



MEMORANDUM

To: Mayor & Council
From: K. Aaron Shirley, City Recorder & Finance Director
Date: April 6, 2021
Subject: Changes to City Code in Regards to Public Notices

Mayor & Council,

Background

On March 3rd, 2021 the most recent state legislature session ended and among all of the bills passed was Senate Bill 201 which removes the requirement for the use of newspapers in the public noticing process. In place of the use of newspapers is a requirement for the use of the Utah Public Notice Website. This change will be effective May 4th, 2021.

Research & Findings

As the readership of print newspapers and publication of daily newspapers has declined, the requirement of public noticing 'once a week for x number of weeks', found in numerous spots throughout state public noticing requirements, no longer works in promoting transparency. As newspapers and their readership move increasingly online, it makes sense from a transparency perspective to use the Utah Public Notice Website, Santaquin City website, and social media pages for public noticing. Additionally, from a financial perspective, these resources are free for both city and citizen use instead of paying newspaper publication fees which has been about \$3,000 year to date with the city only roughly 75% through the fiscal year. With all of the city growth, this number of newspaper publication fees has only been trending upwards.

To make Santaquin City code match this update to State Code, the following sections of code require a revision as they specifically require the use of a newspaper in the public noticing process:

- 1.20.050 (D) Notice of Ordinances to be considered by City Council
- 1.40.030 (B) Bids (Notification of Intent to Purchase in an amount over \$15,000)
- 2.04.040(B) Notice of Vacancy in Planning Commission
- 5.08.120(B) Notice of Sale of Stray Animals by Animal Control Officer
- 10.16.030(C) Notice of Public Hearing for Land Use Ordinance
- 10.68.110(E)(8)(b) Notice of Public Hearing for Land Use Applications

Recommendation

I recommend that the City amend the listed portions of city code to match state code to repeal all requirements for the use of a newspaper for public noticing and to refer to state code for public noticing requirements on the Utah Public Notice Website as well as both the city website and social media sites if desired. If the Council agrees with this recommendation, then these changes would be reflected in a proposed Ordinance at an upcoming City Council Meeting.

ORDINANCE 04-01-2021

AN ORDINANCE AMENDING SANTAQUIN CITY CODE TO REFLECT CHANGES IN STATE CODE FOR PUBLISH NOTICING REQUIREMENTS, PROVIDING FOR CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE FOR THE ORDINANCE

WHEREAS, the City of Santaquin is a fourth class city of the state of Utah; and

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

WHEREAS, the state legislature passed Senate Bill 201 that eliminates the required use of a newspaper for public noticing purposes and placed in its stead the required use of Utah Public Notice Website created in Utah Code § 63F-1-701 ; and

WHEREAS, there are cost savings associated with public noticing on the Utah Public Notice Website instead of newspapers;

WHEREAS, the Santaquin City Planning Commission held a public hearing on April 27th, 2021, which hearing was preceded by the posting of a public notice in at least three public places within the City limits of Santaquin City, and which notice of public hearing was published in a newspaper in accordance with Section 10-9a-205 of Utah State Code, and

WHEREAS, after the noted public hearing, the Santaquin City Planning Commission forwarded a recommendation to the City Council;

NOW THEREFORE, be it ordained by the Council of Santaquin City, in the State of Utah, as follows:

SECTION 1: AMENDMENT “1.20.050 ORDINANCES AND RESOLUTIONS; PROCEDURES” of the Santaquin City Municipal Code is hereby *amended* as follows:

AMENDMENT

1.20.050 ORDINANCES AND RESOLUTIONS; PROCEDURES

- A. Power Exercised By Ordinance: The city council may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by statute or any other provision of law. An officer of the city shall

not be convicted of a criminal offense where he relied on or enforced an ordinance he reasonably believed to be a valid ordinance. It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he enforced an ordinance on advice of legal counsel.

