is hereby repealed.

SECTION 19. That Section 5.84.220 of the Salt Lake City Code is hereby repealed.

SECTION 20. That Section 5.85.070 of the Salt Lake City Code is hereby repealed.

SECTION 21. That this ordinance shall become effective on the date of publication.

Passed by the City Council of Salt Lake City, Utah, this _____ day of

_____, 2017.

CHAIRPERSON

ATTEST:

CITY RECORDER

Transmitted to the Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

ATTEST:

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Deleted: shall be heard by the Salt Lake City justice court

Deleted: Any named party may appear before a hearing officer and present and contest an alleged violation as provided in [title 2, chapter 2.75](#) of this code, or its successor.

Deleted: B. The burden to prove any defense shall be upon the person raising such defense. Nothing herein shall affect the city's burden to prove each element of the underlying charge by a preponderance of evidence.¶

C. If the hearing officer finds that no violation of this chapter occurred, or that a violation occurred but one or more of the defenses set forth in this section is applicable, the hearing officer may dismiss the civil notice and release the named party from liability thereunder, or may reduce the penalty associated therewith as he or she shall determine. Such defenses are:¶

1. The civil notice does not contain the information required by this chapter.¶
2. Compliance with the subject ordinances would have presented an imminent and irreparable injury to persons or property; or¶
3. Such other mitigating circumstances as may be approved by the city attorney's office. ¶

Deleted: 5.28.150: VIOLATION; PENALTY:¶

Any person, performer, agency, firm, corporation or business violating the provisions of this chapter shall be guilty of a misdemeanor. Any person, performer, firm, agency, corporation or business who violates the provisions of this chapter shall be subject to the revocation or suspension by the mayor of all licenses held by him, after notice and hearing, consistent with due process of law. ¶

Deleted: 5.65.200: PENALTY FOR VIOLATION:¶

Any person convicted of violating any of the provisions of this chapter shall be guilty of a class B misdemeanor, and shall be punished as provided by section [1.12.050](#) of this code, or its successor section.¶

Deleted: 5.68.110: VIOLATION; PENALTY:¶

Any person who shall violate any provision of this chapter, upon conviction thereof, shall be punished as set forth in section [1.12.050](#) of this code.¶

Deleted: 5.84.220: VIOLATION; PENALTY: ¶

Any person guilty of violating any of the provisions of this chapter, except section [5.84.190](#) of this chapter, shall be deemed guilty of a misdemeanor and punishable as set out in section [1.12.050](#) of this code, or its successor. Any violation of section [5.84.190](#) of this chapter shall constitute a civil violation and shall be handled as provided by [title 2, chapter 2.75](#) of this code. The civil penalty for each such violation shall be one hundred dollars (\$100.00). ¶

Deleted: 5.85.070: VIOLATIONS; PENALTY:¶

A. Licenses are subject to revocation and suspension in accordance with [chapter 5.02](#) of this title.¶

B. Any violation of sections [5.85.050](#) and [5.85.060](#) of this chapter shall constitute a civil violation and shall be handled as provided by [title 2, chapter 2.75](#) of this code. The civil penalty for each such violation shall be one hundred dollars (\$100.00).¶

C. Any violation of sections [5.85.020](#) and [5.85.030](#) of this chapter shall be a class B misdemeanor. ¶

CITY RECORDER

(SEAL)

Bill No. _____ of 2017.

Published: _____.

<p>APPROVED AS TO FORM</p> <p>Date: _____</p> <p>By: _____</p> <p>Jaysen Oldroyd, Senior City Attorney</p>

HB_ATTYY-#60137-v1-Civil_Penalties

Ordinance No. _____ of 2017

(Providing civil penalties for violations of business licensing ordinances)

An ordinance enacting Chapter 5.88 of the Salt Lake City Code to provide for the imposition of civil penalties for violations of the ordinances set forth in Title 5 of the Salt Lake City Code; amending Sections 5.02.290, 5.14.030, 5.14.060, 5.14.070, 5.14.080, 5.14.085, 5.14.090, 5.14.120, 5.14.130, 5.15.010, 5.15.050, 5.15.070, 5.71.310, and 5.72.890; and repealing Sections 5.28.150, 5.65.200, 5.68.110, 5.84.220 and 5.85.070.

