

**WASHINGTON TERRACE CITY  
ORDINANCE 2025-04**

**ADMINISTRATIVE PROCEEDINGS AND NUISANCES**

**AN ORDINANCE OF THE CITY OF WASHINGTON TERRACE, UTAH, ADOPTING CHAPTER 2.18 OF THE WASHINGTON TERRACE MUNICIPAL CODE ENTITLED “ADMINISTRATIVE PROCEEDINGS” TO COMPLY WITH STATE LAW; AMENDING CHAPTER 8.16 OF THE WASHINGTON TERRACE MUNICIPAL CODE ENTITLED “INSPECTION AND CLEANING” TO COMPLY WITH STATE LAW; MAKING TECHNICAL CHANGES AND PROVIDE CONSISTENCY; SEVERABILITY; AND EFFECTIVE DATE.**

**WHEREAS**, Washington Terrace City (hereafter the “City”) is a municipal corporation, duly organized and existing under the laws of the State of Utah;

**WHEREAS**, *Utah Code Annotated* §10-8-84 and §10-8-60 allow municipalities in the State of Utah to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

**WHEREAS**, Title 10, Chapter 11, of the *Utah Code Annotated*, as amended, governing “Inspection and Cleaning” enables municipalities to remove and abate certain nuisances and requires “Administrative Proceedings” in certain circumstances in order for effective enforcement;

**WHEREAS**, the City finds it necessary to update the Municipal Code in order to comply with multiple changes in state law, and to protect public health, safety, and welfare;

**NOW, THEREFORE**, be it ordained by the City Council as follows:

**Section 1: Repealer.** Any other ordinance or portion of the municipal code inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.

**Section 2: Amendment.** Chapter 2.18 of the *Washington Terrace Municipal Code* is hereby enacted to read as follows; and Chapter 8.16 and Chapter 8.18 of the *Washington Terrace Municipal Code* is hereby repealed and re-enacted to read as follows:

## **Chapter 2.18 Administrative Proceedings**

**Sections:**

- 02.18.010     Administrative Proceedings.**
- 02.18.020     Hearing Officer.**
- 02.18.030     Procedure.**
- 02.18.040     Non-judicial Penalty.**
- 02.18.050     Penalties from State Law.**

**02.18.010     Administrative Proceedings.**

In accordance with Utah Code §10-3-703.7, the City hereby adopts this Chapter to establish an administrative proceeding to review and decide one or more civil violations of the Municipal Code.

**02.18.020     Hearing Officer.**

The City Manager may designate one (1) or more persons duly licensed and in good standard with the Utah State Bar as a Hearing Officer under this Chapter.

**02.18.030     Procedure.**

1. Authority. The Hearing Officer shall hear and decide cases arising from Chapter 8.16, and any other state law or municipal code where the City is subject to the administrative proceeding specified in this Chapter.
2. Due Process. The City shall provide due process for parties participating in the administrative proceeding by providing written notice of the date, time, place, and subject of the administrative hearing to the address of record for the property owner(s) and/or occupant(s) at the Office of the Weber County Recorder and an opportunity to be heard before the hearing officer.
3. Appeal. Only any adversely affected person who has standing may make an appeal. Any appeal from the Municipal Inspector enforcing Chapter 8.16, or other applicable code(s), is to be made in writing filed with the City Recorder within ten (10) calendar days of an order or determination letter from the Municipal Inspector. The City Recorder directs any written appeal to the Hearing Officer by scheduling a hearing and providing notice as set forth in this Chapter. Subsequent appeals or any court action after final decision of the Hearing Officer shall only be made in the Second District Court, State of Utah.

4. Review. The standard of review is based upon the preponderance of the evidence. Any appeal is limited to whether the City made a significant error in its order, and the legal theories related to such error or the impairment of due process, as such relate to specific code violation(s).
5. Hearing. An administrative hearing is conducted by the Hearing Officer informally. Rules of procedure and evidence are informally applied, and deference is afforded to the determinations of the Municipal Inspector.
6. Exhaustion. A party must exhaust all administrative remedies under this Chapter before appealing or bringing any action. An action shall only be brought in the Second District Court. The exhaustion requirement in this sub-section may be waived in writing by the City Attorney. An argument that was not raised before the Hearing Officer shall not be raised on appeal before any Court, and the Court shall afford deference to the determinations of the Hearing Officer.