B. Form Of Ordinance: Any ordinance passed by the city council shall contain and be in substantially the following order and form:

1. A number;
2. A title which indicates the nature of the subject matter of the ordinance;
3. A preamble which states the need or reason for the ordinance;
4. An ordaining clause which states "Be it ordained by the City of Santaquin:";
5. The body or subject of the ordinance;
6. When applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of the city ordinance; or, the penalty may establish a classification of penalties and refer to such ordinance in which the penalty for such violation is established;
7. A statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this chapter;
8. A line for the signature of the mayor or acting mayor to sign the ordinance;
9. A place for the city recorder to attest the ordinance and affix the seal of the city; and
10. Where the mayor may disapprove an ordinance passed by the city council, the ordinance must show that it was passed with the mayor's approval or that if the mayor disapproved the ordinance, that it was passed over his disapproval. If the mayor neither approves nor disapproves an ordinance, the ordinance should show that it became effective without the approval or disapproval of the mayor.

C. Requirements As To Form; Effective Date:

1. Ordinances passed or enacted by the city council shall be signed by the mayor, or if he is absent, by the mayor pro tempore, or by a quorum of the city council, and shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its failure to conform to the provisions of Utah Code §§ 10-3-704(1) through 10-3-704(4).
2. Ordinances shall become effective twenty (20) days after publication or posting or thirty (30) days after final passage by the city council, whichever is closer to the date of final passage, but ordinances may become effective at an earlier or later date after publication or posting if so provided in the ordinance.
3. Ordinances which do not have an effective date shall become effective twenty (20) days after publication or posting, or thirty (30) days after final passage by the city council, whichever is sooner.

D. Publication And Posting Of Ordinances: All ordinances, except those enacted pursuant to Utah Code §§ 10-3-706 through 10-3-710, before taking effect shall be deposited in the office of the city recorder and a short summary of the ordinance published on the Utah Public Notice Website created in Utah Code §§ 63F-1-701.

~~at least once in a newspaper published within the city, or if there is no newspaper~~

~~published therein, then by posting complete copies in three (3) public places within the city.~~ Any ordinance, code, or book, other than the state code, relating to building or safety standards, city functions, administration, control, or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book and at least one copy has been filed for use and examination by the public in the office of the city recorder prior to the adoption of the ordinance by the city council. Any state law relating to building or safety standards, city functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting if reference is made to the state code. The ordinance adopting the code or book shall be published in the manner provided in Utah Code §§ 10-3-709 and 10-3-710.

- E. Recording, Numbering And Certification Of Passage: The city recorder shall record, in a book used exclusively for that purpose, all ordinances passed by the city council. The city recorder shall give each ordinance a number, if the city council has not already so done. Immediately following each ordinance, or codification of ordinances, the city recorder shall make or cause to be made a certificate stating the date of passage and of the date of publication or posting, as required. The record and memorandum, or a certified copy thereof, shall be prima facie evidence of the contents, passage, and publication or posting of the ordinance or codification.
- F. Resolutions:
1. Purpose Of Resolutions: Unless otherwise required by law, the city council may exercise all administrative powers by resolution, including, but not limited to:
 - a. establishing water and sewer rates;
 - b. charges for garbage collection and fees charged for city services;
 - c. establishing personnel policies and guidelines; and
 - d. regulating the use and operation of the city property. Punishment, fines or forfeitures may not be imposed by resolution.
 2. Form Of Resolution: Any resolution passed by the city council shall be in a form and contain sections substantially similar to that prescribed for ordinances.
 3. No Publication Of Resolutions; Effective Date: Resolutions may become effective without publication or posting and may take effect on passage or at a later date as the city council may determine, but resolutions may not become effective more than three (3) months from the date of passage. (1999 Code)

SECTION 2: AMENDMENT “1.40.030 BIDDING REQUIREMENTS” of the Santaquin City Municipal Code is hereby *amended* as follows:

A M E N D M E N T

1.40.030 BIDDING REQUIREMENTS

- A. Informal Bids Submitted: Prior to any purchase in an amount greater than one thousand dollars (\$1,000.00) and less than fifteen thousand dollars (\$15,000.00), at least three (3)

informal bids must be obtained and submitted to and approved by the city council.

