
Document Control Changes: Created 16 September 1997, revised 10 November 2009, (was CF-013-NA-97), New Format May 2016

BE IT ORDAINED by the Town Council of the Town of Cedar Fort, Utah County, Utah, that an ordinance relating to Nuisance vehicles and other Items Abatement on the streets of the Town of Cedar Fort be enacted as follows:

1.0 OVERVIEW

Establishment of and adoption of an ordinance for the abatement of nuisance vehicles and other Items on Town streets as defined herein.

2.0 PURPOSE

AN ORDINANCE OF THE GOVERNING BODY OF THE TOWN OF CEDAR FORT DEFINING NUISANCE VEHICLES AND OTHER ITEMS AND ESTABLISHING PENALTIES THEREOF.

WHEREAS, Cedar Fort Town desires to control nuisance vehicles and other items on the streets within the Town for the general welfare and safety of the citizens of the Town as well as visitors; and,

WHEREAS, the Utah Legislature has specifically enabled Cedar Fort to define and abate nuisances in section 10-8-60, section 10- 11-1, et seq., section 78-38-1, et seq., section 76-10-101, and section 76-10-803 of the Utah Code Annotated 1953, as amended; and

WHEREAS, the Cedar Fort Town governing body desires to establish a procedure for the abatement of nuisances on the streets that *is* sensitive to the unique nature of Cedar Fort Town while preserving a neat appearance, an ability to properly mow roadsides, and maintain property values and the rural lifestyle;

Now therefore let it be ordained by the governing body of Cedar Fort Town as follows:

The purpose of this Ordinance is to define and designate what is a street nuisance and to regulate the abatement of such nuisances within the Town. Although this ordinance outlines the policy and procedure to be followed by Town officials in controlling public nuisances, it does not preclude the notion that Cedar Fort Town is made up of people with diverse lifestyles and, that the Town Council must retain the authority to make exceptions to this ordinance in reasonable cases and encourage a spirit of tolerance and cooperation.

3.0 REMEDIES

A civil action to abate or enjoin a public nuisance, or for damages for causing or maintaining a nuisance (including the cost, if any, of cleaning the subject public property), may be brought by Cedar Fort Town or by any private person directly affected.

It shall be unlawful and a class B misdemeanor violation for any person to maintain or assist in maintaining a public nuisance after receiving notice to abate the same as provided for in this ordinance. The Town may elect to pursue either civil or criminal remedies or both to enforce this ordinance.

The Town shall retain the option of providing allowances as it deems prudent and fair to owners or occupants who may be in non-compliance of this Ordinance due to construction or other extenuating circumstances. Such determinations shall be made by the Town Council or their appointed representative upon written petition from the offending party.

4.0 NOTICE

If the Town concludes that a public nuisance as defined herein, exists on any public property, they shall ascertain the names of the owners/occupants and a description of the location where such public nuisance exists and shall serve notice in writing upon the owner or

occupant at such location, either personally or by mailing notice, postage prepaid by registered or certified mail addressed to the owner or occupant at their last known post office address as disclosed by the records of the county assessor. The notice shall identify the public nuisance found by the Town and require such owner or occupant, or both, as the case may be, to abate the nuisance and to eradicate or destroy and remove the objects and conditions specified in the notice within such time as the Town may designate, which shall not be less than ten (10) days from the date of service of such notice.

If the Town shall conclude that a safety hazard as defined herein, exists on any public property, immediate notification shall be given, either verbally or in writing, and the hazard shall be abated. The Town shall initiate the towing or removal process immediately if the owner does not remedy the situation.

In the event that the Town shall choose to proceed under Section 10 (Collection of Abatement Costs), they shall make a proof of service of such notice under oath and file the same in the office of the Town clerk. One notice shall be deemed sufficient on any nuisance situation for one full year.

