

CHAPTER 1

NUISANCES

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4-1-1: **NUISANCES DEFINED; DECLARATION:**

4-1-1-1: **DEFINITION:** Pursuant to Utah Code 78B-6-1101. A nuisance is anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. A nuisance may be the subject of an action. (Ordinance No 014-2008, 11/11/2008)

4-1-1-2: **AUTHOR DEFINED:** 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. (1977 Code § 10-312)

4-1-1-3: **DECLARATION OF NUISANCE:**

- A. Made, Permitted or Allowed: Every act or condition made, permitted, allowed or continued in violation of Section 4-1-1-1 of this Chapter, is hereby declared to be a nuisance and may be abated and punished as hereinafter provided.
- B. Included Nuisances: Nuisances include, but are not limited to:
1. Befouling Culinary Water: Befouling water in any spring, stream, well or water source supplying water for culinary purposes.
 2. Privies, Cesspools, Septic Tanks: 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.
 3. Garbage Containers, Offensive: Permitting any garbage container to remain on premises when it has become unclean and offensive.
 4. Garbage Accumulation: Allowing vegetable waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard or area.
 5. Manure Accumulation: Permitting the accumulation of manure in any stable, stall, corral, feed yard, kennel or in any other building or area in which any animals are kept.
 6. 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 in which flies or rodents breed.

7. 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.
8. Collecting Grease, Offensive Matter: Keeping or collecting any stale or putrid grease or other offensive matter.
9. Flies and Mosquitoes: Having or permitting upon any premises any fly or mosquito-producing condition.
10. Ablutions near Drinking Fountain: Permitting or performing any ablutions in or near any public drinking fountain.
11. Boarding House or Factory, Sanitary Condition: Failing to furnish any dwelling house, boarding house, or factory 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.
12. Cleaning Privy Vaults: Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all 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.
13. Stagnant Water; Offensive Substances: Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substances.
14. Obstructing Public Ways, Watercourses, Parks: Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalk, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the City Council. (1977 Code § 10-313)

4-1-1-4: **ENUMERATION OF NUISANCES:** The types of nuisances above stated shall be deemed in addition to and in no way a limitation of the nuisances subject to this Chapter. (1977 Code § 10-314)

4-1-1-5: **RESTROOM OR SEWER FACILITIES:** All restroom or sewer facilities shall be constructed and maintained in accordance with Utah law and City ordinances. All such facilities that do not comply with such provisions are hereby declared to be a nuisance and are subject to abatement as herein prescribed. (1977 Code § 10-315; 1998 Code)

4-1-1-6: **RESTRICTIONS ON BLOCKING WATER:**

- A. Obstructions: It shall be unlawful for any person to permit any drainage system, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, to become so obstructed as to cause the water to back up and overflow there from, or to become unsanitary.
- B. Subject to Abatement: Maintenance of any such watercourse in such condition shall constitute a nuisance and the same shall be subject to abatement. (1977 Code § 10-316)

4-1-2: **NUISANCES ON PROPERTY:**

4-1-2-1: **DEFINITION:** For the purpose of this Section, the term “nuisance” is defined to mean any condition or use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly which includes, but is not limited to, keeping or depositing on, or scattering over the premises any of the following:

- A. Lumber, junk, trash or debris.
- B. Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans, containers, machinery, canisters or automobiles, or other discarded items not currently in use. (1977 Code § 10-331; 1998 Code)

4-1-2-2: **DUTY OF MAINTENANCE OF PRIVATE PROPERTY:** No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in any manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located. (1977 Code § 10-332)

4-1-2-3: **STORAGE OF PERSONAL PROPERTY:** 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 junk yards) within the City is hereby declared to be a nuisance and dangerous to the public safety. (1977 Code § 10-333)

4-1-2-4: **ABATEMENT BY OWNERS:** The owner, owners, tenants, lessees or occupants of any lot within the City on which such “storage”, as defined in Section 4-1-2-3 of this Chapter, is made, and also the owner, owners or lessees of the above described personal property involved in such storage, shall jointly and severally abate such nuisance by its prompt removal into completely enclosed and secured yards or buildings to be used for such purposes, or otherwise remove such property from the City. (1977 Code § 10-334)

