

ORDINANCE NO. 2023-16

AN ORDINANCE DEFINING AND PROVIDING FOR THE PREVENTION, REMEDYING, AND ABATEMENT OF NUISANCES OF PROPERTY, NOISE, AND LIGHT

WHEREAS, pursuant to Utah State law, including Utah Code sections 10-8-60 and 10-3-703.7, as well as Utah Code, Title 10, Chapter 11, Lake Point is authorized to adopt ordinances and regulations defining, preventing, abating, and otherwise providing for the remedying of nuisances.

WHEREAS, the Lake Point City Council desires to support the right of property owners to use their property for all lawful purposes, and the right of property owners to their right to be free from unreasonable nuisances on adjacent properties.

WHEREAS, Lake Point City Council finds that certain conditions or actions on property constitute nuisances that harm or threaten the health, safety, and welfare of occupants of such properties and harm or threaten the health, safety, and welfare of adjacent property owners and residents.

WHEREAS, the Lake Point City Council finds that excessive and unreasonable noise, which depends on the location, time, type, and purpose of the sound, constitutes a nuisance and may be injurious to health.

WHEREAS, the Lake Point City Council desires to define nuisances and provide for and promote the voluntary prevention and remedying of nuisance conditions;

NOW, THEREFORE, BE IT ORDAINED by the Lake Point City Council as follows:

The purpose of this chapter is to provide a means for Lake Point and individuals to address nuisances within the city, and to provide a means of correcting or abating nuisances. Lake Point needs the ability to abate nuisances in order to protect the health, welfare and safety of the public; to preserve the rural character, appearance and beauty of the city; to preserve the value of property, to encourage community pride, and to protect the general welfare of the city and its citizens, visitors, and businesses.

This chapter provides for voluntary compliance and the community working together through progressive enforcement measures to abate nuisances; the most aggressive forms of enforcement are generally preserved for the most recalcitrant violators of the terms of this chapter.

Section 1. Definitions. As used in this Ordinance, the following words and terms shall have the meanings ascribed to them in this section:

1. A-Weighted Sound Pressure Level: The sound pressure level as measured with a sound level meter using the A-weighting network, denoted as dBA.
2. Abandoned structure or building: A structure or building that has been allowed to deteriorate to a condition so as to be structurally unsound and to threaten or injure the physical health, safety, or integrity of persons or property. A structure or building will only be considered abandoned if the structure or building threatens or injures a

person or property other than the owner, resident, or invitees of the property or threatens or injures property that is not located on the same lot or parcel as the abandoned structure or building. A structure or building shall not be deemed abandoned if the owner repairs or restores it within six months after written notice issued under this Ordinance, or if there is an active building permit for the structure or building.

3. Agriculture. Any non-commercial use of property for the raising, cultivating, or caring of crops, livestock, fish, honeybees, poultry, horses, orchards, vineyards, and gardens with the property owner's permission.
4. Ambient Sound: The sound pressure level which represents the summation of the sound from all the discrete sources affecting a given site over a given measurement period, which shall not be less than 10 minutes, exclusive of the source under investigation.
5. Appeal Board: The City Council, or the person, entity, or board designated and appointed by the City Council as the appeal board.
6. Building: Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind, which structure is 200 square feet or larger.
7. Daytime: The hours between 6:00 AM and 10:00 PM.
8. Driveway: a surface of concrete, asphalt, gravel or other hard material, which is used to park a vehicle or for vehicular access to a garage or parking area.
9. Graffiti: Writing or drawings scribbled, scratched, marked, Painted, or sprayed illicitly on a wall, fence, or any other surface without permission of the owner of such property.
10. Nighttime: The hours between 10:00 PM and 6:00 AM.
11. Excessive Noise or Sound: Excessive, unnecessary or unusually loud man-made noises that are prolonged, unusual, or unreasonable in their time, place or use and that affect and are a detriment to the comfort, convenience, safety, welfare or are harmful to the health of the residence shall be prohibited Sound that may be harmful to health. Excessive Noise or Sound does not include natural animal noises from livestock, agricultural food animals, or human speech by residents unless amplified with a man-made device in violation of this section.
12. "Noise Level" means the level of sound measured over a period of not less than 10 minutes.
 - a. "Tenth Percentile Noise Level" means the A-weighted sound pressure level that is exceeded 10 percent of the time in any measurement period, such as the level that is exceeded for 1 minute in a 10-minute period.