WHEREAS, Title 5 of the Salt Lake City Code sets forth ordinances governing business taxes, licenses and regulations; and

WHEREAS most violations of the ordinances set forth in Title 5 of the Salt Lake City Code are punishable as criminal misdemeanors; and

WHEREAS, the City Council of Salt Lake City, Utah has determined that providing the City with the option of addressing violations of the ordinances set forth in Title 5 of the Salt Lake City Code as civil violations, rather than criminal misdemeanors, promotes the best interests of the City and the City's citizens;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Salt Lake City, Utah, as follows:

SECTION 1. That Chapter 5.88 of the Salt Lake City Code is hereby enacted to read as follows:

CHAPTER 5.88
ENFORCEMENT

5.88.010: VIOLATIONS OF TITLE; PENALTIES

5.88.020: ISSUANCE OF MISDEMEANOR CITATIONS, CIVIL NOTICES OF VIOLATION, AND WARNINGS:

5.88.030: ENFORCEMENT INVOLVING NOTICES OF VIOLATION:

5.88.040: PENALTIES FOR CIVIL VIOLATIONS:

5.88.010: VIOLATIONS OF TITLE; PENALTIES:

Any person who violates any mandate or prohibition contained in this title shall be penalized according to the provisions of this title or the provisions of Salt Lake City Code section [1.12.050](#) or its successor section.

5.88.020: ISSUANCE OF MISDEMEANOR CITATIONS, CIVIL NOTICES OF VIOLATION, AND WARNINGS:

- A. Misdemeanor Citations: A peace officer is authorized to issue a misdemeanor citation to any person upon a charge of violating any provisions of this title. The form of the misdemeanor citation, and proceedings to be handled upon the basis of the citation, shall conform to the provisions of the Utah code of criminal procedure, including, but not necessarily limited to, sections 77-7-18 through 77-7-22, or their successor sections.
- B. Civil Notices Of Violation:
1. Where violations of this title are committed, a peace officer or business licensing enforcement officer may issue a civil notice of violation to such violator in lieu of a misdemeanor citation.
 2. A notice of violation issued pursuant to subsection (B)(1) of this section, shall identify the penalties applicable to each violation listed in the notice of violation as set forth in section [5.88.040](#) of this chapter or its successor section.
 3. Remedial Measures
 - a. If the violations identified in the notice of violation require remedial action on the part of the person charged, then the notice of violation shall identify each remedial measure that must be taken and shall indicate the compliance date by which such measures must be completed.
 - b. Compliance with all remedial requirements referred to in the notice of violation by the compliance date shown thereon shall result in the dismissal of the penalty. Refusal or failure to comply with any remedial requirements referred to in the notice of violation by the deadline set as the compliance date will result in the imposition of the full penalty amount.
- C. Warnings: In appropriate instances, and for demonstrable good cause, a peace officer or business licensing enforcement officer may issue a written warning to the offending party and forego the imposition of any penalties.

5.88.030: ENFORCEMENT INVOLVING NOTICES OF VIOLATION:

- A. Notices of violation shall be adjudicated as civil violations in the small claims court in accordance with the procedures set forth in [title 2, chapter 2.75](#) of this code.

