

Midway City Council
7 June 2022
Work Meeting

Animals on the Town Square /
Discussion



DOGS IN THE PARK

STATUTORY SCHEME

- 5.03.070 – No animals of any kind will be allowed on the town square except as permitted under the direction of the City.
- 5.03.120 – Violation of this provision is a Class C misdemeanor.
- Issuance of criminal citations must be done by law enforcement.



ADMINISTRATIVE PROCESS:

- 5.07 – Establishes Civil Infractions and a Civil Violations process for violations of the following: Parking violations of either City or State code.
- NOTES:
 - Need to update section to make it clear a City employee or private contractor granted power by the City Mayor may issue civil infractions.
 - The Civil Infraction process is limited to only parking violations.
 - This process could be extended to Section 5.03 which includes: protection of trees in public parks, illegal use of City parks for commercial purposes, disorderly conduct on either trails or parks, and animals in the City parks.
 - We could update section 5.03.120 to include all or any portion of these as civil infractions as well as criminal violations, which would give the City the option to enforce these provisions civilly.



ENFORCEMENT GUIDELINES:

- I have been working on a new section of code, 2.14 ENFORCEMENT PROCEDURES AND ADMINISTRATIVE HEARINGS to address the issue of enforcement of City Code generally.
- We have had George Hansen complaining his neighbor's home violates light ordinances in the City.
- When Mike spoke with the neighbor the neighbor used the defense that the City was not enforcing its ordinances against anybody else, and as such couldn't enforce it against him.
- Meanwhile, George did not want to file a formal complaint against the neighbor, which is what the City normally requires to start an investigation.



ENFORCEMENT GUIDELINES:

- 2.14 ENFORCEMENT PROCEDURES AND ADMINISTRATIVE HEARINGS does the following:
- Establishes Midway City does not actively seek out violators of its code
- Requires a formal complaint from a citizen before an investigation will be conducted
- Removes the defense that others within the City are violating the same code
- Reserves the right of the City to use either/and/or both the criminal or civil process to enforce its code
- Reserves the right of the City to implement an investigation on its own by getting approval from the City Council

APPLICATION TO DOGS IN THE PARK:

The City would only enforce the code if a formal complaint were filed by a citizen, relieving the City of the duty to enforce against violators that are not causing a problem.



APPLICATION TO SWISS DAYS:

- Amend 5.03.120 to make violations of the chapter both criminal violations and civil infractions.
- Amend 5.07 to include the right of the Mayor to appoint any City employee or contract with a third party to issue civil citations.
- Amend our policy for renting the town square so that if they want to enforce no dogs on the square they can make the request and either pay a city employee to perform the service, or propose a third party the Mayor could give limited authority to for that particular event.
- Amend 5.07.03 to include sections of 5.03 as civil infractions.
- Amend 5.07.06 to adopt civil fines for the newly added infractions.
- Prepare a Notice of Infraction in accordance with 5.07.040 that contains all the information needed to issue an infraction, including fine amounts and hearing rights.



PROPOSED CODE EDITS:

5.03.120: Violation of any provision of this Chapter shall be punishable as **either/and a class C misdemeanor or a civil infraction**. In all addition, all other legal remedies, both criminal and civil, may be pursued by the City to enforce this Chapter.

5.07.120: **Power to Issue Civil Infractions.** It shall be within the power of the Mayor of Midway City to give power to issue Civil Infractions to any City Employee or to a third party contracted with the City to perform such services.

5.07.06 (2)(n): **Any violation of Midway City Code Section 5.03. (Current fines are \$55.00 per infraction).**



PROPOSED CODE EDITS, CONT.:

Section 2.14.020 Remedies not Exclusive

The existence or use of the administrative process described in this Chapter shall not preclude Midway City from utilizing the services of the Wasatch County Sheriff to issue criminal citations to those violating the criminal statutes of the State of Utah or the City of Midway. The choice to utilize either/or/both the criminal or administrative process to enforce its code shall be at the discretion of the Midway City Council and City staff who are from time to time granted power from the City Council to make these decisions. Midway City may, at its sole discretion, begin the criminal process at any time, even if the administrative process has already commenced. If the criminal process is utilized, the process in place to address criminal citations under the law of the State to Utah shall apply. All prosecution of criminal citations shall be handled through the Wasatch County Attorney's office.

Section 2.14.030 General Enforcement Guidelines

It shall not be the general policy of the City to actively seek out violators of its codes (except for fence heights, placement of signs, and weed enforcement) as this level of enforcement exceeds the capacity of the City's current personnel. As such, it shall be the standing policy that the City's primary form of enforcement shall be in response to formal complaints filed by citizens. Once a formal complaint is filed Midway City will conduct an investigation into the alleged violation of City or State law. It shall not be a defense to a violation of a City or State law that the City has not enforced the code against other citizens, as its primary form of enforcement shall be only when a formal complaint is filed. If the person being investigated feels like there are others within the City that are violating the same code, that person may exercise the right to file formal complaints against these perceived offenders but shall not be able to use the existence of other offenders as a defense to the action taken against him/her/it. The City reserves the right to conduct City initiated enforcement actions as circumstances demand, and to commence both administrative and/or criminal processes against a citizen who has not had a formal complaint lodged against them. Except for enforcement actions dealing with fences and signs, City initiated investigations and enforcement shall only be done by first obtaining approval from the City Council.