**02.18.040 Non-judicial Penalty.**

1. Limitations. In accordance with Utah Code §10-3-703.7(3)(a), the City may not impose a nonjudicial penalty for a violation of a land use regulation or a nuisance code under Chapter 8.16, unless the City provides to the individual who is subject to the penalty written notice that:
  - a. Identifies the relevant regulation or ordinance at issue;
  - b. Specifies the violation of the relevant regulation or ordinance; and
  - c. Provides for a reasonable time to cure the violation, taking into account the cost of curing the violation.
2. Pending. The City may not collect on a nonjudicial penalty for a violation of a land use regulation or a nuisance code under Chapter 8.16 that is outstanding or pending on or after May 14, 2019, unless the City imposed the outstanding or pending penalty in relation to a written notice that:
  - a. Identified the relevant regulation or ordinance at issue;
  - b. Specified the violation of the relevant regulation or ordinance; and
  - c. Provided for a reasonable time to cure the violation, taking into account the cost of curing the violation.
3. Violations. Based upon this City adopting this Chapter establishing an administrative proceeding process for one (1) or more violation(s) of the Municipal Code in accordance with the requirements of Utah Code §10-3-703.7, the City hereby adopts and imposes the following for each violation of an order issued under Utah Code §10-11-2(1)(c):
  - a. A civil penalty in accordance with Utah Code §10-3-703(2); or
  - b. In accordance with Utah Code §10-3-703(1), a criminal penalty, including by a fine not to exceed the maximum class B misdemeanor fine under Utah Code §76-3-301, by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment.

- c. In accordance with Utah Code §10-11-2(1)(d), the City shall provide one-hundred eighty (180) days after the day on which the written notice from the Municipal Inspector for violations under Chapter 8.16 is delivered in person or the date the notice is post-marked for the recipient of the notice to:
  - i. Abate the hazardous materials; or
  - ii. Appeal the notice and begin the administrative proceeding process.

**02.18.050 Penalties from State Law.**

1. Criminal. In accordance with Utah Code §10-3-703, the City hereby imposes a criminal penalty for each violation of the Municipal Code involving enforcement actions initiated by the City which shall be a fine not to exceed the maximum class B misdemeanor fine under Utah Code §76-3-301, by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment.
  - a. The City may not impose a criminal penalty greater than an infraction for a violation pertaining to an individual's pet, as defined in Utah Code §4-12-102, or an individual's use of the individual's residence unless, the violation:
    - i. Is a nuisance as defined in Utah Code §78B-6-1101(1); and
    - ii. Threatens the health, safety, or welfare of the individual or an identifiable third party; or
    - iii. The City has imposed a fine on the individual for a violation that involves the same residence or pet on three (3) previous occasions within the past twelve (12) months.
  - b. Utah Code §10-3-703(1)(b) does not apply to enforcement of a building code or fire code violation in accordance with Title 15A, State Construction and Fire Codes Act.
2. Civil. Except as provided in Utah Code §10-3-703(2)(b), the City hereby prescribes a civil penalty for each violation of the Municipal Code involving enforcement actions initiated by the City by a fine not to exceed the maximum class B misdemeanor fine under Utah Code §76-3-301. The City may not impose a civil penalty and adjudication for the violation of a moving traffic violation.
3. Issuance. Except as provided in Utah Code §10-3-703(3)(b) or Utah Code §77-7-18, a municipal officer or official who is not a law enforcement officer described in Utah Code §53-13-103, or a special function officer described in Utah Code §53-13-105 may not issue a criminal citation for a violation that is punished as a misdemeanor. Notwithstanding Utah Code §10-3-703 (1) or (3)(a), the following may issue a criminal citation for a violation that is punished as a misdemeanor if the violation threatens the health and safety of an animal or the public:
  - a. A fire officer described in Utah Code §53-7-201; or
  - b. An animal control officer described in Utah Code §11-46-102.

4. Limitations. The City may not issue more than one (1) infraction within a fourteen (14) calendar day time period for a violation described in Utah Code §10-3-703(1)(b) that is ongoing.