- b. “Ninetieth Percentile Noise Level” means the A-weighted sound pressure level that is exceeded 90 percent of the time in any measurement period, such as the level that is exceeded for 9 minutes in a 10-minute period.
- 13. “Nuisance” means those conditions or acts described in Section 2 of this ordinance.
- 14. Owner: Any person who alone or jointly and severally with others has legal title to any premise, dwelling, or dwelling unit or has charge, care, or control of any premises, dwelling, or dwelling unit, as legal or equitable owner, agent of the owner, or is an executor, administrator, representative, trustee, or guardian of the estate of the owner.
- 15. Person: any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the State or its departments, institutions, bureau, or agency thereof, municipal corporation, county, city, or any legal entity recognized by the law.
- 16. Receiving property: Any primary structure on a property, including an individual unit of a multi-dwelling or multi-use property, that is adversely affected by noise transmitted by another property or from another unit within the same multi-dwelling or multi-use property.
- 17. Structure: Anything constructed or erected which requires location on the ground, but not including a tent or automobile, and which is 200 square feet or larger.
- 18. Type A Property: A property used solely for residential purposes.
- 19. Type B Property: A property used for any other use allowed in the city, including but not limited to, agriculture, retail, offices, repair, restaurants, gasoline stations, and more.
- 20. Unsheltered: Not contained within a building or structure, including the primary building or an accessory building, or can be seen from public view.
- 21. Weekend: Friday and Saturday, and until 8:00 PM on Sunday
- 22. Yard – Front: The portion of a lot or parcel facing or fronting a street within the required setback area.

Section 2. General Nuisances Defined and Enumerated

- 1. Statement: Every act or condition made, permitted, allowed or continued in violation of this Ordinance, is hereby declared to be a nuisance and may be abated and remedied as hereinafter provided. No person owning, residing or occupying on any property or a person acting as an agent of the property shall allow the creation, support of, continuance of or retention of a nuisance thereon. The owner of the property, regardless of the residency thereof, shall be deemed to be author of a nuisance and shall be responsible to correct the nuisance and be responsible for the abatement thereof, enforcement of this ordinance, and the city’s costs related thereto.

Every successive owner of a property or premises where a nuisance was caused by a former owner or tenant is responsible therefore in the same manner as the one who first created it.

2. Nuisances Generally: A nuisance regulated and prohibited by this Ordinance shall include each of the following, and all other nuisances described below and further defined throughout this ordinance:
 - a. Nuisances as defined in Utah Code Annotated sections 78B-6-1101, 76-10-801, 76-10-803, 10-11-1, as amended.
 - b. Any item, thing, manner, or condition whatsoever that is dangerous to human life or health, deleterious, injurious, noxious, and whatever renders soil, air, water, or food impure or unwholesome, which includes but is not limited to conditions described in this chapter.
 - c. 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.
 - d. Unlawfully doing any act or omitting to perform any duty, which act or omission:
 - i. Offends public decency of two (2) or more persons who are not related or living in the same residence.
 - ii. Annoys, injures, or endangers the comfort, repose, health, or safety of two (2) or more persons who are not related or living in the same residence.
 - iii. In any way renders two (2) or more persons who are not related or living in the same residence insecure in life or the use of property; or
 - iv. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, sidewalk, trail, square, street, highway or other public place.
 - v. Any act which affects two (2) or more persons who are not related or living in the same residence in any of the ways specified in this subsection is still a nuisance regardless of the extent to which the annoyance or damage inflicted on individuals is unequal.
 - e. A condition which:
 - i. Wrongfully injures, or endangers the comfort, repose, health or safety of others; or

- ii. Unlawfully interferes with, obstructs or tends to obstruct, or render dangerous for passage, any public park, square, sidewalk, trail, street or highway, or any other public place; or
 - iii. In any way renders other persons insecure in life, or in the use of property, and which affects the rights of an entire community or neighborhood, although the extent of the damage may be unequal.
- f. Specific Nuisances: Anything specifically listed as a nuisance in this ordinance.
- 3. Specified: Nuisances include, but are not limited to:
 - a. Gambling: Every building or premises where gambling is permitted to be played, conducted, or dealt upon as prohibited in title 76, chapter 10, part 11, Utah Code Annotated (gambling).
 - b. Drug Houses: Every building or premises where the unlawful sale, manufacture, service, distribution, storage, dispensing, or acquisition of any controlled substance, precursor, or analog specified in title 58, chapter 37, Utah Code Annotated (Utah controlled substance act) occurs.
 - c. Gangs: Every building or premises wherein criminal activity is committed in concert with two (2) or more persons as provided in section 76-3-203.1, Utah Code Annotated.
 - d. Party Houses: Every building or premises where parties in violation of other nuisances have been documented to occur frequently which create the conditions of a nuisance as defined.
 - e. Prostitution: Every building or premises where prostitution or the promotion of prostitution is regularly carried on by one or more persons as provided in title 76, chapter 10, part 13 (prostitution), of the Utah Code Annotated
 - f. Animal Carcasses: Carcasses of animals not buried or destroyed within seventy-two (72) hours after death.
 - g. Burning without a permit when required by city ordinance or the North Tooele Fire District.
 - h. Impairing, impacting, impending, blocking or preventing access to an easement.
 - i. Befouling Water: Befouling water in any spring, stream, well, or water source supplying water for culinary purposes. Includes connections between secondary water systems or sewer systems and culinary water systems and other cross-contamination of culinary water systems.