- B. Any person having received a notice of violation, as provided in this chapter, may appear before a hearing officer and present and contest such alleged violation.
- C. The burden to prove any defense shall be upon the person raising such defense. Nothing herein shall affect the city's burden to prove each element of the underlying charge by a preponderance of evidence.
- D. If the hearing officer finds that no violation as set forth in the notice of violation has occurred or that such a violation has occurred but one or more of the affirmative defenses set forth in this section is applicable, the hearing officer may dismiss the notice of violation and release the recipient of the notice from liability thereunder or the hearing officer may reduce the penalty associated therewith. Such affirmative defenses are:
 - 1. At the time of the receipt of the notice of violation, the person receiving such notice of violation:
 - a. Was not an owner or other responsible party with respect to the business at issue; and
 - b. Did not engage in any actions or omissions that contributed to the violation at issue;
 - 2. Compliance with the subject ordinances would have presented an imminent and irreparable injury to persons or property;
 - 3. All remedial requirements outlined in the notice of violation were completed on or before the compliance date;
 - 4. Such other mitigating circumstances expressly described in this title that correspond to specific violations of an ordinance in this title; or
 - 5. Such other mitigating circumstances as may be approved by the city attorney's office.
- E. Any person not satisfied with the outcome of their appearance before the hearing officer with respect to the notice of violation they received, may appear before the small claims court to contest such alleged violation.
- F. If the alleged ordinance violation involves an ordinance located in chapters 5.08, 5.09, 5.14, 5.15, 5.20, 5.21, 5.51, 5.61, 5.71, or 5.72 of this title, then the more specific enforcement provisions and processes set forth the chapter that corresponds to the violation shall supersede the provisions of this section.

5.88.040: PENALTIES FOR CIVIL VIOLATIONS:

- A. The following penalties shall be imposed where a notice of violation is issued for a violation of the city ordinances set forth in this title:

1. Where a notice of violation has been issued for a first violation of a city ordinance, such notice of violation shall constitute a written warning.
2. Where a notice of violation has been issued for a second violation of a city ordinance, the recipient of such notice of violation shall pay a civil penalty of \$250.
3. Where a notice of violation has been issued for a third violation of a city ordinance, the recipient of such notice of violation shall pay a civil penalty of \$500.
4. Where a notice of violation has been issued for a fourth or subsequent violation of a city ordinance, the recipient of such notice of violation shall:
 - a. Pay a civil penalty of \$500; and
 - b. Shall be placed on probation for a period of one year from the date on which the notice of violation was issued.
5. If, during the period of probation specified in subsection (A)(4)(b), a notice of violation is issued for a violation of the same ordinance that resulted in such probation, then:
 - a. The recipient of such notice of violation shall pay a civil penalty of \$500;
 - b. The business license of the recipient of such notice of violation shall be revoked; and
 - c. The recipient of such notice of violation may not reapply for a new business license for at least six (6) months from the date of revocation.

B. Any reference to second, third, fourth, and subsequent violations refers to repeat violations of the same city ordinance that occur within a twenty-four (24) month period.

C. The city may not revoke a business license pursuant to subsection (A)(5)(b) without satisfying the due process requirements set forth in sections 5.02.250, 5.02.260, and 5.02.290 of this title.

D. If the alleged ordinance violation involves an ordinance located in chapters 5.08, 5.09, 5.14, 5.15, 5.20, 5.21, 5.51, 5.61, 5.71, or 5.72 of this title, then the more specific enforcement provisions and processes set forth in the chapter that corresponds to the violation shall supersede the provisions of this section.

SECTION 2. That Section 5.02.290 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.02.290: HEARINGS HELD BEFORE A HEARING EXAMINER:

At the conclusion of any hearing held as provided in section [5.02.260](#) of this chapter, or its successor section, the hearing examiner shall issue or adopt written findings of fact and conclusions of law and an order which is based upon and supported by the evidence presented at the hearing. Such findings, conclusions and order shall have full force and effect upon issuance, and shall be binding upon all parties as of the date and time of such issuance. The city and the licensee or applicant may appeal such findings, conclusions and order to a court of competent jurisdiction within thirty (30) days of the date on which the hearing examiner issues such findings, conclusions and order.