## **Chapter 8.16 Inspection and Cleaning**

**Sections:**

- 08.16.010 Nuisance and Abatement.**
- 08.16.020 Inspection and Notice.**
- 08.16.030 Abatement Procedure.**
- 08.16.040 Cost Recovery.**
- 08.16.050 Non-exclusive Remedy.**
- 08.16.060 Penalty.**

**08.16.010 Nuisance and Abatement.**

1. Applicability. In accordance with Utah Code §10-11-4(8), this Chapter does not apply to any public building, public structure, or public improvement.
2. Nuisance. In accordance with Utah Code §10-11-1, the City Council, acting as the legislative body, hereby declares the following to be a nuisance subject to abatement by the City:
  - a. Any nuisance as defined in Utah Code 78B-6-1101.
  - b. Hazardous materials as that term is defined in Utah Code §19-6-902.
  - c. The growth and spread of injurious and noxious weeds as Rule R68-9 entitled “Utah Noxious Weed Act” and any other weed determined to be an invasive species or noxious weed by the Utah State University Extension Service, Natural Resource Conservation Service, or by other governing agency.
  - d. Owner(s) or occupant(s) fail to maintain sidewalks free from snow, ice, weeds, litter, and/or obstruction as provided in Utah Code §10-8-23.
  - e. Objects or materials which includes, but is not limited to:
    - i. Garbage or refuse.
    - ii. Fuel, liquids, or oil not properly disposed or stored.
    - iii. Debris, litter, junk, scrap, or trash that is spent, useless, or other discarded materials of any kind.
    - iv. Used tires, tools or parts of any kind, unused vehicles or machinery, appliances left outdoors, and dilapidated furniture of any kind.
    - v. Unkept vegetation and/or weed plant materials; lawn grass over six (6) inches; leaves left on the ground; trimmings; any vegetation either growing excessively, unwatered, dead, or damaging public property.

- vi. Building materials stored outside and not actively used as part of a duly issued and pending building permit.
  - vii. Waste products of any kind, food products, dead animals, or vicious animals.
  - viii. Unused or discarded bicycles, tricycles, or other types of equipment or parts; scrap metal.
  - ix. Wastepaper products, lumber, or any wood pile.
  - x. Accumulations of dirt, gravel, mud, ashes, or fire remains.
  - xi. Any salvage material or any other waste materials.
- f. Any public nuisance that:
- i. Is designated under any state statute.
  - ii. Creates a fire hazard.
  - iii. Contains any hazardous material or objects
  - iv. Is a source of pollution of any kind.
  - v. Fosters rodents, insects, or other forms of life deleterious to human habitation.
  - vi. Unsanitary or deleterious structures or surroundings.
  - vii. Lacks sanitation or conditions that foster disease.
  - viii. May involve illegal drug use.
  - ix. May injure public health or safety.
  - x. Involves other conditions that violate any law.
- g. An illegal object or structure that:
- i. Was constructed without a land use and/or building permit.
  - ii. Blocks or obstructs a highway or traffic.
  - iii. Is used for illegal activities, drugs, or harboring criminal activity.
  - iv. Where a structure is left vacant and unsecured. Vacant structures shall be properly locked and secured to prevent entry except by the owner or their agent. The City may require windows and accesses be boarded where a structure is left vacant.
- h. Any structure or any real property closed to occupancy or entry by:
- i. The health department.
  - ii. The building official for building code violations.
  - iii. The district court under a court order.
  - iv. The presence of hazardous materials or substances.
3. Abatement. Any nuisance specified in this Section is subject to abatement at the direction of the Municipal Inspector as provided in this Chapter.
4. Municipal Inspector. In accordance with Utah Code §10-11-1, the City Council hereby delegates to the City Manager the authority to appoint a Municipal Inspector for the purpose of carrying out and in accordance with the provisions of this Chapter.
5. Limitations. The state law provides for the following limitations, and the City shall not:
- a. Prohibit an owner or occupant of real property within the City, including an owner or occupant who receives a notice in accordance with Utah Code §10-11-2, from

selecting a person, as defined in Utah Code §10-1-104, to provide an abatement service for injurious and noxious weeds, garbage and refuse, a public nuisance, or an illegal object or structure.

- b. Require that an owner or occupant to use the services of the Municipal Inspector or any assistance employed by the Municipal Inspector described in Utah Code §10-11-3 to provide an abatement service.