- j. Septic Tanks, Privies, Cesspools: Allowing any privy vault, septic tank, cesspool, or other individual wastewater disposal system, to become a menace to health or a source of odor or contamination to air or water, or to be used and constructed in violation of health and safety regulations. Includes neglecting or refusing to discontinue use of, clean out, disinfect and fill up all privy vaults, septic tanks, and cesspools or other individual wastewater disposal systems when no longer in use or when required to be discontinued.
- k. Stagnant Water; Offensive Substances: Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substances if such water or substance poses a threat to the health of persons or property.
- l. Restrooms or Sewer facilities. Failing to construct or maintain any restroom, sanitation, or sewer facilities in accordance with Utah law and city ordinances.
- m. Garbage Containers: Permitting any garbage container that has become unclean and offensive to remain on the premises without disposal.
- n. Garbage Accumulation: Allowing garbage, litter, filth or refuse of any nature to accumulate within or upon any public property. Private alley, yard, or area, except when it is temporarily deposited for immediate removal, contained within appropriate garbage containers for future removal, or being composted or otherwise used for beneficial purposes.
- o. Slaughterhouses, Feed Yards, Food Sales: Permitting any slaughterhouse, market, meat or food shop, stable, feed yard or other place or building wherein any animals or animal parts are slaughtered, kept, stored, fed, or sold, or wherein any other food product is prepared, kept, 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.
- p. Discharging Offensive Water Or Liquid Waste: Discharging or placing any offensive liquid or semi-liquid substance, including secondary or contaminated water, chemical spray, grease, oil, hazardous material, 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 as environmental hazard.
- q. Obstructing Public Ways or Property: Obstructing or tending to obstruct or interfere with or render dangerous for passage any public street, sidewalk, trail, utility line or connection, utility easement, or any public park without written authorization of the city council.

- r. **Rechanneling or Obstruction of Watercourse.** It shall be unlawful for any person to permit or to authorize any lake, stream, drainage system or facility, canal, basin, drainage system, stormwater system, pond, 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 therefrom, to be diverted, removed, rechanneled, piped, or drained onto other property without appropriate authorization, or to become unsanitary. Includes filling in, modifying, or removing any stormwater pond, swale, detention basin, or retention basin, whether owned by the city or privately owned and required as part of a private development, without written authorization of the city council.
- s. **Dead or Diseased Trees:** Any dead tree which constitutes a hazard to life and property of another. Any diseased trees which, after inspection by a certified arborist, are determined to be a risk to the health and welfare of other property owners' or public trees.
- t. **Abandoned Structure:** That have a foundation, exterior wall, and/or roof not maintained in good repair, that have not been constructed according to applicable building, fire, and other construction codes, or have been rendered unsafe to occupants or other persons by geologic hazards, flooding, or other weather or natural conditions. This includes broken windows and surfaces which are not painted, stained, or constructed of decay-resistant materials to protect and preserve the safety and appearance of the structure. Structures which are under active construction are not considered unmaintained. Active construction shall be allowed for up to 18 months or while a valid building permit has been issued for the property, whichever is longer.
- u. **Improper Buildings and Structures:** Buildings and structures that have been constructed in violation of state construction codes or Lake Point city ordinances and regulations, including permit requirements, setback requirements, conservation restrictions, no-build zones, public utility and other easements, or plat restrictions.
- v. **Lighting:** In violation of, or not complying with the Lake Point Dark Sky Ordinance.
- w. **Business Registration and License Ordinance Violations.**
- x. **Graffiti:** Graffiti which remains on the exterior of any building, fence, wall, sign, or other structure and which is visible from a public street or public trail.
- y. **Trash and Debris Storage:** It shall be unlawful to permit or allow storage of trash and debris as outlined herein.

- i. No property shall be used for the permanent disposal of trash or garbage in Lake Point City unless the site is specifically zoned and permitted under Utah law for the disposal of solid waste.
 - ii. It is a nuisance for any owner of property or building permit holder to allow trash or debris to spill or be blown by the wind from the construction, storage areas or other trash container and/or to cause litter to the property of others or to the public property.
 - iii. It is a nuisance for any property owner, building permit holder, or other person working within or occupying an open or vacant lot or construction site to keep or store demolition debris, construction debris, garbage or trash, used materials, junk, household furniture, appliances, scrap material, equipment or parts thereof on the property in other than a trash container or other appropriate storage container that is capable of being secured against vandalism, wind, or other disturbance which may cause the container to spill or otherwise discharge its contents.
- 4. Exemptions from nuisance: The following shall be exempt from and shall not be considered a nuisance unless otherwise stated.
 - a. Agricultural Operations: No public nuisance definition or prohibition shall include any agricultural activity or operation conducted using sound agricultural practices unless that activity or operation bears a direct relationship to public health or safety or violates another city ordinance, state law or federal law.