4-1-3: **ABATEMENT PROCEDURE:**

4-1-3-1: **APPOINTMENT AND DUTIES OF NUISANCE OFFICER:**

- A. Appointment: There is hereby established the position of Nuisance Officer whose duties shall be to enforce the provisions of this Chapter. Until another person is designated, the contracted law enforcement agency shall enforce the provisions of this Chapter. More than one person may be appointed to act as Nuisance Officer under this Section.
- B. Duties: The Nuisance Officer is authorized to:
 - 1. Perform all functions necessary to enforce the provisions of this Chapter.
 - 2. 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.
- C. Existence of Objectional Condition: If he concludes there exists an objectionable condition in violations of this Chapter, the Nuisance Officer shall:

1. Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions constituting a nuisance exist.
2. 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 Officer 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 Officer following the date of service of such notice, to correct the objectionable condition. The notice shall:
 - a. Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.
 - b. Inform the owner, occupant or other person that in the event he disagrees with the determination of the Nuisance Officer and does not wish to comply with the provisions of the notice or that he objects to the factual or legal basis for the notice, he may request in writing a hearing before the City Council at a time and place to be set by the City Council. A written application for a hearing shall state the time within which the person must conform to the provisions of the notice.
 - c. Inform the person that in the event he fails or neglects to correct the objectionable condition, the City will correct the objectionable condition and will collect the costs of so correcting the objectionable condition by either a court action, in which case he will be assessed such costs, together with reasonable attorney fees and court costs, or will charge the cost of correcting the violation against the property as a tax.
3. In the event the owner or occupant makes such request for a hearing, the City Council shall set the time and place for the hearing objections and the City Recorder shall notify the owner, occupant or other persons having an interest in said property on the condition thereof in writing of the time and place at which they may appear and be heard. The hearing shall be heard within less than five (5) days from the date of service or mailing of the notice of hearing. (1977 Code § 10-351; 1998 Code)

4-1-3-2: HEARING:

- A. **Informal Hearing; Written Decision:** At the written request of an owner, occupant or other person having an interest in property which is the subject of a notice to remove or abate weeds, objectionable conditions or objects from the property, the City Council shall conduct an informal hearing (which need not be reported), wherein such persons may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this Chapter. The City Council shall also permit the presentation of evidence and argument by the Nuisance Officer and other interested parties. Thereafter within not less than five (5) nor more than ten (10) days, the City Council shall, over the signature of the Mayor, or such other member of the City Council as it may designate, render its written decision, a copy of which shall be mailed to or served upon the owner or any other person to whom the original notice was given by the Nuisance Officer.
- B. **Notice of Decision; Abatement By Owner Or Occupant:** In the event the decision of the City Council upholds the determination of the Nuisance Officer, the notice originally given by the Nuisance Officer as above provided 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 Nuisance Officer.
- C. **Time Period for Compliance:** In the event that the decision of the City Council either overrules or modifies the determination of the Nuisance Officer, the written decision of the City Council 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 City Council within ten (10) days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision of the Nuisance Officer, unless additional time is authorized by the City Council.
- D. **Filing of Amended Notice:** The nuisance Officer shall file an amended notice and proof of service of notice and file the same in the office of the County Treasurer. (1977 Code § 10-352)

4-1-3-3: **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, the Nuisance Officer shall employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the City. (1977 Code § 10-353)

4-1-3-4: **ITEMIZED STATEMENT:** The Nuisance Officer 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. (1977 Code § 10-353)

4-1-3-5: **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 Officer 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. (1977 Code § 10-355)

4-1-3-6: **COLLECTION BY 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. (1977 Code § 10-356)

4-1-3-7: **COLLECTION THROUGH TAXES:** In the event that the Nuisance Officer 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. (1977 Code § 10-357)

4-1-3-8: **CRIMINAL PROCEEDING:** 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. (1977 Code § 10-358)

4-1-3-9: **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 subject to penalty as provided in Section 1-4-1 of this Code for each offense, and further sum of twenty-five dollars (\$25.00) for each and every day such failure to comply continues beyond the date fixed for compliance.

- B. Criminal Proceedings: Compliance by any owner, occupant or person to whom a notice has been given subsequent to the commencement of criminal proceedings as provided in this Chapter shall not be admissible in any criminal proceeding brought pursuant to this Section. (1977 Code § 10-359)