6. Requirements. The City may require an owner or occupant to:

- a. Use the abatement services, as described in Utah Code §10-11-3, of the Municipal Inspector, including the use of a certified decontamination specialist as described in Utah Code §19-6-906, or any assistance employed by the Municipal Inspector if:
  - i. The Municipal Inspector provides notice to abate within a reasonable period of time of at least ten (10) days to the owner(s) or occupant(s) of the subject property as described in Utah Code §10-11-2; and
  - ii. The owner(s) or occupant(s) fail to abate the nuisances on the subject property within the ten (10) day reasonable period of time and in accordance with the notice.
- b. The City may require that an owner or occupant use the abatement services of a certified decontamination specialist to abate hazardous materials.
- c. Nothing in the state law or this Chapter may be construed:
  - i. As authorizing the City to regulate items that are within the exclusive jurisdiction of the Department of Agriculture and Food as provided in Utah Code §4-2-305, including commercial feed, fertilizer, pesticides, and seeds; or
  - ii. As limiting or abrogating the authority of a local health department under Utah Code §19-6-905.

7. Liability. The owner(s) and/or occupant(s) are liable for any damage, injury, or death that may result from a nuisance on their property.

**08.16.020 Inspection and Notice.**

1. Duties. In accordance with Utah Code §10-11-2, the Municipal Inspector is authorized and directed to:

- a. Examine and investigate real property for nuisances specified in this Chapter or as provided under applicable law.
- b. Issue an order limiting or restricting access to a structure and the real property appurtenant to the structure while the Municipal Inspector or a certified decontamination specialist destroys, removes, or abates hazardous materials within the structure.

2. Limitations. The Municipal Inspector cannot abate conditions solely associated with the interior of a structure, unless required:

- a. For the demolition and removal of the structure; or

- b. 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.
3. Notice. Where the Municipal Inspector conducts an examination and investigation and determines a violation or nuisance exists, the Municipal Inspector shall deliver written notice of the examination and investigation in accordance with Utah Code §10-11-2(2).
  - a. The Municipal Inspector shall serve written notice to a property owner of record according to the records of the county recorder in accordance with Utah Code §10-11-2(2)(b).
  - b. The Municipal Inspector may serve written notice in accordance with Utah Code §10-11-2(2)(b) to a non-owner occupant of the property or another person responsible for the property who is not the owner of record, including a manager or agent of the owner, if:
    - i. The property owner is not an occupant of the property; and
    - ii. The City adopts this ordinance which hereby imposes a duty to maintain the property on an occupant who is not the property owner of record or a person other than the property owner of record who is responsible for the property.
  - c. The Municipal Inspector may serve the written notice:
    - i. In person or by mail to the property owner of record as described in Utah Code §10-11-2(2)(a)(i), if mailed to the last-known address of the owner according to the records of the county recorder; or
    - ii. In person or by mail to a non-owner occupant or another person responsible for the property who is not the owner of record as described in Utah Code §10-11-2(2)(a)(ii), if mailed to the property address.
4. Notice Contents. In the written notice described in Utah Code §10-11-2(2)(a), the Municipal Inspector shall:
  - a. Identify the property owner of record according to the records of the county recorder;
  - b. Describe the property and the nature and results of the examination and investigation conducted in accordance with Utah Code §10-11-2(1)(a);
  - c. Identify the relevant code violation at issue and describe the violation citing the specific code;
  - d. Describe each order, fine, or penalty that may be imposed;
  - e. Special requirements for involving a structure or real property closed to occupancy:
    - i. For a structure or any real property closed to occupancy or entry by a local health department because of hazardous materials, explain the right of a property owner, occupant, or, if applicable, another person responsible for the property to abate the hazardous materials or appeal the notice within one-hundred eighty (180) days after the day on which notice is delivered in person or the date the notice is post-marked; and
    - ii. Require the property owner, occupant, or, if applicable, another person responsible for the property to:

1. Eradicate or destroy and remove any identified item examined and investigated under Utah Code §10-11-2(1)(a); and
  2. Comply with Utah Code §10-11-2(2)(c)(vi)(A) in a time period designated by the Municipal Inspector but no less than ten (10) days after the day on which notice is delivered in person or post-marked, or for a notice related to hazardous materials, no less than one-hundred eighty (180) days after the day on which notice is delivered in person or post-marked.
- iii. For a structure or any real property closed to occupancy or entry by a local health department because of hazardous materials, unless an order issued by a court of competent jurisdiction states otherwise, a municipality may not impose a fine or penalty on a property owner, occupant, or another person responsible for the structure or real property, and may not authorize a Municipal Inspector or a certified decontamination specialist to begin abatement of the hazardous materials, until:
1. The appeal and administrative proceeding process is completed; or
  2. The property owner, occupant, or another person responsible for the property has missed the deadline for filing the appeal.
- f. For a notice of injurious and noxious weeds described in Utah Code §10-11-2(2)(a), the Municipal Inspector is not required to make more than one (1) notice for each annual season of weed growth for weeds growing on a property.
- g. The Municipal Inspector shall serve the notice required under Utah Code §10-11-2(2)(a)(i) under penalty of perjury.

**08.16.030 Abatement Procedure.**

1. Administrative Proceedings. The procedure for administrative proceedings in Chapter 2.18 applies to this Chapter as specified in state law and implemented by the Municipal Code.
2. Failure to Comply. In accordance with Utah Code §10-11-2, if an owner of, occupant of, or other person responsible for real property described in the notice delivered in accordance with Section 10-11-2 fails to comply with Section 10-11-2, the Municipal Inspector may:
  - a. At the expense of the City, employ necessary assistance to enter the property and destroy, remove, or abate one or more items or conditions identified in a written notice described in Utah Code §10-11-2; and
  - b. Prepare an itemized statement in accordance with Utah Code §10-11-3(1)(b); and
  - c. Mail to the owner of record according to the records of the Weber County Recorder a copy of the statement demanding payment within 30 days after the day on which the statement is post-marked.
3. Itemized Statement. The itemized statement described in Utah Code §10-11-3(1)(a)(ii)(A) shall include:
  - a. The address of the property described in Utah Code §10-11-3(1)(a);

- b. An itemized list of and demand for payment for all expenses, including administrative expenses, incurred by the City under Utah Code §10-11-3(1)(a)(i); and
        - c. The address of the City Treasurer where payment may be made for the expenses; and
        - d. Notify the property owner:
          - i. That failure to pay the expenses described in Utah Code §10-11-3(1)(b)(i)(B) may result in a lien on the property in accordance with Utah Code §10-11-4;
          - ii. That the owner may file a written objection to all or part of the statement within twenty (20) days after the day of the statement post-mark; and
          - iii. That the owner may file the objection with the City Recorder, including the address.
        - e. A statement mailed in accordance with Utah Code §10-11-3(1)(a) is delivered when mailed by certified mail addressed to the property owners of record of the last-known address according to the records of the Weber County Recorder.
4. Lien. The City may file a notice of a lien, including a copy of the statement described in Utah Code §10-11-3(1)(a)(ii)(A), or a summary of the statement in the records of the Weber County Recorder.
  - a. If the City files a notice of a lien indicating that the City intends to certify the unpaid costs and expenses in accordance with Utah Code §10-11-3(2)(a)(ii) and Utah Code §10-11-4, the City shall file for record in the Weber County Recorder's office a release of the lien after the owing amounts are paid in-full.
  - b. If an owner fails to file a timely written objection as described in Utah Code §10-11-3(1)(b)(ii)(B), or to pay the amount set forth in the statement under Utah Code §10-11-3(1)(b)(i)(B), the City may:
    - i. File an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration; or
    - ii. Certify the past due costs and expenses to the county treasurer in accordance with Utah Code §10-11-4.
5. Collection. If the City pursues collection of the costs in accordance with Utah Code §10-11-3(2)(a)(i) or (4)(a), the City may:
  - a. Sue for and receive judgment for all removal and destruction costs, including administrative costs, and reasonable attorney fees, interest, and court costs; and
  - b. Execute on the judgment in the manner provided by law.
6. Objection. If a property owner files an objection in accordance with Utah Code §10-11-3(1)(b)(ii), the City shall:
  - a. Hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act; and
  - b. Mail or deliver notice of the hearing date and time to the property owner.
7. Hearing. At the hearing described in Utah Code §10-11-3(3)(a)(i):
  - a. The City shall review and determine the actual cost of abatement, if any, incurred under Utah Code §10-11-3(1)(a)(i).

