

CHAPTER 2 NUISANCES

4-2-1: DEFINITIONS:

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

AUTHOR: Where a nuisance exists upon property and is the outgrowth of the usual, natural or necessary use of the property, the landlord or his agent, the tenant or his agent, and all other persons having control of the property on which such nuisance exists, shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.

NUISANCE: A. Any condition or use of property or premises, including building exteriors which is unsightly, injurious, deleterious, noxious or detrimental to the public health, safety or welfare; and

B. Whatever is dangerous to human life or health and whatever renders soil, air, water or food impure or unwholesome. (1998 Code §§ 10-311, 10-312; amd. 2000 Code; Ord. 01-4-5, 4-5-2001)

4-2-2: ENUMERATION OF NUISANCES:

A. Specified: Nuisances shall include, but shall not be limited to, the following:

1. Rubbish: Keeping or depositing on, about or over property or premises, or maintaining or allowing to remain on said property or premises, any of the following:

a. Rubbish, refuse, junk, trash or debris.

b. Abandoned, discarded or unused furniture, equipment, automobiles, stoves, refrigerators, freezers, construction materials, cans, containers or other objects not being used.

2. Befouling Water: Befouling water in any spring, stream, well or water source supplying water for culinary purposes.

3. Privies, Cesspools: Allowing any privy vault or cesspool, or other individual wastewater disposal system, to become a menace to health or a source of odors or contamination to air or water.

4. Garbage Containers, Offensive: Permitting any garbage container to remain on the premises when it has become unclean and offensive.

5. Garbage Accumulation: Allowing vegetable waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any property, except when it is temporarily deposited for immediate removal.

6. Manure Accumulation: Permitting the accumulation of manure in any stable, stall, corral, feed yard, yard or in any other building or area in which any animals are kept.

7. Slaughterhouses, Feed Yards: Permitting any slaughterhouse, market, meat shop, stable, feed yard or other place or building wherein any animals are slaughtered, kept, fed or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or which is conducive to the breeding and proliferation of flies or rodents.

8. Discharging Offensive Water Or Liquid Waste: Discharging or placing any offensive water, chemical spray, liquid waste or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal or any vacant lot or which, as the result of continued discharge, will render the place of discharge offensive or likely to become so.

9. Collecting Grease, Offensive Matter: Keeping or collecting any stale or putrid grease or other offensive matter.

10. Flies And Mosquitos: Having or permitting upon any premises any fly or mosquito producing condition.

11. Public Drinking Vessels: Keeping any drinking vessel for public use without providing a method of decontamination between uses.

12. Ablutions Near Drinking Fountain: Permitting or performing any ablutions in or near any public drinking fountain.

13. Dwellings Or Places Of Employment; Sanitary Condition: Failing to furnish any dwelling house, boarding house, factory, office or other place of employment with such privy vaults, water closets, sinks or other facilities as may be required to maintain the same in sanitary condition.

14. Refusal To Clean Septic Tanks: Neglecting or refusing to discontinue use of, clean out, disinfect and fill up all septic tanks, privy vaults and cesspools or other individual wastewater disposal systems within twenty (20) days after notice from an enforcement officer or official of the city.

15. Stagnant Water; Offensive Substances: Permitting any lot or excavation site to become the repository of stagnant water or any decaying or offensive substances.

16. Obstructing Public Ways, Watercourses, Parks: Obstructing or tending to obstruct or interfere with or render dangerous to passage or travel any street or sidewalks, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the city council.

B. Restroom Or Sewer Facilities: In addition to the enumeration of nuisances in subsection A of this section, all restroom or sewer facilities which are not constructed and maintained in accordance with Utah law and city ordinances are hereby declared to be a nuisance and are subject to abatement as prescribed hereafter.

C. Obstruction Of Waterway: In addition to the enumeration of nuisances in subsection A of this section, the obstruction of any drainage system, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, so as to cause the water to back up and overflow therefrom, or to become unsanitary, is hereby declared to be a nuisance.

D. Unsheltered Storage: In addition to the enumeration of nuisances in subsection A of

this section, the unsheltered storage of old, unused, stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of thirty (30) days or more (except in licensed junkyards) within the city, is hereby declared to be a nuisance.

E. In addition to the enumeration of nuisances in subsection A of this section, a violation of Hurricane City Code Title 10, otherwise known as the Zoning Code, as determined by the Zoning Administrator is hereby declared to be a nuisance.