5.0 NUISANCES DEFINED

The following shall constitute a public nuisance subject to abatement under this Ordinance:

5.1 ACCUMULATIONS: It is unlawful, and shall be considered a public nuisance, for any person or resident located within the Town limits to cause or permit to accumulate in any manner upon any Town street :

5.1.1 Garbage/Trash – Any waste generated within a household and intended for disposal or non-use.

5.1.2 Piles - An accumulation greater than 1 foot high and 3 feet in diameter not part of the normal terrain. Typically gravel, rocks, road base material, manure, or dirt.

5.1.3 Barriers – Rocks, stones, concrete used to minimize or prevent traffic flow. Typically this is at corners (for ATV and other small traffic off pavement) or near irrigation or drainage ditches. Any items larger than 6" in diameter which could pose a danger to vehicles or persons.

5.1.4 Any non-indigenous objects, conditions, or structures.

5.1.5 Junk – Any material no longer in use or intended for discard.

5.1.6 Scrap metal/Scrap lumber/, Discarded building material,

5.1.7 Waste paper products, or

5.1.8 Any unused or nuisance machinery or machinery parts, or other waste material.

5.2 SAFETY HAZARDS: It is unlawful, and shall be considered a public nuisance, for any person located within the Town limits, to park, store or leave, or to permit the parking, storing or leaving upon any public property, any licensed or unlicensed vehicle, equipment or accumulations which, at the sole discretion of the Town Council, presents:

5.2.1 A safety hazard,

5.2.2 A fire hazard,

5.2.3 An inability of fire or emergency crews to access property,

5.2.4 An inability of residents to access their property,

5.2.5 An inhibited flow of traffic, or

5.2.6 An impedance to snow removal

5.3 WRECKED OR JUNK VEHICLES. It is unlawful, and shall be considered a public nuisance, for any person located within the Town limits, to park, store or leave, or to permit the parking, storing or leaving upon any public property, of any licensed or unlicensed motor vehicle of any kind, or parts thereof, which is in a wrecked, junked, partially dismantled, inoperative or abandoned condition, whether attended or not.

In addition to vehicles parked in violation of any ordinance of the Town or the laws of the State, the following are declared to be public nuisances:

- 5.3.1 Any unattended vehicle stopped, standing, or parked in violation of any of the provisions of this ordinance,
- 5.3.2 Any vehicle found upon the streets of this Town with faulty or defective equipment,
- 5.3.3 Any vehicle left unattended where such vehicle constitutes an obstruction to traffic,
- 5.3.4 Any vehicle upon a street so disabled as to constitute an obstruction to traffic, when the persons in charge of the vehicle are, by reason of physical injury, incapacitated to such an extent as to be unable to provide for its custody or removal,
- 5.3.5 Any vehicle left unattended upon a street and parked illegally so as to constitute a definite hazard or obstruction to the normal movement of traffic,
- 5.3.6 Any vehicle wherein the driver has been taken onto custody by the sheriff's department under circumstances so as to leave such vehicle unattended in a street or restricted parking area,
- 5.3.7 Any vehicle being driven on the streets which is not in a proper condition to be driven,
- 5.3.8 Any vehicle found so parked as to constitute a fire hazard or an obstruction to fire fighting apparatus.

Any such public nuisances may be summarily abated by removal by, or under the direction of, or at the request of, an officer of the sheriff's office, to a place of storage within the county, by means of towing or otherwise.

5.4 DEPOSITING OR SPILLING. It shall be unlawful and shall be considered a public nuisance for any person to put or cast, or, having placed or cast, to allow to remain for longer than 30 days (except safety hazards) upon or in any public street, road, ditch, or public place any item or thing as enumerated in paragraphs A, B, and C of this section of the Ordinance.

6.0 IMPROPERLY REGISTERED AND STOLEN VEHICLES - NOTICE

The Sheriff's department shall immediately impound in a proper place of storage all motor vehicles found within the Town that are improperly registered, stolen, or bear defaced motor numbers and shall notify the Motor Vehicle Division of the Utah State Tax Commission of such impounding, as prescribed in county procedures.