- b. The property owner shall pay any actual cost due after a decision by the City at the hearing described in Utah Code §10-11-3(3)(a)(i) to the City Treasurer within thirty (30) days after the day on which the hearing is held.
8. Failure to Pay. If the property owner fails to pay in accordance with Utah Code §10-11-3(3)(c), the City may:
- a. File an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for the actual cost determined under Subsection (3)(b); or
  - b. Certify the past due costs and expenses to the county treasurer in accordance with Utah Code §10-11-4.
9. Reservations. The state law section does not affect or limit:
- a. The City Council’s power to pass an ordinance as described in Utah Code §10-3-702; or
  - b. A criminal or civil penalty imposed by a municipality in accordance with Utah Code §10-3-703.

**08.16.040 Cost Recovery.**

1. Tax Notice. In accordance with Utah Code §10-11-4, the City may recover cost of removal and abatement as part of the tax notice.
2. Certify. The City may certify to the county treasurer the unpaid costs and expenses that the City has incurred under Utah Code §10-11-3 with regard to the property. If the City certifies with the county treasurer for the property under Section 10-11-3, the county treasurer shall enter the amount of the costs and expenses on the assessment and tax rolls of the county in the column prepared for that purpose. If current tax notices have been mailed, the county treasurer may carry the costs and expenses described in Utah Code §10-11-4(2) on the assessment and tax rolls to the following year.
3. Entry. After entry by the county treasurer under Utah Code §10-11-4(2):
  - a. The amount entered is a nonrecurring tax notice charge that constitutes a political subdivision lien, as those terms are defined in Utah Code §11-60-102, upon the property in accordance with Title 11, Chapter 60, Political Subdivision Lien Authority; and
  - b. The county treasurer shall collect the amount entered at the time of the payment of general taxes.
4. Foreclosure. Notwithstanding Utah Code §10-11-4(7), the City may pursue judicial foreclosure to enforce the lien rather than relying on a tax sale. If the City pursues judicial foreclosure under Utah Code §10-11-4(4)(b):
  - a. The City shall record the lien in the office of the county recorder; and
  - b. The priority date of the lien, for the purpose of the judicial foreclosure, is the date on which the City records the lien.
  - c. If the City pursues judicial foreclosure under Utah Code §10-11-4(4)(b), and completes the judicial foreclosure, before any tax sale proceedings on a property

described in Utah Code §10-11-4(1), the county treasurer shall remove from the assessment roll any costs or expenses that the county treasurer added to the assessment roll under Utah Code §10-11-4(2).

5. Release. Upon payment of the costs and expenses that the county treasurer enters under Utah Code §10-11-4(2):
  - a. The lien described in Utah Code §10-11-4(4) is released from the property;
  - b. The City shall record a release of the lien in the office of the county recorder; and
  - c. The county treasurer shall acknowledge receipt upon the general tax receipt that the county treasurer issues.
6. Unpaid Costs. If the City certifies unpaid costs and expenses under this Section, the county treasurer shall provide a notice, in accordance with Utah Code §10-11-4(6), to the owner of the property for which the City has incurred the unpaid costs and expenses. In providing the notice required in Utah Code §10-11-4(6)(a), the county treasurer shall:
  - a. Include the amount of unpaid costs and expenses that the City has certified on or before July 15 of the current year;
  - b. Provide contact information, including a phone number, for the property owner to contact the City to obtain more information regarding the amount described in Utah Code §10-11-4(6)(b)(i); and
  - c. Notify the property owner that:
    - i. Unless the City completes a judicial foreclosure under Utah Code §10-11-4(4)(b), if the amount described in Utah Code §10-11-4(6)(b)(i) is not paid in full by September 15 of the current year, any unpaid amount will be included on the property tax notice required by Utah Code §59-2-1317; and
    - ii. The failure to pay the amount described in Utah Code §10-11-4(6)(b)(i) has resulted in a lien on the property in accordance with Utah Code §10-11-4(4).
    - iii. The county treasurer shall provide the notice required by Utah Code §10-11-4(6) to a property owner on or before August 1.
  - d. If the amount described in Utah Code §10-11-4(6)(b)(i) is not paid in full in a given year, by September 15, the county treasurer shall include any unpaid amount on the property tax notice required by Section 59-2-1317 for that year.

**08.16.050 Non-exclusive Remedy.**

This Chapter shall not be construed to exclude any other remedy provided by law or equity.