F. Agricultural Use Of Property Exempt: Notwithstanding any provision of this chapter, the term "nuisance" shall not be construed to apply to any agricultural activity or operation conducted in accordance with sound agricultural practices and which does not violate any federal, state or local law or regulation relating to an alleged nuisance. (Ord. 01-4-5, 4-5-2001)

4-2-3: NUISANCE DECLARED UNLAWFUL:

It shall be unlawful for any entity or person to maintain or permit to remain or be maintained upon any property or premises owned or under his control any "nuisance" as defined in this chapter. Every nuisance shall be removed or abated as provided in this chapter, and any entity or person who shall be the author or keeper of a nuisance shall be guilty of a class C misdemeanor. (Ord. 01-4-5, 4-5-2001)

4-2-4: VOLUNTARY ABATEMENT OF NUISANCE:

Any owner or occupant of any property or premises upon which a nuisance is kept or allowed to remain or be maintained shall be responsible to abate such nuisance by its prompt removal or eradication from such property or premises, either on a voluntary basis or as provided in this chapter. (Ord. 01-4-5, 4-5-2001)

4-2-5 ABATEMENT PROCEDURE:

A. Nuisance Inspector:

1. Established: There is hereby established the position of nuisance inspector, whose duties shall be to enforce the provisions of this chapter. Until another person is designated, the chief of police shall enforce the provisions of this chapter. More than one person may be appointed to act as inspector under this section.
2. Duties: The nuisance inspector is authorized to:
 - a. Perform all functions necessary to enforce the provisions of this chapter.
 - b. Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this chapter.
3. Existence of Objectionable Condition: If he concludes there exists an objectionable condition in violation of this chapter, the nuisance inspector shall:
 - a. Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions constituting a nuisance exist.

b. Serve notice in writing upon the owner and occupant of such premises, either personally or by mailing notice prepaid, addressed to the owner and occupant at their last known post office addresses as disclosed by the records of the county assessor, or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the nuisance within such time as the nuisance inspector may designate; provided, that any person notified pursuant to this subsection shall be given at least ten (10), but not more than twenty (20) days, as determined by the nuisance inspector following the date of service of such notice, to correct the objectionable condition. The notice shall:

- (1) Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.
- (2) Inform the owner and occupant that in the event he fails or neglects to correct the objectionable condition, a citation may be issued.

B. Court Ordered Abatement By Owner or Occupant:

1. In the event a citation is issued and the court upholds the determination of the nuisance inspector, the notice originally given by the nuisance inspector as above shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and he shall have up to ten (10) days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed thirty (30) days, is authorized by the court.
2. In the event that the decision of the court either overrules or modifies the determination of the nuisance inspector, the decision of the court shall apprise the owner or occupant of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the court within the time ordered by the court and the decision shall be deemed to be the modified decision of the nuisance inspector.
3. Filing of Amended Notice: The nuisance inspector shall file an amended notice and proof of service of notice and file the same in the office of the county treasurer.

C. Failure To Comply; Abatement By City: If any owner, occupant or other person having an interest in land described in such notice of decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the eradication, destruction or removal of such weeds, garbage, refuse, objects or structures as ordered by the court, the nuisance inspector shall employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the city.

D. Itemized Statement: The nuisance inspector shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy

thereof to the owner or occupant or both or to persons having an interest in the property, demanding payment within twenty (20) days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail, addressed to the last known address of the property owner, occupant, or persons having an interest in the property. (1998 Code § 10-354; amd. Ord. 01-4-5, 4-5-2001)

E. Failure To Make Payment: In the event the owner, occupant or person having an interest in the property fails to make payment of the amount set forth in the statement to the city treasurer within the twenty (20) days, the nuisance inspector may either cause suit to be brought in an appropriate court of law or may refer the matter to the county treasurer as provided in this chapter. (1998 Code § 10-355; amd. Ord. 01-4-5, 4-5-2001)

F. Collection:

1. Lawsuit: In the event collection of expenses of destruction and removal are pursued through the courts, the city shall sue and receive judgment for all of said expenses of destruction and removal, together with reasonable attorney fees, interest and court costs, and shall execute upon such judgment in the manner provided by law. (1998 Code § 10-356; amd. Ord. 01-4-5, 4-5-2001)

2. Taxes: In the event that the nuisance inspector elects to refer the expenses of destruction or removal to the county treasurer for inclusion in the tax notice of the property owner, he shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver three (3) copies of the statement to the county treasurer within ten (10) days after the completion of the work of destroying or removing such weeds, refuse, garbage, objects or structures. Thereupon, the costs of the work shall be pursued by the county treasurer in accordance with the provisions of Utah Code Annotated section 10-11-4, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted. (1998 Code § 10-357; amd. Ord. 01-4-5, 4-5-2001)

G. Criminal Proceedings: The commencement of criminal proceedings for the purpose of imposing penalties for violations of this chapter shall not be conditioned upon prior issuance of a notice or the granting to the defendant an opportunity to abate or remove the nuisance. The provisions of this chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this chapter. (1998 Code § 10-358; amd. Ord. 01-4-5, 4-5-2001)

4-2-6: PENALTY FOR FAILURE TO COMPLY:

A. Class C Misdemeanor: Any owner, occupant or person having an interest in property subject to this chapter who shall fail to comply with the notice or order given pursuant to this chapter shall be guilty of a class C misdemeanor and upon conviction thereof, subject to penalty as provided in section 1-4-1 of this code. (1998 Code § 10-359; amd. 2000 Code; Ord. 01-4-5, 4-5-2001)

B. Criminal Proceedings: Compliance by any owner, occupant or person to whom a notice has been given as provided in this chapter shall not be admissible in any criminal proceeding brought pursuant to this section. (1998 Code § 10-359; amd. Ord. 01-4-5, 4-5-2001)