- B. Notification Of Intent To Purchase: Prior to any purchase in an amount of fifteen thousand dollars (\$15,000.00) or more, the city shall ~~advertise~~post on the Utah Public Notice Website, created in Utah Code § 63F-1-701, in a newspaper of general circulation in such a format notifying sellers and providers of the city's intent to purchase a specific item or service. Said notice shall be ~~run twice, once a week, for two (2) consecutive weeks, posted at least fifteen (15) days prior to a specified closing date, with a specific closing date identified, which date is at least five (5) days after the last publication date.~~ In addition, notice shall be published on the website established by and in accordance with Utah Code § 45-1-101.
- C. Formal Bids Submitted: Prior to any purchase in excess of fifteen thousand dollars (\$15,000.00), at least three (3) formal sealed bids must be obtained and submitted to and approved by the city council.
- D. City Not Limited: Nothing herein limits the city from rejecting any and all bids, nor requires the city to accept the lowest bid. (Ord. 06-01-2010, 6-2-2010, eff. 6-3-2010)

SECTION 3: AMENDMENT “2.04.040 SELECTION OF MEMBERS” of the Santaquin City Municipal Code is hereby *amended* as follows:

AMENDMENT

2.04.040 SELECTION OF MEMBERS

- A. Qualifications: Each member of the planning commission shall:
1. Be a resident of the city of Santaquin.
 2. Have maintained permanent residency in the city of Santaquin for the immediately preceding six (6) months prior to appointment.
- B. Notice Of Vacancy: Notice of all planning commission vacancies shall be posted on both the Santaquin City Website and Santaquin City Social Media pages. ~~in three (3) public places and in a newspaper of general circulation in the city.~~ Said notice shall be advertised for not less than fourteen (14) days and shall include at least the following:
1. The purpose of the notice;
 2. The general purpose, duties and responsibilities of the planning commission;
 3. Direction for interested applicants to submit a letter of interest to the mayor;
 4. The address for interested applicants to mail or personally submit letters of interest; and
 5. The deadline for accepting applications. (Ord. 04-03-2006, 4-5-2006, eff. 4-7-2006; amd. Ord. 01-02-2007, 1-24-2007, eff. 1-25-2007)

SECTION 4: AMENDMENT “5.08.120 ESTRAYS” of the Santaquin City Municipal Code is hereby *amended* as follows:

AMENDMENT

5.08.120 ESTRAYS

- A. Responsibility For Disposition Of Estrays: Each county is responsible for the disposition of all estrays found within its boundaries. The provisions of this section apply only to the extent of an applicable agreement between the city and the county in which an estray is located. (Ord. 08-01-2007, 8-15-2007, eff. 8-16-2007)
- B. Notice Of Sale: Within three (3) days after an estray shall come into the possession of the animal control officer, he shall advertise the same on both the Santaquin City Website and Santaquin City Social Media page~~in a newspaper published in and having general circulation in the county by publishing a notice in at least one issue of the newspaper~~, and by posting notices for a period of ten (10) days in three (3) public places in the city, one of which places shall be at or near the post office. He shall immediately deliver a copy of such notice to the county clerk or mail the same to him by registered letter. The notice so filed with the county clerk should be available during reasonable hours for inspection by the public free of charge. The notice herein provided for shall contain a description of the animals, including all marks and brands, when taken, and the day, hour, and place of sale, which shall be not less than ten (10) days or more than twenty (20) days from the time of posting such notice. Such notice form is on file in the office of the court clerk.
- C. Return To Owner Upon Payment: If at any time before the sale of any estrays, such animals shall be claimed and proved to be the property of any person, the animal control officer shall release them to the owner upon receiving from him the cost of impounding, keeping and advertising the same.
- D. Unclaimed Animals:
 - 1. Sold To Highest Bidder: If the animals are not so claimed and taken away, the animal control officer shall, at the time and place mentioned in the notice, proceed to sell the same, one at a time, to the highest cash bidder, and shall execute and deliver a bill of sale transferring said animals to the purchaser or purchasers thereof. The bill of sale shall be such form as is on file in the office of the court clerk.
 - 2. Bill Of Sale Filed With County Clerk: The animal control officer shall immediately file a copy of such bill of sale with the county clerk or forward the same to him by registered mail. Such bill of sale shall transfer and vest in such purchaser the full title to the animals thus sold.
- E. Records Maintained By Animal Control Officer: The animal control officer shall keep an accurate record of all estrays received by him, their age, color, sex, marks, and brands, the time and place of taking and the expense of keeping and selling the same, all animals claimed and taken away, all animals sold and to whom sold and the amount