Section 3. Noise Nuisance

- 1. Noise. The making and creation of unreasonable unnatural man-made noise, as set forth below, is hereby declared to be a public nuisance and may be abated, regulated, and controlled as such.
- 2. No person shall emit, nor shall any person cause, allow, permit, or fail to control the emission of any unnatural manmade noise source so as to exceed the allowable Ninetieth Percentile Noise Level for the type of property from which the noise emits, when measured within the primary building of the receiving property.
 - a. Type A Property:
 - i. Daytime: 65 dBA.
 - ii. Nighttime: 50 dBA.
 - b. Type B Property:
 - i. Daytime: 70 dBA.

ii. Nighttime: 60 dBA.

3. Additional Regulations:

- a. On weekends, the normal Daytime hours are extended until 11:00 PM unless otherwise identified..
- b. The maximum sound levels are reduced by 5 dBA for stationary sources of sound that emit continuous sounds that continue for at least 10 minutes or more, pure tones of a consistent pitch, or repetitive or impulse sounds that result in similar noise levels at reasonably uniform intervals of time.
- c. No person shall emit, nor shall any person cause, allow, permit, or fail to control the emission of any stationary source of sound that creates a tenth percentile sound pressure level greater than 15 dBA above the ambient sound pressure level of any measurement period.

4. Exceptions: The following shall be exempt from the noise regulations of this section:

- a. Agricultural operations, including agricultural equipment and livestock kept as part of an agricultural operation.
- b. Emergency events, equipment, and vehicles.
- c. Commercial or personal emergency power generators operating during power failure or outage.
- d. Fireworks and explosives in accordance with state and local regulations.
- e. Heating, Ventilation, and Air Conditioning (HVAC) systems, if the system is in good repair and operating within manufacturer's specifications.
- f. City, school, or other governmental approved events, within the parameters of such approvals.
- g. Snow removal equipment.
- h. Temporary or short-term use of equipment or machinery for construction, maintenance, landscaping, or cleaning during daytime hours.
- i. Other temporary exceptions may be granted with the approval of the City. In granting exceptions, the City shall strive to limit the amount of noise generated or allowed during nighttime hours.
- j. State & Federal Holidays or City Events until midnight excluding New Years eve which will be allowed to 30 minutes after midnight the day of the event.

Section 4. Compliance:

1. Established: There is hereby established the position of compliance officer, whose duties shall be to assist with the voluntary correction of nuisances and carry out the provisions of this chapter. Such person may be the city council, the city's law enforcement agency, or such other person appointed by the city council.
2. Duties: The compliance officer, the city council, the city's law enforcement agency or other person appointed by the city council is authorized to:
 - a. Perform all functions necessary to carry out and enforce the provisions of this Ordinance.
 - b. Upon receipt of a complaint in accordance with this section, inspect or cause to be inspected, as often as needed and subject to the restrictions of this Ordinance, all buildings, structures, lots, parcels, or other places for the purpose of determining whether such comply with the provisions of this Ordinance.
 - c. Issue violation informational notices, preparing and approving voluntary correction agreements, issue formal written violations and administrative citations, and assist with hearings and other proceedings as required by this Ordinance as outlined by the procedures herein.
3. Limitation on Authority: The compliance officer shall not be authorized to abate conditions solely associated with the interior of a structure, unless required for the demolition and removal of the structure or to eliminate or remove hazardous materials within a structure that has been closed to occupancy or entry by a local health department or fire department.
4. A City Council appointed compliance officer shall not patrol for nuisance violations. This restriction shall not prevent an officer from investigating or reporting to the City Council, law enforcement, or building official a nuisance or other condition that constitutes a reasonably imminent threat to the health, safety, or welfare of people, criminal activity, or violations of building and fire code.

Section 5. Abatement Procedure

1. Policy Statement: It is the declared policy of Lake Point that the correction, removal, and remedying of nuisances should be pursued on a voluntary basis by the resident or owner of the property. It is further declared that the enforcement and abatement procedures described in this Ordinance shall only be pursued after the owner has been given notice and a reasonable opportunity to correct the nuisance voluntarily.

The compliance officer will generally only investigate a nuisance on private property if the City Council or other City Personnel has received a complaint from three (3) or more persons regarding the same nuisance.

Nothing in this Ordinance shall restrict the compliance officer or other authorized persons from investigating and correcting 1) nuisances on public property; 2) nuisances on private property that the compliance officer has determined to be

primarily a health or safety hazard; or 3) the enforcement of building, fire, and construction codes and standards. In addition, this section shall not preclude the City Council, the city's building official, or the city's law enforcement agency from investigating a nuisance violation in their discretion if there is a potential health, safety, or welfare issue or potential violations of state or federal criminal law. In such circumstances, the violation can be mitigated immediately without the submission of three (3) call-in or written complaints per subsection 2.