SECTION 3. That Section 5.14.030 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.030: LICENSE; APPLICATION:

An application for a rental dwelling business license shall be made to the license office of the city, and shall include the following information:

- A. The location and address of the rental dwelling(s);
- B. The number, within each rental dwelling, of:
 - 1. Dwelling units, or
 - 2. Lodging or sleeping rooms, if the dwelling is a fraternity, sorority, boarding, or rooming house;
- C. The name, address, and telephone number of each of the following:
 - 1. The applicant,
 - 2. The owner of the fee title interest,
 - 3. The owner of any equitable interest,
 - 4. The local operating agent,
 - 5. The resident manager, if any, and
 - 6. For each corporate and out of state resident rental dwelling owner, the designation of a legal representative and agent for service of process as provided in section [5.14.050](#) of this chapter;

- D. A certification by the owner, or owner's agent, that to the best of such person's knowledge or belief, the premises comply with ordinance requirements shown on a checklist provided by the city as part of a rental dwelling business license application; and
- E. The signature of the owner of the premises, and the operator if different, agreeing to comply with applicable ordinances and to authorize inspections as provided in this chapter.

SECTION 4. That Section 5.14.060 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.060: INVESTIGATION; BY CITY:

- A. An original application for a rental dwelling business license may be referred for approval to the departments listed in sections [5.14.070](#) and [5.14.080](#) of this chapter, or their successors. Upon such referral the directors of such departments, or their designees, shall determine, based on the self-certification provided by an applicant under subsection [5.14.030\(D\)](#) of this chapter and any other relevant information, if an inspection is needed to determine whether or not the rental dwelling at issue complies with the self-certification standards established by the city. Inspections shall not be performed for single-family residences, duplexes, or newly constructed buildings unless the city conducts such inspections due to cause or complaint.
- B. The criteria governing scheduled city inspections performed pursuant to this chapter shall be the self-certification standards established by the city. Notwithstanding the foregoing, the city shall not require an owner of a legal nonconforming rental dwelling to make physical changes to such dwelling unless the change is for a permissible purpose as specified in Utah code section 10-9a-511.5 or its successor section.
- C. Nothing in this chapter shall be construed to prevent the city from performing inspections triggered by cause or complaint. The city shall have discretion to determine what constitutes cause or complaint sufficient to trigger an inspection by the city. An inspection triggered by either cause or complaint shall be performed pursuant to the criteria and processes set forth in [title 18, chapter 18.50](#) of this code.
- D. Whenever it is necessary to make an inspection to enforce any provisions of this chapter, or whenever the city has reasonable cause to believe a code violation exists in any building or upon any premises which makes such building or premises unsafe, dangerous or hazardous, the city's duly authorized representative may, upon obtaining permission of the owner or other person having charge or control of the premises or dwelling unit, or upon obtaining a warrant, enter a residential property or premises to inspect it or to perform any other duties imposed by this chapter.

SECTION 5. That Section 5.14.070 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.070: INVESTIGATION; BY FIRE DEPARTMENT:

An original application for a license for a rental dwelling with three (3) or more dwelling units, may be referred to the fire department for investigation as to whether or not the rental dwelling at issue complies with the self-certification standards established by the city. Within a reasonable time after such referral, the fire department shall report to the license office as to the fitness of the applicant regarding compliance with said standards. Notwithstanding the foregoing, an initial inspection of a newly constructed building shall not be performed unless the city conducts such inspection due to cause or complaint. After a license has been granted, the fire department shall inspect the licensed premises should the city subsequently have cause to believe that the licensed premises no longer comply with the pertinent standards. Upon confirming that such is the case, the fire department shall report that fact to the license office, at which time such office will inform the mayor, or the mayor's designee, and take action in regards to the revocation of the license as the mayor or designee deems just and proper in light of the facts of the case and applicable provisions of this chapter.

