

## Salt Lake County Ordinance – General Penalties

### 1.12.010 - Penalty for violation of code provisions.

When no other penalty is prescribed, any person convicted of violating any provision or provisions of an ordinance included in these revised ordinances, or in ordinances hereafter enacted, shall be deemed guilty of a misdemeanor, and punished, as provided by state criminal code as Class B misdemeanors.

## SB20 – County Misdemeanors

488 Section 43. Section **76-3-104** is amended to read:

489 **76-3-104. Misdemeanors classified.**

490 (1) Misdemeanors are classified into three categories:

491 (a) Class A misdemeanors;

492 (b) Class B misdemeanors;

493 (c) Class C misdemeanors.

494 (2) An offense designated as a misdemeanor [, either] in this code [or in another law,]

495 without specification as to punishment or category [, is a class B misdemeanor.] is an infraction

496 punishable in accordance with Section 76-3-205.

497 (3) Except as provided in Subsection (4), an offense designated as a misdemeanor in a

498 county or municipal ordinance without specification as to punishment or category is a class B

499 misdemeanor.

500 (4) After June 30, 2019, an offense designated as a misdemeanor in a county or

501 municipal ordinance without specification as to punishment or category is an infraction

502 punishable in accordance with Section 76-3-205.

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## TITLES 1 and 2

### ■ 1.12.010 - Penalty for violation of code provisions. *(General Penalty)*

When no other penalty is prescribed, any person convicted of violating any provision or provisions of an ordinance included in these revised ordinances, or in ordinances hereafter enacted, shall be deemed guilty of a misdemeanor, and punished as provided by state criminal code for Class B misdemeanors.

### ■ 1.16.040 - Other remedies and criminal prosecution. *(Administrative Hearings)*

The county shall have sole discretion in deciding whether to pursue civil remedies or seek administrative enforcement for the violation of any of its ordinances, policies, regulations, and applicable state statutes. This chapter shall not limit the powers of the Salt Lake County district attorney in pursuing criminal charges for the violation of any county ordinances or state statutes, in addition to any civil action the county may take.

### ■ Chapter 2.07 - COUNTY ETHICS CODE *(Ethics)*

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### ■ 2.08.110 - Discrimination prohibited. *(County Administration)*

Discrimination in Salt Lake County government services based on age, marital status, color, disability, national origin, sex, sexual orientation, gender identity, race or religion is prohibited. Individuals shall be assured of equal access, opportunity and protection in all areas of Salt Lake County government services. This section is not intended to expand the services of county government beyond those required by state or federal law.

### ■ 2.12.120 - Interfering with officers or employees prohibited. *(Officers and Employees)*

It is unlawful to interfere with or hinder any officer or employee of the county while the officer or employee is engaged in the duties of office or employment.

### ■ 2.12.130 - Impersonation of officers or employees prohibited. *(Officers and Employees)*

It is unlawful for any person to impersonate any county officer or employee with intent to deceive another. Violation of this section is a Class B misdemeanor.

### ■ Chapter 2.49 - STREET ADDRESSING AND PROPERTY IDENTIFICATION *(Addressing)*

■ **2.52.110 - Political activities prohibited.** *(Sheriff's Reserve Corps)*

The sheriff's reserve corps shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

■ **Chapter 2.70 - QUASI-JUDICIAL FUNCTIONS STANDARDS OF CONDUCT** *(Quasi-Judicial Standards)*

2.70.010 - Purpose.

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■ **Chapter 2.72A - REVISED CAMPAIGN FINANCING DISCLOSURE** *(Campaign Finance Disclosure)*

■ **2.73.040 - Penalties.** *(Lobbyists)*

A. Any person who willfully and knowingly violates this chapter is guilty of a Class B misdemeanor and the clerk shall suspend the lobbyist's license for up to five years from the date of the conviction; and

B. Nothing in this chapter creates a third-party cause of action or appeal rights.

■ **2.80.060 - Rules and regulations.** *(Personnel)*

The administration of merit system and human resource functions within the county shall be governed by such specific rules, regulations, policies and procedures as are, from time to time, prepared by the human resource agency and the various county agencies and departments and adopted by resolution of the council. Such regulations shall provide for recruitment, hiring, training, advancement and compensation of employees, grievance and appeal procedures, political activities, human resource recordkeeping, and such other matters as are necessary to address the proper functioning of the county's merit system and human resource functions, and as are in accordance with the provisions and intent of the Act.