2. Receipt of a Nuisance Complaint – When three (3) or more people who are not related to each other or living in the same residence submit one or more written or call-in nuisance complaints documented by Lake Point City staff regarding a nuisance within a six (6) month period, the complaints will be reviewed to determine the proper party to handle the complaints. The building inspectors, the city's law enforcement agency, the city council or the city's appointed compliance officer will be assigned the complaint.
3. Inspection: Upon finding a potential nuisance, or upon receipt of a complaint regarding a potential nuisance, the assigned compliance officer will conduct an inspection to verify the potential nuisance. Inspections shall only be conducted from public property or upon or within private property with the property owner's or property resident's permission. The inspection will only be of the specific complaint and location identified in the complaints. No other violations or potential violations observed by the compliance officer in the process of correcting the identified nuisance or while traveling in the city will be addressed without meeting the complaint requirement or exceptions thereto described in subsection 1. This restriction on investigations shall not waive the city's right to later investigate and correct other conditions and nuisances associated with the subject property in accordance with the processes set forth herein. This inspection process and restrictions thereon shall not apply to investigations or inspections related to criminal matters or enforcement of building, fire, and construction codes or public health and safety matters.
4. Existence Of Objectionable Condition: If the compliance officer concludes after inspection that there exists an objectionable condition or nuisance in violation of this ordinance, the compliance officer shall ascertain the names, address, and other contact information of the author of the nuisance and descriptions of the premises where such objects and/or conditions constituting a nuisance exist and shall proceed to resolve, correct, and abate the condition and nuisance in accordance with the process set forth herein.
5. Voluntary Corrections: The terms of this section shall apply whenever the compliance officer determines that a nuisance exists. This section does not include nuisance violations where there is a violation of state or federal criminal law, and the process in this subsection (5) does not need to be followed for criminal law enforcement, noise nuisances, or enforcement of building, fire, and construction codes and standards.

- a. Contact: Before taking other steps to abate the nuisance the compliance officer shall make a reasonable attempt to secure voluntary correction or abatement of the nuisance by:
 - i. Contacting the responsible party, where possible
 - ii. Explaining the nuisance
 - iii. Requesting the responsible person to abate the nuisance: and
 - iv. Verbally setting a deadline for compliance and other terms necessary to abate the nuisance.
 - v. The compliance officer shall make a written report of their actions and communications, including the deadline and other terms for the voluntary abatement of the nuisance.
- b. Voluntary Correction Agreement – If the nuisance is not corrected after a reasonable time, not less than fourteen (14) days after the initial contact, the compliance officer may request that the responsible person agree to a deadline and terms for abating the nuisance by entering into and signing a voluntary correction agreement. The voluntary correction agreement is a contract between the city and the responsible person in which the responsible person agrees to abate the nuisance within a specified time and according to specified conditions. The voluntary correction agreement shall include the following terms:
 - i. The name and address of the responsible party.
 - ii. The street address of the nuisance, or a description sufficient to identify the building structure, premises, or land upon which the nuisance is occurring.
 - iii. A description of the nuisance.
 - iv. The necessary corrective action to be taken, and a date or time by which correction must be completed.
 - v. An agreement by the responsible person that designated agents of Lake Point may periodically inspect the premises as may be necessary to determine compliance with the voluntary correction agreement.
 - vi. An agreement by the responsible person that Lake Point may abate the nuisance and recover its costs and expenses to abate the nuisance,

as well as a monetary fine pursuant to this chapter from the responsible person, should the responsible person fail to comply with all of the terms of the voluntary correction agreement.

vii. An agreement by the responsible person acknowledging that he/she waives the right to appeal the compliance officer's finding that a nuisance exists and waives the right to appeal the specific corrective action required in the voluntary correction agreement; and

viii. An agreement by the responsible person that failure to comply with the voluntary correction agreement may be grounds for additional abatement actions.

c. No Agreement: If the compliance officer determines that a nuisance exists, and the compliance officer is unable to secure a voluntary agreement, including when the responsible person cannot agree on a deadline for compliance or other necessary terms for correcting or abating the nuisance, the compliance officer may proceed to abate the nuisance using one or more of the procedures set forth in this chapter or in state or federal law.

6. Notice: Notice of a nuisance shall be in writing on the **Lake Point Nuisance Violation Notice form** (attached as appendix A) and will be served upon the owner as well as the resident of the premises, if different from the owner. Notice shall be served personally and by mailing notice prepaid, addressed to the person or property at their last known post office address as disclosed by the records of the county assessor, or as otherwise ascertained. Such notice shall be signed by the investigating compliance officer under penalty of perjury and shall include the following:

a. A specific statement of the nature of the violation, a copy or reference to the applicable law, regulation, or ordinance, and a description of the premises on which the violation exists.

b. Any photos of the violation if available.

c. A requirement that the owner remove the nuisance within such time as the compliance officer or city council may designate; provided, that any person notified pursuant to this subsection shall be given at least twenty days (20), but not more than thirty (30) days to remediate any nuisance. This section does not apply to a noise nuisance, threat to public safety or health or violation of state or federal criminal code, as determined by the compliance officer or city council. Noise nuisance, threat to public safety or health or violation of state criminal code nuisances must be immediately removed or corrected following the date of service of such notice to correct the objectionable condition.