SECTION 6. That Section 5.14.080 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.080: INVESTIGATION; BY BUILDING SERVICES AND CIVIL ENFORCEMENT DIVISION:

An original application for a license for a rental dwelling with three (3) or more dwelling units, may be referred to the building services and civil enforcement division for investigation as to whether or not the rental dwelling at issue complies with the self-certification standards established by the city. Within a reasonable time after such referral, the building services and civil enforcement division shall report to the license office the fitness of the applicant regarding compliance with said standards. Notwithstanding the foregoing, an initial inspection of a newly constructed building shall not be performed unless the city conducts such inspection due to cause or complaint. Should the city subsequently have cause to believe that the premises no longer comply with the aforementioned standards, the building services and civil enforcement division shall perform an inspection of the licensed premises. If the licensed premises are not in compliance with the pertinent standards, then the building services and civil enforcement division shall report such noncompliance to the license office, at which time the license office shall inform the mayor or the mayor's designee, and take action regarding the revocation of said license as the mayor or designee deems just and proper in light of the facts of the case and applicable provisions of this chapter.

SECTION 7. That Section 5.14.085 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.085: LIMITATION ON SCHEDULED INSPECTIONS:

A. Single-Family Residences Or Duplexes:

1. The city will not inspect a rental dwelling that qualifies as either a single-family residence or a duplex unless such inspection is triggered by cause or complaint.
2. The owner of a rental dwelling that qualifies as either a single-family residence or a duplex will periodically be required to submit a signed representation that the rental dwelling meets the city's self-certification standards. This signed representation shall be submitted prior to the city's issuance of the original business license and shall be submitted every three (3) years thereafter.

B. Rental Dwellings With Three Or More Dwelling Units:

1. The city will conduct scheduled inspections of rental dwellings with three (3) or more dwelling units not more than once every four (4) years. Such scheduled inspections shall be conducted as follows:
 - a. The criteria governing the city's inspection shall be confined to the self-certification standards established by the city.
 - b. The percentage of dwelling units that will be inspected as part of the scheduled inspection shall be as follows:
 - (1) Three (3) to ten (10) unit buildings: No more than thirty five percent (35%) of the dwelling units.
 - (2) Eleven (11) to twenty (20) unit buildings: No more than twenty percent (20%) of the dwelling units.
 - (3) Twenty one (21) or greater unit buildings: No more than fifteen percent (15%) of the dwelling units.
 - c. If a scheduled inspection of the dwelling units selected for inspection in accordance with subsection B1b of this section reveals violations of the self-certification standards, then the city may inspect the remaining dwelling units in that rental dwelling.
 - d. The city shall provide rental dwelling owners notice that dwelling units are to be inspected at least thirty (30) days prior to the inspection date.
2. The owner of a rental dwelling with three (3) or more dwelling units will periodically be required to submit a signed representation that the rental dwelling meets the city's self-certification standards. This signed representation shall be submitted prior to the city's

issuance of the original business license and shall be submitted every two (2) years thereafter.

- C. Cause Or Complaint: The city may inspect rental dwellings at any time if such inspection is triggered by cause or complaint.

SECTION 8. That Section 5.14.090 of the *Salt Lake City Code* shall be, and hereby is, amended to read as follows:

5.14.090: ISSUANCE OF LICENSE:

The mayor, or the mayor's designee, after receiving any required recommendations from the fire department and the building services and civil enforcement division, shall act upon a rental dwelling business license application with respect to granting or denying the same, as provided under [chapter 5.02](#) of this title.

SECTION 9. That Section 5.14.120 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.120: ENFORCEMENT:

- A. In addition to any other remedies authorized by law or in this title, if the notified party fails to repair or secure the property in question, the city may pursue any one or more of the following additional remedies:

1. Notice Of Deficiency: The supervisor of housing enforcement may record with the Salt Lake County recorder's office a notice of any conditions that violate the self-certification standards established by the city. The notice shall be mailed to all notified parties.
2. Criminal Action: Violations of the provisions of self-certification standards established by the city may be punishable as a class B misdemeanor upon conviction.
3. Civil Action: Violations of self-certification standards established by the city may also be enforced by injunction, mandamus, abatement, civil penalties or any other appropriate action in law or equity.