■ **2.80.090 - Right to strike.** *(Personnel)*

No employee shall have the right to engage in or encourage any form of sit-down, slowdown, or in fact any form of work stoppage or strike, for any reason, against the county, because the public health, safety and welfare may be adversely affected thereby. A refusal by an employee to perform an assignment injurious to his health or physical safety shall not be considered a violation of this section.

■ **2.80.100 - Ethics and disclosure.** *(Personnel)*

County employees, elected and appointed officials, and approved volunteers are required to comply with the Utah Public Officers and Employees Ethics Act, Utah Code Ann. §§ 67-16-1 to -14, the County Employees Disclosure Act, Utah Code Ann. §§ 17-16a-1 to -12, county ordinance and countywide policies. Written disclosure statements made under the provisions of those statutes shall be submitted annually and as such other times as required by law to the county and filed with the council clerk.

■ **2.80.110 - Report of wrongdoing—Protection from retaliation.** *(Personnel)*

A. It is unlawful for any person to coerce any employee into undertaking an illegal, unethical or improper act, or to take any retaliatory action against any employee because of that employee's disclosure of information relating to county government mismanagement, corruption, misuse or waste of funds, abuse of authority, substantial and specific danger to public health or safety, or other wrongdoing in violation of the law.

B. It is unlawful for any person to coerce or attempt to coerce any employee, through threats or intimidation, to withdraw or dismiss a personnel grievance, or to threaten disciplinary or criminal action against any employee for filing or for refusing to dismiss a personnel grievance, or to take any retaliatory action against an employee based on that employee's filing of a personnel grievance. It shall not be a violation of this subsection to offer or engage in good faith settlement negotiations which are voluntarily entered into by a grieving employee and which may include discussions regarding the dismissal of any pending grievances.

C. Any employee who refuses to obey an illegal instruction or who discloses information concerning county government mismanagement, corruption, misuse or waste of funds, abuse of authority, substantial and specific danger to public health or safety, or other wrongdoing in violation of the law with a reasonable, good-faith belief that such refusal is justified or that such disclosures are true and accurate shall be protected from any retaliatory or coercive personnel action which is based on an employee exercising rights set forth in county policies, regulations, ordinances, or in the law. This provision does not extend to any protection for employees from otherwise proper and justified personnel actions taken for disciplinary or budgetary reasons and not for retaliatory purposes. A "personnel action" means any administrative act or omission which adversely affects an employee's grade, personnel evaluation, salary or working conditions, or changes the employee's duties or responsibilities inconsistent with the employee's grade and salary.

D. Employees are encouraged and directed to report to appropriate agencies or officials' instances of possible county government mismanagement, corruption, misuse or waste of funds, abuse of authority, substantial and specific danger to public health or safety, or other wrongdoings in violation of the law. If such a report is filed with a county department, official or agency, the identity of the employee filing the report shall be kept confidential to the extent possible under applicable policies, ordinances and laws unless this right is waived in writing by the employee.

E. Any person may file a complaint charging a violation of this section. The mayor or council shall also have authority, with or without a complaint, to initiate an inquiry of any county official or employee suspected of taking retaliatory or coercive personnel action against an employee as prohibited by this section.

F. Any person violating subsections A or B of this section shall be guilty of a Class B misdemeanor and upon conviction shall be punished as set forth in Chapter 1.12 of this code.