- i. Extensions may be granted for a period of thirty (30) additional days, but the total extensions may not exceed three (3) total 30-day extensions, for a total extension of up to ninety (90) days total for correction unless otherwise stated in this ordinance. Extensions will only be granted upon written request from the owner and upon a finding that the owner is in the process of correcting or removing the nuisance, but that due to the nature of the nuisance or due to circumstances outside of the owner's control, additional time is necessary to complete the correction or removal.
 - ii. The compliance officer or a majority vote of the city council may grant an extension of the time limit for correcting or abating the nuisance if the responsible person has shown due diligence and/or substantial progress in correcting or abating the nuisance but unforeseen circumstances render abatement under the original conditions impractical. If the responsible person complies with the terms of the voluntary correction agreement, Lake Point shall stay further enforcement action against the responsible person related to the nuisance described in the voluntary correction agreement unless the nuisance occurs again, or progress is no longer being made towards resolution in a 30-day period. The city may require the execution or written amendment, as applicable, of a voluntary correction agreement for such additional extensions.
 - d. Inform the person of their right to appeal, as described herein:
 - i. The person shall be informed that in the event they disagree with the determination of the compliance officer, or if they object to the factual or legal basis for the notice, they may request, in writing, an informal hearing before the appeal board.
 - ii. The person shall be informed that the appeal must be applied for within fifteen (15) days of receiving the notice of objectionable condition, and that the appeal must contain a summary or copy of all evidence, claims, and objections the owner intends to raise.
 - e. Inform the owner of the potential penalties for failing to correct the nuisance, including abatement, collection costs, correction costs, civil penalties, and other remedies.
- 7. Administrative Citation: When the compliance officer determines that a nuisance exists, and is unable to secure a voluntary correction, the compliance officer may issue an administrative citation to the responsible person.
 - a. The compliance officer may issue an administrative citation, without having attempted to secure a voluntary correction under the following circumstances:

- i. When an emergency exists.
 - ii. After authorization from the City Council by a vote of the majority when the compliance officer is unable to locate or determine the identity of the responsible person.
- b. Content Of Administrative Citation: The administrative citation shall include the following:
 - i. The name and address of the responsible person; and
 - ii. The street address of the nuisance or a description sufficient for identifying the building, structure, premises, or land upon or within which the nuisance is occurring; and
 - iii. A description of the nuisance; and
 - iv. The required corrective action; and
 - v. The completion date and notice that the city may abate the nuisance and charge the responsible person for all abatement costs if the responsible person does not correct the nuisance before the completion date; and
 - vi. The time for appealing the administrative citation and the procedure for filing an appeal.
 - vii. A statement indicating that no monetary fine will be assessed if the compliance officer approves the completed, required corrective action prior to the completion date; and
 - viii. A statement that Lake Point may abate the nuisance and assess costs and expenses of abatement and a monetary fine against the responsible person if the correction is not completed by the responsible person and approved by the compliance officer before the completion date.
- c. Service of Administrative Citation: The compliance officer shall serve the administrative citation upon the responsible person, either personally or by mailing, certified, return receipt requested, a copy of the administrative citation to the responsible person at his/her last known address. If the responsible person cannot after due diligence be personally served within Lake Point and if an address for mailed service cannot after due diligence be obtained, notice shall be served by posting a copy of the administrative citation conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the

manner by which the service was made, and if by posting, the facts showing that due diligence was used in attempting to serve the person personally or by mail.

- d. No Extension: No extension of the time specified in the administrative citation for correction of the nuisance may be granted, except by the city council by vote of majority.
- 8. Nuisances Involving Violation of State or Federal Criminal Laws: For nuisances related to criminal matters, the city may proceed to the nuisance notice, citation, and abatement procedures without need for completing the voluntary correction procedures set forth herein.
- 9. Hazardous Materials: For any notice of nuisance requiring the removal or correction of hazardous materials, the owner shall have at least 180 days from the date of the notice to remove or correct the nuisance or to appeal the notice.

Section 6. Appeal Hearing:

- 1. Grounds for Appeal: Any person receiving an administrative citation may appeal the administrative citation to the hearing officer. Only the following issues may be appealed:
 - a. The person charged in the administrative citation as the author of the nuisance and person responsible therefor is not the author or responsible person.
 - b. The condition described as a nuisance in the administrative citation is not a "nuisance" as defined by this chapter.
 - c. The method required by the administrative citation to abate the nuisance is inappropriate or is not the most cost-effective method of effectively correcting or abating the nuisance.
 - d. The time period given to abate the nuisance in the administrative citation is unreasonable.
 - e. The monetary fine set forth in the administrative citation is unreasonable.
 - f. The Compliance Officer refused to approve a corrective action that met the requirements of the administrative citation.
 - g. The responsible person claims that the requirements of the abatement action violate their constitutional rights.
- 2. Stay on Appeal: The filing of a written application for an appeal hearing and the payment of the appeal fee shall stay the time within which the person must conform to the provisions of the notice.