- B. Civil penalties may be imposed according to the following procedures:

1. Notice Of Violation:
 - a. If the housing inspector finds that any provision of this chapter is being violated, the housing inspector shall provide a written notice to the property owner and to any other person determined to be responsible for such violation. The written notice shall indicate the nature of the violation and order the action

necessary to correct it. Additional written notices may be provided at the housing inspector's discretion.

b. The written notice shall state what action the housing inspector intends to take if the violation is not corrected. The written notice shall include information regarding the established warning period for the indicated violations and shall serve to start any warning periods provided in this chapter.

c. Such written notice issued by the housing inspector shall be deemed sufficient and complete when served upon the person cited:

(1) Personally by the inspector or his or her representative; or by mailing, postage prepaid, by certified mail or commercial courier addressed to the person cited at the last known address appearing on the records of the county recorder; and

(2) By posting notice on the property where said violation(s) occurs.

d. In cases when delay in enforcement would seriously threaten the effective enforcement of this chapter, or pose a danger to the public health, safety or welfare, the housing inspector may seek enforcement without prior written notice by invoking any of the fines or remedies authorized in this chapter.

e. If the violation remains uncured within five (5) days after the expiration of the warning period, a second notice of violation shall be delivered by mail, postage prepaid, addressed to the person cited at the last known address appearing on the records of the county recorder. The second notice of violation shall identify the date on which the civil fines shall begin to accrue.

2. Amount Of Penalty: Civil penalties shall accrue as follows:

a. Violations of the self-certification standards established by the city: Fifty dollars (\$50.00) per violation per day. If more than ten (10) violations exist, the daily penalties shall double.

b. Failure to obey an interpretation, decision or requirement of the housing advisory and appeals board: Twenty five dollars (\$25.00) per violation per day.

3. Daily Violations: Each day a violation continues after the citation deadline shall give rise to a separate civil penalty.

4. Compliance: Accumulation of penalties for violations, but not the obligation for payment of penalties already accrued, shall stop upon correction of the violation.

5. Recurring Violations: In the case where a violation, which had been corrected, reoccurs within six (6) months of the initial correction, the city will begin enforcement of

said recurring violation and penalties will begin accruing after a ten (10) day warning period.

6. Appeals:

a. Appeals Contesting The Existence Of A Violation:

(1) Appeals contesting the existence of the violation must be filed with the housing advisory and appeals board pursuant to section [5.14.125](#) of this chapter within thirty (30) days from the date the original notice of violation was issued.

b. Appeals Contesting The Amount Of The Penalties Imposed:

(1) The mayor, or his/her designee, shall appoint such hearing officer as the mayor, or his/her designee, deems appropriate to consider matters relating to the violation of this chapter. The hearing officer shall have the authority to hear evidence, reduce or eliminate penalty amounts, and to make such equitable adjustments as he/she deems appropriate.

(2) Any person receiving a notice of violation may appear before a hearing officer to appeal the amount of the penalty imposed. However, no party may appear before a hearing officer until violations identified have been corrected and a notice of compliance has been issued.

(3) The hearing officer shall maintain complete and permanent records of all inspections and decisions.

(4) The burden to prove any defense shall be upon the person raising such defense.

(5) Commencement of any action to remove or reduce penalties shall not relieve the responsibility of any person cited to make payment of subsequently accrued civil penalties nor shall it require the city to reissue any of the notices required by this chapter.

(6) The hearing officer may adjust, reduce or eliminate penalties or create payment plans relating to penalties accrued by the person cited. In the administration of this duty, the hearing officer may reduce or eliminate penalties based upon any circumstance or other equitable consideration the hearing officer finds to be applicable. In cases where the administrative process has not been followed by the division, the hearing officer has the authority to reduce or eliminate penalties.