■ **2.80.140 - Discrimination Prohibited.** *(Personnel)*

Discrimination in Salt Lake County government employment based on age, marital status, color, disability, national origin, sex, sexual orientation, gender identity, race or religion is prohibited. Individuals shall be assured of equal access, opportunity and protection in all areas of Salt Lake County government employment opportunities. Nothing in this section is intended to require additional employee benefits, including benefits related to family, marital, cohabitant or dependent status unless provided for by state or federal law or contract.

■ **2.81.040 - Penalty.** *(Security of Personnel Identifiers)*

Any county officer or employee who knowingly violates this chapter may be guilty of a Class B misdemeanor and shall be subject to appropriate disciplinary action.

■ **82.190 - Violation—Penalty.** *(Records Management)*

Knowing violation of this chapter is a misdemeanor, punishable as set forth in this code of ordinances.

■ **2.83.110 - Unfair labor practices—Sanctions.** *(Employee Relations)*

A. The county, its officers, representatives or agents are prohibited from:

1. Restraining, coercing, or interfering with any employee in the exercise of his rights guaranteed under this chapter;
2. Discriminating against one employee organization in favor of another employee organization; provided, certified employee organizations are entitled to an obligation to meet and confer, as provided in Section 2.83.070.A.
3. Discharging or otherwise discriminating against any employee with reference to terms and conditions of employment for the purpose of encouraging or discouraging membership, support or participation in any employee organization or because he or she has signed or filed an affidavit, petition or complaint, or given any information or testimony under this chapter;
4. Refusing to discuss in good faith with an certified employee organization; or
5. Locking out employees.

B. Employee organizations, their agents or employees, and where appropriate, county employees are prohibited from:

1. Restraining, coercing or interfering with employees in the exercise of the rights guaranteed under this chapter, including, but not limited to, causing or attempting to cause the county to discriminate against an employee in violation of such employee's rights under this chapter or other applicable law.
2. Restraining or coercing the county in the selection of its representative for purposes of discussion or the resolution of grievances.
3. Refusing to discuss in good faith with the county, if the organization has been designated the certified representative of employees in an appropriate unit.
4. Engaging in a strike, or encouraging, aiding or abetting any county employee to engage in any strike.

C. Every employee organization and its officers and agents shall have an affirmative duty to take immediate, appropriate and effective affirmative action to end an employee strike or work stoppage.

■ **2.86.100 - Criminal penalties.** *(Emergency Response)*

Any person who knowingly refuses to comply with an order to evacuate issued under this chapter or who refuses to comply with any other order issued during a state of emergency, as provided in this chapter and after notice of the order has been given to that person, is guilty of a Class B Misdemeanor.

### **Pointers and idle thoughts**

1. There are penalties for non-compliance all over the code of ordinances, not just in public safety. Examples: ethics, discrimination, campaign finance disclosure.
2. Safety net 1: if we don't make the class B specific, it will still be an infraction and that might be okay.
3. Safety net 2: for some misconduct there may already be a state code violation which could be a class B or even a felony. Examples: violating HR policies, purchasing misconduct, animal cruelty, and many public safety violations.
4. Some county ordinances may be obsolete, unneeded, or require cleaning up – this is a good opportunity to do so.
5. Because ordinances have no effect within municipal boundaries, so there may not be any practical need for certain ordinances and perhaps they could be repealed.
6. Work closely with the client agencies for their input – they may be perfectly happy with some violations becoming infractions.
7. When preparing recommendations for the County Council, rely on the client agencies to make the substantive pitch, rather than our office.
8. Deadline: let's try and have the majority of the work ready for the council by the end of the year – the real deadline is June 30, 2019.
9. Let's do the ordinance amendments piecemeal, so we don't overwhelm the council. Gavin will help with the formatting and ordinance drafting and organization.
10. Be realistic about our class B penalties – I've been around for nearly 40 years and I've never seen anyone prosecuted for violating the purchasing ordinance. (However, *State v Hutchinson* resulted from the misdemeanor prosecution of a county commissioner who violated the county campaign finance disclosure ordinance.)