3. Fee: To file an appeal, the owner shall pay a fee set by the city council, which fee shall be refundable in the event that the appeal board overrules the determination of the compliance officer in its entirety. The appeal board shall set the time and place for the appeal hearing, and the city recorder shall notify the appellant, in writing, of the time and place at which they may appear and be heard. The hearing shall be heard within twenty (20) days from the date the hearing notice was issued unless another time is agreed upon by the parties.
4. Informal Hearing; Written Decision: The appeal board shall conduct all appeals in accordance with this ordinance.
 - a. The appeal shall be informal and shall be conducted to protect the due process rights of all parties.
 - b. Unless the appellant requests otherwise, the hearing shall be open to the public but shall not be open to public comment.
 - c. The city compliance officer, in advance of the hearing, will provide all evidence of abatement actions, notices, statement, complaints and other information necessary for the appeal board to understand the actions taken against the appealing party and provide a copy of all such evidence to the appellant.
 - d. The appellant may present such evidence and argument as is pertinent to the question of whether the conditions constitute a nuisance and whether the removal or abatement of the objects, structures, or conditions is properly within the purview of this Ordinance. The appellant may be represented by legal counsel and may call witnesses. Failure to present any evidence, objection, or claim shall waive the owner's right to have the same be considered by the appeal board or any other reviewing entity. Neither the appeal board nor a court reviewing the proceedings or decision shall consider evidence or arguments that were not presented to the appeal board.
 - e. The appeal board shall also permit the presentation of evidence and argument by the compliance officer and other appropriate city representatives.
 - f. Burden Of Proof: The appellant shall have the burden of proof to demonstrate by a preponderance of the evidence that he/she had legitimate grounds for an appeal. The determination of the compliance officer as to the need for the required corrective action shall be accorded substantial weight by the hearing officer in determining the reasonableness of the corrective action.
5. Decision and Notice.
 - a. Within a reasonable time after conducting the appeal hearing, the appeal board shall issue a written decision affirming, reversing, or modifying the

decision of the compliance officer in any manner that the appeal board finds appropriate. If the appeal board modifies the decision of the compliance officer, the decision shall specify which portions are modified and how they are modified. The appeal board shall include such findings of fact and conclusions of law as are necessary to support its decision.

- b. The written decision shall be served on the appellant in the same manner as the notice of violation or nuisance.
6. Time Period of Compliance:
- a. In the event the decision of the appeal board appeal officer upholds the determination of the compliance officer or the city's law enforcement agency, the notice originally given by the compliance officer or the city's law enforcement agency as above provided shall be deemed to be sufficient to require the owner to remove or abate the nuisance, and they shall have up to ten (10) days from the date of notice of the decision within which to conform thereto, unless additional time, according to the extension procedures set forth herein, is authorized by the compliance officer or appeal board.
 - b. Time Period for Compliance: In the event that the decision of the appeal board either overrules or modifies the determination of the compliance officer, the written decision of the administrative appeal officer shall apprise the owner of that fact and set forth the details and extent to which the owner must make removal or other abatement of the objectionable objects or conditions, if any. The owner shall be required to conform to the decision within ten (10) days after service or receiving a mailed copy of the decision unless additional time, according to the extension procedures set forth herein, is authorized by the compliance officer or appeal board.

Section 7. Failure To Comply, Abatement By City:

- 1. Abatement.
 - a. If any person described in such voluntary agreement, formal notice, administrative citation or appeal decision shall fail or neglect to conform to the requirements thereof relating to the abatement of the nuisance, the compliance officer under approval of the city council by majority vote may employ all necessary assistance to cause the nuisance to be removed or destroyed at the expense of the city, subject to reimbursement and collection of such costs from the owner.
 - b. Emergency Abatement. Whenever a nuisance is occurring which constitutes an immediate and emergency threat to the public health, safety or welfare of persons or the environment, the city may summarily and without prior notice, abate the condition. Notice of such abatement, including the reason for it, shall be given to the responsible person as soon as reasonably possible

after the abatement. The city may abate the nuisance using any lawful means, and the city may enter upon the subject property and may remove or correct the condition which is subject to abatement. The city may seek, but is not required to seek, such judicial process as it deems necessary to effect the removal or correction of such condition.

c. Costs for Abatement

The costs, including incidental expenses, or correcting or abating the violation shall be billed to the responsible person and/or the owner, lessor, or agent entitled to control, use and/or occupy the property and shall become due and payable to Lake Point within ten (10) days of actual receipt of the bill or within fifteen (15) days of the mailing date if the bill is mailed. The term "incidental expenses" includes, but is not limited to:

- i. Personnel costs, both direct and indirect, including attorney fees and costs.
- ii. Costs incurred in documenting the violation.
- iii. Hauling, storage and disposal expenses.
- iv. Actual expenses and costs for the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and
- v. The costs of any required printing and mailing.