(7) Payment plans may be created by the hearing officer. Although the hearing officer has the ultimate authority in establishing the payment

schedule, the minimum payment schedule provided by the department of community and neighborhoods should be followed. Once a payment schedule has been developed by the hearing officer, and agreed to by the person cited, failure to submit any two (2) payments as scheduled will require payment of the entire amount of the original fine immediately.

SECTION 10. That Section 5.14.130 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.14.130: REFUSAL TO PERMIT INSPECTIONS:

If a rental dwelling business license holder, or an agent of such business license holder, refuses to permit the city to conduct an inspection authorized under this chapter, then the city has adequate grounds to:

- A. Revoke the rental dwelling business license that corresponds to the rental dwelling at issue;
- B. Disqualify the rental dwelling at issue from participation in the city's landlord/tenant initiative pursuant to [chapter 5.15](#) of this title;
- C. After obtaining a warrant, enter a residential dwelling at issue to inspect it or to otherwise perform duties imposed by this chapter; and/or
- D. Pursue any and all other remedies available to the city.

SECTION 11. That Section 5.15.010 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.15.010: ESTABLISHMENT OF LANDLORD/TENANT INITIATIVE PROGRAM:

A. Purpose And Intent: The city council finds:

- 1. A significant portion of the city's housing stock consists of rental dwellings;
- 2. Proper management of rental dwelling housing is important to the health, safety, and welfare of persons residing in such housing as well as to city residents generally; and
- 3. A rental dwelling owner, or the owner's agent, who manages the owner's rental dwellings in accordance with applicable provisions of this chapter, thereby reducing demand for city services to such dwellings, shall receive a reduction in the disproportionate rental fee payable under section [5.04.070](#) of this title.

B. Establishment Of Landlord/Tenant Initiative Program: There is hereby established a voluntary incentive program, to be known as the landlord/tenant initiative (sometimes also

referred to as a "good landlord program") wherein disproportionate rental fees payable under section [5.04.070](#) of this title will be reduced for any owner of a rental dwelling who meets the requirements of this chapter.

1. All applicants for a rental dwelling business license shall be informed of the availability of the program.
2. The costs that constitute disproportionate costs and the amounts that are reasonably related to the costs of services provided by the city shall be as set forth in a disproportionate costs study adopted by the city council by ordinance.

SECTION 12. That Section 5.15.050 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.15.050: COMPLETION OF TRAINING PROGRAM:

- A. First Time Applicants: Unless exempt under section [5.15.015](#) of this chapter, a first time applicant to the landlord/tenant initiative program shall complete the required training set forth in section 5.15.020 within six (6) months of submitting the landlord/tenant initiative program application to the city. The applicant's failure to timely complete the training shall constitute a failure to meet the requirements for admittance into the landlord/tenant initiative program. The applicant who fails to meet the requirements is deemed not admitted to the landlord/tenant initiative program and shall not be eligible for the disproportionate rental fee reduction for the entirety of the term of such rental dwelling business license.
- B. License Renewal Applicants: A rental dwelling owner who renewed the owner's business license for calendar year 2011 is automatically eligible for admission into the landlord/tenant initiative program for 2012 upon completion of aforementioned applications and training within six (6) months after renewal. A rental dwelling owner who needs to obtain a business license shall, upon application, be allowed to pay the discounted disproportionate cost fee but shall complete the obligations of the program within six (6) months or shall pay the remaining rental dwelling disproportionate cost fee.
- C. New Rental Properties: A rental dwelling owner who acquires one or more new rental properties or misses an admission deadline as described herein may request a review for admission by the license office. The license office shall review all such requests and make a determination of admission within thirty (30) days after a review request is received.