6.1 NOTICE OF IMPOUNDING

As soon as is reasonable under the circumstances, a written notice that the vehicle has been impounded shall be mailed to the owner and recorded lien holder, if there is one, of the vehicle, at the last known address as shown in the records of the Motor Vehicle Division of the Utah State Tax Commission. If the license plates on the vehicle are from another state, written notice shall be mailed to the department of the motor vehicles in that state, requesting such department to notify the registered owner of the vehicle that it has been impounded by

the sheriff's department and that the vehicle will be sold at public auction as provided by this ordinance, if not claimed by the owner or his proper representative.

The impounding of a vehicle shall not prevent or preclude the institution and prosecution of criminal proceedings in the county courts or elsewhere against the owner or operator of the impounded vehicle.

6.2 REDEMPTION OF VEHICLE BY OWNER

Before the owner or his agent shall be permitted to remove a vehicle that has been impounded, he shall:

6.2.1 Furnish satisfactory evidence of his identity and of his ownership of the vehicle;

6.2.2 Request and obtain from the sheriff's department a written order directed to the place of storage in which the vehicle is impounded, authorizing the release of the vehicle to the owner or his agent upon payment to the place of storage of towing and storage charges reasonable incurred in the towing and storage of the vehicle from the date of the impounding to the time of presenting the order of release;

6.2.3 Sign a written receipt for the vehicle and deliver the same to the place of storage upon receiving the impounded vehicle.

6.3 SALE OF IMPOUNDED VEHICLES

If the owner or his representative does not contact the sheriff's department within the time limit prescribed by law, the vehicle will be sold at auction as prescribed by law.

6.4 DISTRIBUTION OF FUNDS FROM SALE

At any time within one year from and after such sale the former owner of the vehicle sold, upon application to the Town Council and upon presentation of satisfactory proof that he was the owner of the vehicle sold, shall be paid the proceeds of such sale less the necessary expense thereof and less the towing, impounding and storage charges provided for in this ordinance.

6.5 RECORDS

The sheriff's office shall keep a record of all vehicles impounded by name and address of all persons claiming the same, any other descriptions that may aid to identify such vehicles, nature and circumstances of impounding, violation for which such vehicles were impounded, the date of such impounding, and the name and address of any person to whom any such vehicle is released.

7.0 HEARING OF APPEALS

Upon receipt of written notice to an owner or occupant ordered to abate any nuisance as outlined in this Ordinance, the owner or occupant may appeal the decision as set out below.

Appeal to Town Council: The owner or occupant may appeal directly to the Town Council. This appeal must be submitted in writing within ten days of the notice from the Town. Until the appeal has been scheduled and reviewed by the Town Council, the schedule for abatement described in the original notice shall be suspended.

Following this hearing, the Town Council shall re-issue the original notice of abatement, or may alter the notice, or may cancel it.

8.0 ABATEMENT BY THE TOWN

Failure to Comply: If the owner or occupant described in the notice shall fail or neglect to conform to the requirements of such notice relating to abatement of the nuisance or to the

eradication or destruction or removal of such garbage, refuse, objects or structures, the Town shall employ all necessary assistance to abate the nuisance and to cause such materials to be removed or destroyed at the expense of the Town.

Statement of Expenses: The Town shall prepare an itemized statement of all expenses incurred in the abatement of the nuisance and removal and destruction of said materials and shall mail a copy thereof, by registered mail, to the owner or occupant, or both, demanding payment within twenty days of the date of mailing. Said notice shall be deemed delivered when mailed by registered mail addressed to the owner's or occupant's last known address.