- d. Itemized Statement: The compliance officer shall prepare an itemized statement of all expenses incurred in the abatement of nuisances, including administrative, personnel, and legal costs, 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 hand delivery and registered mail, addressed to the property on which the nuisance exists, the address of record with county land records for the owner or the property, or last known address of the property owner, occupant or persons having an interest in the property if different from the above.
- e. Failure To Make Payment: In the event the owner fails to make payment of the amount set forth in the statement to the city treasurer within the twenty (30) days, the compliance officer with approval from the majority of the city council or the city's law enforcement agency may either cause suit to be brought in an appropriate court of law, may assign its right to enforce and collect such expenses to a collection agency or other entity for collection, which entity shall have the same right to collect as if they were the city, or may refer the matter to the city treasurer as provided by state law.

2. Civil Penalty. A civil penalty may also be imposed, pursuant to administrative proceedings conducted by the city. The penalty amount shall not be greater than the fine that would apply were the violation prosecuted as a criminal matter. The pursuit of criminal penalties shall not restrict or prohibit the pursuit of civil penalties or other remedies, and vice versa.
 - a. Monetary Fine: The responsible person shall pay the city a monetary fine for each day the nuisance continues after the completion date. The nuisance shall be considered to continue until the compliance officer or city council by majority vote approves the responsible person's actions to correct or abate the nuisance. The amount of the monetary fine shall be as follows:
 - i. One hundred dollars (\$100.00) per thirty (30) day period while the nuisance remains uncorrected or unabated after the completion date.
 - ii. Two hundred dollars (\$200.00) per each additional thirty (30) day period thereafter until the nuisance is corrected or abated according to the terms set forth in the agreement, notice or appeal decision.
 - b. The monetary fine shall be cumulative and may not be waived by the building official, sheriff, or compliance officer. It may be waived by the city council by a majority vote in favor.
 - c. Payment of a monetary fine pursuant to this section does not relieve the responsible person from the duty to abate the nuisance as required by the voluntary consent agreement, formal notice, administrative citation or appeal denial. The monetary fine constitutes a personal obligation of the responsible person. Any monetary fine assessed must be paid to the city within ten (10) calendar days from the date of mailing of the decision and order or a notice from the city that penalties are due. The city attorney or their designee is authorized to take appropriate action to collect the monetary fine, plus reasonable attorney fees and costs incurred in collecting said monetary fine.
3. Other Remedies. The city may also enforce the provisions of this Ordinance by any other remedy available at law, including injunctions, mandamus, abatement, and proceedings to prevent, enjoin, abate, or remove the unlawful buildings, use, or act.
4. The city may also enforce the provisions of this Ordinance by withholding a building permit or certificate of occupancy, to the extent permitted by state law.

Section 8: Civil Actions:

1. Either the city or any private person directly affected by a nuisance impacting their personal property may bring a civil action to abate or enjoin the nuisance, or for damages for causing or maintaining the nuisance (including the cost, if any, of cleaning the subject property). Civil action may be brought pursuant to this Ordinance or pursuant to state law.

2. Nothing herein shall restrict the right of a person to pursue remedies to prevent or stop harassment and false and repeated complaints that have been found to be unfounded by the city council. This section shall not waive or modify the rights of Lake Point to investigate and pursue correction of any nuisance or other civil or criminal matter, nor shall this waive or modify any immunity or other protection held by Lake Point and its officers, agents, representatives, and employees related to the filing of charges and other process, the abatement of nuisances and procedures related thereto, and the prosecution of administrative, civil, and criminal actions.

Section 9: Complaints and Complainants.

1. The identity of complainants shall be kept confidential. Records that, together or separately, could identify a complainant are classified as non-public, private and protected records under the Utah Government Records Access and Management Act. Disclosure of such records and information shall be made only pursuant to a court order or as otherwise required by governing law. The complainant may waive confidentiality and shall be deemed to waive confidentiality if the complainant discusses the complaint with other residents or parties outside the city representatives involved in resolving the complaint, or if the complainant elects to participate in enforcement proceedings beyond the filing of a complaint.
2. A person alleged to have violated this Ordinance may be informed as to whether a complaint was filed and the general nature of the complaint.
3. Enforcement of nuisances shall be based on the information and evidence gathered by the city and shall not be based on a complaint or evidence provided by a complainant unless the complainant elects to participate in enforcement proceedings as a witness or in other capacities.
4. Neither complainants nor other members of the public shall be entitled to enforcement or prosecution of a particular complaint or nuisance or to receive information regarding the status of compliance and enforcement efforts.

Section 10: This Ordinance shall be effective immediately upon its adoption and publication according to law.