SECTION 13. That Section 5.15.070 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.15.070: DISQUALIFICATION:

- A. License Office Duties: If the license office receives evidence that a rental dwelling owner or the owner's agents have, with respect to any residential dwelling, violated the provisions of this chapter or the owner's rental dwelling management agreement with the city, the license supervisor shall:
1. Notify the rental dwelling business license holder of the violation and the basis for such action by either:
 - a. Certified mail;
 - b. Personal service; or
 - c. Mailing a copy of the notice to the rental dwelling business license holder and posting a copy of the same notice at the rental dwelling; and
 2. Assess the rental dwelling business license holder for any disproportionate rental fees corresponding to such rental dwelling that were reduced under this chapter for the currently applicable license period.
- B. Appeal: A rental dwelling owner or agent who receives a notification and assessment as provided in subsection A of this section may appeal such action to the mayor, or the mayor's designee, by filing a written request for a hearing with the city's business licensing supervisor. The hearing shall be conducted pursuant to the procedures set forth in sections [5.02.260](#) and [5.02.290](#) of this title or their successor sections.
- C. Finding Of Noncompliance: If it is determined that a rental dwelling business license holder has not complied with the requirements of the landlord/tenant initiative program with respect to a particular rental dwelling during any portion of the licensing period for which a reduction was provided, the rental dwelling at issue, shall be disqualified from the program, and the disproportionate rental fee reduction that corresponds to such rental dwelling shall be disallowed for the entirety of the term of such rental dwelling business license. The rental dwelling business license holder shall pay the full disproportionate rental fee for such rental dwelling for that year.
- D. Readmission: After disqualification, the rental dwelling at issue may qualify for readmission to the landlord/tenant initiative program in the next licensing year only if the rental dwelling business license holder has corrected the problems leading to disqualification and has paid all amounts due in the prior year.

SECTION 14. That Section 5.71.310 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

5.71.310: ENFORCEMENT PROCEDURES; CIVIL NOTICE OF GROUND TRANSPORTATION VIOLATION:

Civil notices under this chapter, other than those involving revocations, suspensions; denials or approvals of a business license, operator's badge, department automated vehicle identification

tags and department inspection seal; may be contested pursuant to the procedures and processes governing the adjudication of civil notices of violation as set forth in Salt Lake City Code section 5.88.030 or its successor section.

SECTION 15. That Section 5.72.890 of the Salt Lake City Code shall be, and hereby is, amended to read as follows:

**5.72.890: ENFORCEMENT PROCEDURES; CIVIL NOTICE OF GROUND
TRANSPORTATION VIOLATION:**

Civil notices under this chapter, other than those involving revocations, suspensions; denials, or approvals of a business license, operator's badge, department automated vehicle identification tags and department inspection seal; may be contested pursuant to the procedures and processes governing the adjudication of civil notices of violation as set forth in Salt Lake City Code section 5.88.030 or its successor section..

SECTION 16. That Section 5.28.150 of the Salt Lake City Code is hereby repealed.

SECTION 17. That Section 5.65.200 of the Salt Lake City Code is hereby repealed.

SECTION 18. That Section 5.68.110 of the Salt Lake City Code is hereby repealed.

SECTION 19. That Section 5.84.220 of the Salt Lake City Code is hereby repealed.

SECTION 20. That Section 5.85.070 of the Salt Lake City Code is hereby repealed.

SECTION 21. That this ordinance shall become effective on the date of publication.

Passed by the City Council of Salt Lake City, Utah, this _____ day of
_____, 2017.

CHAIRPERSON

ATTEST:

CITY RECORDER

Transmitted to the Mayor on _____.

Mayor's Action: _____Approved. _____Vetoed.

MAYOR

ATTEST:

CITY RECORDER

(SEAL)

Bill No. _____ of 2017.

Published: _____.

HB_ATTYY-#60137-v2-Civil_Penalties

APPROVED AS TO FORM

Date: _____

By: _____
Jaysen Oldroyd, Senior City Attorney