

# Title 4 – Health, Sanitation & Environmental Concerns

## Chapter 3

### NUISANCES

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#### **4-3-1: NUISANCE DEFINED:**

A "nuisance" is a crime against the order and economy of the town and consists of unlawfully doing any act or omitting to perform any duty, which act or omission either: a) annoys, injures or endangers the comfort, repose, health or safety of three (3) or more persons; or b) offends public decency; or c) unlawfully interferes with, obstructs or tends to obstruct, or renders property dangerous for passage or public use. An act which affects three (3) or more persons in any of the ways above specified is not less a nuisance because the extent of the annoyance or damage inflicted on individuals is unequal. (1984 Code § 3-3-1)

#### **4-3-2: AUTHOR OF NUISANCE:**

When a nuisance exists upon property, and is the outgrowth of the usual, natural or necessary use of the property, the landlord thereof, or his agent, the tenant, or his agent, and all other persons having control of the property on which such nuisance exists, here such nuisance shall arise from the unusual or unnecessary use to which such property may be put, or from business thereon conducted, then the occupants, and all other persons contributing to the contrivance of such nuisance, shall be deemed the authors thereof. All "authors" of nuisances, as defined in this section, are subject to the penalty provided for in this chapter. (1984 Code § 3-3-2)

#### **4-3-3: DECLARATION OF NUISANCES:**

It shall be unlawful to cause, create, maintain or otherwise be the author of a nuisance within the town. Nuisances shall include, but not be limited to:

- A. Befouling water in any spring, stream, well or water source supplying water for culinary purposes;
- B. Allowing any privy vault or cesspool to become a menace to health;
- C. Permitting any garbage box or similar receptacle which has become unclean and offensive to remain on the premises; (1984 Code § 3-3-3)
- D. Burning garbage, leaves, grass or other refuse that emits any noxious odors; (1984 Code § 3-3-3; amd. 2010 Code)
- E. Allowing vegetable waste, garbage or refuse of any nature to accumulate;
- F. Permitting the accumulation of manure in any stable, stall, corral or yard;
- G. Permitting any waste, damaged merchandise, leaking barrels or boxes to become putrid or to render the atmosphere impure or unwholesome;
- H. Discharging or placing any offensive water, liquid, waste or refuse of any kind into any street, sidewalk, gutter, stream, natural watercourse or vacant lot, which is offensive or likely to become so;
- I. Permitting, keeping or collecting any stale or putrid grease or other offensive matter;
- J. Having or permitting any fly or mosquito producing condition;
- K. Bathing or washing in or near any public water supply, or to permit any animal to drink therefrom;
- L. Throwing or casting, or having thrown or cast, or allowing to remain upon or in any street, road or ditch, gutter, public place, private premises, vacant lot, watercourse, lake, spring or well, any house refuse, offal, garbage, dead animals, decaying vegetable matter, or organic waste substance of any kind;
- M. Permitting injurious or noxious weeds to grow on any land;
- N. Permitting any lot or excavation to become the repository of stagnant water or decaying substance;
- O. Obstructing the street or sidewalk without proper permit. (1984 Code § 3-3-3)

#### **4-3-4: ATTRACTIVE NUISANCES:**

It shall be unlawful to use, create, maintain or otherwise be the author of an attractive nuisance within the town. An "attractive nuisance" is any vacant lot or open area within which any of the following conditions occur and to which the public and particularly children have access:

- A. Ponding of water;

- B. Open pits, shafts, caves or dilapidated non-occupied buildings;
- C. Trash, debris or machinery;
- D. Large piles of loose sand, soil or rocks suitable for tunnelling or digging by children. (1984 Code § 3-3-4)

#### **4-3-5: EXEMPTIONS:**

The following uses and activities shall be exempt from nuisance/noise regulations:

- A. Noise of safety signals, warning devices, and emergency pressure relief valves;
- B. Noise resulting from any authorized emergency vehicle when responding to an emergency call or in time of an emergency;
- C. Noise resulting from lawful emergency work;
- D. Noise resulting from lawful fireworks and noisemakers used for celebration of an official holiday;
- E. Any noise resulting from activities of temporary nature during periods permitted by law for which a license or permit has been approved by the town;
- F. Any noise resulting from snowmaking and grooming activities at ski areas; and
- G. Any noise resulting from snow plowing or removal services. (amd. 2015 Ord. 15-001, 1-13-2015)

#### **4-3-6: ENFORCEMENT AUTHORITY:**

It shall be the duty of the public safety department to ascertain and cause all nuisances declared to be such in this chapter and coming within its t shall have authority in the daytime to enter any house, stable, store, or any building, in order to make an inspection; to enter upon all lots and grounds to cause the same to be cleaned or purified; and all noisome substances to be abated or removed. (1984 Code § 3-3-5)

#### **4-3-7: ABATEMENT:**

- A. Notice To Abate Nuisance: Whenever the public safety department shall determine that any nuisance exists, it shall take the following steps to abate the same:
  - 1. It shall ascertain the names of the owners and occupants and other authors of the nuisance and premises where the same exists.

2. Serve notice in writing upon the owner and occupant and other authors, either personally or by mailing notice, postage prepaid, addressed to them at their last known address, requiring the owner, occupant or author, or any or all of them, to eradicate or abate the same within such time as the notice shall provide, but in no case less than ten (10) days from the date of service of the notice.
3. Inform the person to whom such notice is given that in the event that the individual disagrees with the determination of a nuisance, that he may request a hearing before the town manager. If no such request for hearing is made and the nuisance is not abated within the ten (10) day period, official, legal notice shall be served upon the individual requiring his presence in court at a date and time certain.
4. The public safety department shall make proof of service of such notice under oath and file the same in the office of the town clerk/recorder.
5. The hearing before the town manager shall be determinative based upon the facts and circumstances of the case. Any appeal made shall be to the district court. (1984 Code § 3-3-6; amd. 2010 Code)

**B. Refusal To Abate Nuisance:**

1. If any person, ordered by a notice served under subsection A of this section, and/or by a decision of the town manager, shall fail to conform to the notice and/or order therefrom, the public safety department shall employ all necessary assistance to cause such materials to be removed, destroyed or the nuisance otherwise abated. The public safety department shall prepare an itemized statement of all expenses incurred in the abatement of the nuisance and shall mail a copy thereof to the persons named in the notice demanding payment within twenty (20) days of the date of mailing. Said notice shall be deemed delivered when mailed by registered mail addressed to the person's last known address.
2. In the event that the person so notified fails to make the payment to the town treasurer within the twenty (20) day period, the town May either cause suit to be brought in the appropriate court for collection of the same, or may refer the matter to county authorities for collection by a lien on the property, as provided in Utah Code Annotated title 10, chapter 11, as amended, or both. (1984 Code § 3-3-7; amd. 2010 Code)

**4-3-8: PENALTY:**

Any author of a nuisance who violates any provision of this chapter shall be guilty of a class B misdemeanor and, upon conviction in district court, subject to penalty as provided in section [1-4-1](#) of this code. (1984 Code § 3-3-8; amd. Ord. 87-008, 8-11-1987; 2010 Code)