paid, all monies paid to owners after sale, all monies paid into the treasury, and all other matters necessary for compliance with the provisions of this section. The city council shall provide the animal control officer with a suitable book in which shall be entered the records required by law to be kept by the animal control officer. Such records shall be open to the inspection of the public at all reasonable hours, and shall be deposited by the animal control officer with his successor in office.

F. Regulations For Trespassing Estrays Causing Damage:

1. Recovery Of Damages: If any cattle, horses, asses, mules, sheep, goats or swine shall trespass or do damage upon the premises of any person, the party aggrieved, whether he be the owner or the occupant of such premises, may recover damages by an action at law against the owner of the trespassing animals or by distraining and impounding the animals in the manner provided.
2. Appraisal Of Damages: The owner or occupant of any property may detain any or all of said animals trespassing or doing damage thereon. He shall, within forty eight (48) hours thereafter, deliver said animals to the animal control officer together with a certificate of the appraisal of the damage done by such animals. Such appraisal must be made by some disinterested person. It must state the amount of the damage, the time when committed, the name of the person damaged, the name of the owner of the animals, if known, and if not known, it must state that fact together with a description of the animals, including all visible marks and brands. If the animals appear to be owned by different parties, a separate appraisal and a separate certificate thereof shall be made of the damage done by the lot or group of animals which appear to belong to each of the different owners. In such cases, the owners shall be notified separately, and each lot or group of animals shall be advertised and sold separately in the same manner as though the damage had been done by different animals at different times.
3. Owner Notified: The person detaining the animals must, if the owner of the same be known to him and if he resides within ten (10) miles of the place of the trespass, immediately deliver to such owner, or leave at his place of residence if he cannot be found, a copy of such certificate of appraisal; but if the owner does not live within ten (10) miles of the place of trespass, the party detaining the animals may at his option deliver a copy of such certificate to the owner in person, or deposit the same in the nearest post office in a registered letter addressed to said owner. He shall be entitled to charge thirty cents (\$0.30) a mile for the miles necessarily traveled in delivering such certificate, to be taxed as costs against the animals.
4. Failure To Notify Owner Waives Damages: If the party detaining any animals shall fail to deliver them or the certificate of appraisal to the animal control officer within forty eight (48) hours, or shall fail to deliver to the owners of the animals, if known, a copy of the certificate of appraisal within forty eight (48) hours after he receives the same or to deposit the same in a post office as herein provided, he shall not be entitled to recover damages under the provisions of this section.
5. Duty Of Animal Control Officer If Owner Unknown: Whenever any animals

are delivered to the animal control officer and the certificate of appraisalment is filed with him as herein provided and such certificate states that the owner is unknown, the animal control officer shall immediately examine all brand books or brand sheets available. If the owner be ascertained thereby or if the owner be already known to the animal control officer, he shall, if the owner lives within ten (10) miles, immediately deliver a copy of such certificate of appraisalment to such owner, or leave the same at his residence if he cannot be found. If the owner lives more than ten (10) miles away, the animal control officer may at his option deliver such copy personally to the owner, or deposit the same in the nearest post office in a registered letter addressed to such owner. He shall, however, serve a copy in one of the ways provided herein; provided, that whenever personal service of a copy of any paper is required by this chapter, service by agent shall be deemed sufficient.