9.0 FAILURE TO MAKE PAYMENT

In the event the owner or occupant fails to make payment, or make formal arrangements with the Town for payment, of the amount set forth in said statement of expenses to the Town Treasurer within the twenty-day period, the Town may either cause suit to be brought in an appropriate court or refer the matter to the Town Attorney as provided in this Ordinance.

10.0 COLLECTION OF ABATEMENT COSTS

Collection by Suit: In the event collection of expenses of destruction and/or removal are pursued through the courts, the Town shall sue for all of said expenses of destruction and/or removal, together with reasonable attorney's fees, interests and costs of court, and shall execute upon such judgment in the manner provided by law.

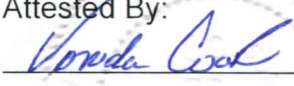
Collection through Taxes: In the event that the matter is referred to the county treasurer for inclusion in the tax notice of the property owner, the Town shall make in triplicate an itemized statement of all expenses incurred in the destruction and/or removal of the same and deliver three copies of said statement to the county treasurer within ten days after the expiration of the twenty-day period, in which the owner or occupant may pay voluntarily. Thereupon, the cost of said work shall be pursued by the county treasurer in accordance with the provisions of Section 10-11-4, Utah Code Annotated 1953, as amended, and the owner or occupant shall have such rights and shall be subject to such powers as are granted therein.

11.0 EFFECTIVE DATE

In order to establish proper public NUISANCE control measures for the Town of Cedar Fort in a concise and expedient manner, this ordinance will take effect upon passage vote of the Town Council.

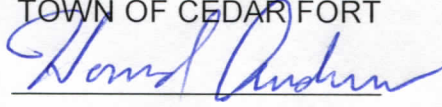
PASSED AND DATED this 24th day of May, 2016.

Attested By:



Town Clerk



TOWN OF CEDAR FORT


Mayor


Councilmember Howard Anderson	Voted <u>yea</u> _____
Councilmember Ellen Cibula	Voted <u>yea</u> _____
Councilmember Larry Mohler	Voted <u>yea</u> _____
Councilmember Chris Murphy	Voted <u>YEA</u> _____
Councilmember Richard Stark	Voted <u>YEA</u> _____

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

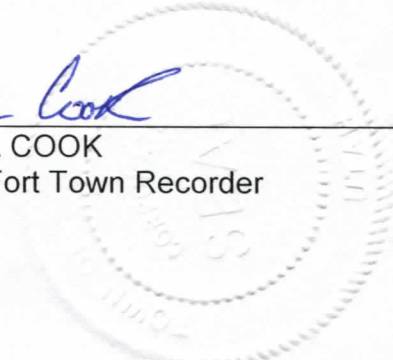
I, VONDA COOK, Town Recorder of Cedar Fort Town, Utah, do hereby certify and declare that the above and foregoing is a true, full, and correct copy of an ordinance passed by the Town Council of Cedar Fort Town, Utah, on the 24th day of May 2016, entitled

“STREET NUISANCE ABATEMENT ORDINANCE OF THE TOWN OF CEDAR FORT, UTAH“

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Cedar Fort Town Utah this 24th day of May 2016.



VONDA COOK
Cedar Fort Town Recorder



(SEAL)

AFFIDAVIT OF POSTING

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

I, Vonda Cook, Town Recorder of Cedar Fort Town, Utah, do hereby certify and declare that I posted in three (3) public places the following summary of the ordinance which was passed by the Cedar Fort Town Council on the 24th day of May 2016 and herein referred to as:


“STREET NUISANCE ABATEMENT ORDINANCE OF THE TOWN OF CEDAR FORT, UTAH“

SUMMARY:

The purpose of this Ordinance is to define and designate what is a street nuisance and to regulate the abatement of such nuisances within the Town. Vehicles and other items that constitute nuisances are explained and procedures for removal or appeal are established.

The three places are as follows:

1. Post Office
2. Town Hall
3. Cedar Valley Store



Vonda Cook
Cedar Fort Town Recorder

Date of Posting 25 May 2016