6. Owner Entitled To Residue Of Proceeds: If any estrays or trespassing animals sold under the provisions of this section shall, within a period of six (6) months following the date of sale, be claimed and proved to be the property of any person, it shall be the duty of the treasurer at the expiration of such time to pay the money received for such animals to the owner thereof, less the amount of damages and the expense of taking, keeping, and selling the same. In the event such animals are not claimed as aforesaid, such money shall become the property of the city; provided, that in case there is a contest between two (2) or more persons claiming to be the owners of any such animals, the treasurer shall pay the residue to the party who shall establish by action his right to the same.
7. Records Maintained By Animal Control Officer: The animal control officer shall keep an accurate record of all trespassing animals received by him, which record shall contain all the items required by this chapter together with the names of the injured party and the owner of the animals, the amount of the damages claimed, and all other matters necessary to maintain a complete account of the transaction. Such record shall be open for inspection at all reasonable hours without charge.

- G. Retaking Animal Unlawfully: It shall be unlawful for anyone to take any animal out of the possession of anyone lawfully holding the same under the provisions of this section, either by stealth, force, fraud, or to intercept or hinder any person lawfully taking up or attempting to take up such animals. (Ord. 2-1-97, 2-4-1997, eff. 2-5-1997)

SECTION 5: AMENDMENT “10.16.030 AMENDMENTS TO ORDINANCE AND MAP” of the Santaquin City Municipal Code is hereby *amended* as follows:

AMENDMENT

10.16.030 AMENDMENTS TO ORDINANCE AND MAP

This title and/or its provisions, including the official zoning map, may be petitioned for amendment by any citizen of the City of Santaquin as hereinafter provided, or through action initiated by the Mayor, City Council, Planning Commission, or the Director of Community Development.

- A. Intent With Respect To Amendments: It is hereby declared to be public policy that this title shall not be amended except to more fully carry out the intent and purpose of the [General Plan](#) of the City and of this title.
- B. Procedure: Any person seeking to enact or amend a land use ordinance or the zoning map shall submit to the Planning Commission a written petition designating the change desired and the reasons therefor and shall pay the required fee to the City. Upon receipt of the petition and the paying of the filing fee, the Planning Commission shall consider the request and shall certify its recommendations to the City Council with respect to the request within ninety (90) days from receipt of the request. Failure on the part of the Planning Commission to certify its recommendations to the City Council within ninety (90) days shall be deemed to constitute a recommendation for approval unless a longer period is granted by the City Council. The fee required herein shall be nonrefundable. The Planning Commission or City Council may also initiate amendments to this title or map.
- C. Public Hearing Required Before Amending And Notice: A land use ordinance may be adopted only after a public hearing is held in relation thereto before the Planning Commission at which parties in interest and citizens shall have an opportunity to be heard. A notice of the time and place of such hearing shall be published [on the Utah Public Notice Website created in Utah Code § 63F-1-701.](#) ~~in a newspaper of general circulation within the City.~~ Said notice shall be published and posted in accordance with SCC 10.16.110, "Public Notification Of Land Use Applications", of this title. (Ord. 07-01-2013, 7-3-2013, eff. 7-5-2013)

SECTION 6: **EFFECTIVE DATE** This Ordinance shall be in full force and effect at 5:00 p.m. on Tuesday, May 4th. Prior to that time, the City Recorder shall deposit a copy of this ordinance in the official records of the City and post a copy of this ordinance on Utah Public Notice Website.

SECTION 7: PASSED AND ADOPTED this 20th day of April, 2021.

| | AYE | NAY | ABSENT | ABSTAIN |
|-------------------------|------------|------------|---------------|----------------|
| Council Member Miller | _____ | _____ | _____ | _____ |
| Council Member Montoya | _____ | _____ | _____ | _____ |
| Council Member Mecham | _____ | _____ | _____ | _____ |
| Council Member Hathaway | _____ | _____ | _____ | _____ |
| Council Member Bowman | _____ | _____ | _____ | _____ |

Presiding Officer

Attest

Kirk F. Hunsaker, Mayor

K. Aaron Shirley, City Recorder