**08.16.060 Penalty.**

In accordance with Utah Code §10-3-703, and subject to any Administrative Proceedings, the following penalties apply:

1. Criminal. Any person who violates this Chapter is guilty of a class B misdemeanor and a fine not to exceed \$1,000.

2. Civil. Any person who violates this Chapter is subject to a civil fine not to exceed \$1,000, per day that the violation continues.

## **Chapter 8.18 Public Nuisance Civil Abatement Proceeding**

**Sections:**

- 8.18.010**      **Legislative Findings.**
- 8.18.020**      **Definitions.**
- 8.18.030**      **Action to Abate.**
- 8.18.040**      **Civil Abatement Proceeding.**
- 8.18.050**      **Permanent Injunction.**
- 8.18.060**      **Preliminary Injunctions and Temporary Restraining Orders.**
- 8.18.070**      **Defendant’s Remedies.**
- 8.18.080**      **Temporary Receiver.**
- 8.18.090**      **Assistance.**
- 8.18.100.**     **Non-exclusive.**
- 8.18.110.**     **Penalties.**

**8.18.010**      **Legislative Findings.**

1. Code Violation. The City Council finds that public nuisances exist in the City if the use, alteration, maintenance, or operation of certain residential, commercial, and manufacturing properties contain one (1) or more flagrant violation(s) of applicable code. Code violation(s) interfere with the interest of the public by:
  - a. Diminishing property values.
  - b. Threatening public health, safety, and welfare.
  - c. Reducing the quality of life and the environment.
2. Continuing Violation. The City Council further finds that the continued or habitual nuisance(s) occurrence of one (1) or more flagrant code violation(s) are detrimental to the health, safety, and welfare of the public.
3. Purpose. It is the purpose of this Chapter to create a standardized procedure for securing legal and equitable remedies in the civil courts relating to nuisance property encompassed by this Chapter, without prejudice to the use of other remedies or procedures available under existing and subsequently enacted codes, and to strengthen existing laws on the subject.

**8.18.020**      **Definitions.**

The following terms, as used in this Chapter, shall mean as follows:

1. “Abate or abatement” means to repair, replace, rehabilitate, remove, destroy, demolish, correct or otherwise remedy a condition that constitutes a public nuisance.
2. “Adverse impact” includes, but is not limited to, any search warrants served on the premises or property where controlled substances and/or weapons were seized; investigative purchases of controlled substances on or near the property by law enforcement agencies or their agents; arrests for violations of controlled substance law and/or possession of weapons; loitering for the purposes of engaging in illegal activity; an increase in the volume of traffic associated with property; complaints made to law enforcement officials of illegal activity associated with the property, finding of illegal weapons, as provided in Part 5, Chapter 10, Title 76, Utah Code, or controlled substances, as defined in the Utah Controlled Substances Act of the Utah Code, on or near property by law enforcement officials and their agents.
3. “Closing or closing order” means a court order prohibiting use or occupancy of premises or property, except as reasonably necessary for the performance of maintenance or abatement work in accordance with municipal ordinance.
4. “Conviction” means the entry of a plea of guilty, no contest, or a verdict of guilty, upon an indictment or information in a criminal action.
5. “Habitual nuisance” means any premises or property located within the City:
  - a. Where there have occurred two (2) or more convictions of a public nuisance related offense on the part of the lessees, owners, operators or occupants within the period of one (1) year prior to the commencement of an action under this Chapter.
  - b. Where there have occurred three (3) or more violations of a public nuisance related offense on the part of the lessees, owners, operators or occupants within the period of one (1) year prior to the commencement of an action under this Chapter; or
  - c. For which there has been presented a preponderance of evidence of repeated criminal activity that has an adverse impact on such premises or property, or the surrounding neighborhood, within the period of one (1) year prior to the commencement of an action under this Chapter.
6. “Law enforcement” means any law enforcement officer described in Utah Code §53-13-103.
7. “Notice to abate” means a written notice to abate or otherwise correct a public nuisance as defined herein, which notice is provided either by personal service, or by first class mail or certified mail, postage prepaid, to the address of the premises or property, or to such other address as provided in the records of the Weber County Recorder.
8. “Property” means a lot, parcel, plot, or real property whether occupied or not, or whether developed land or undeveloped land.
9. “Premise” means a building or structure, or the property where a building or structure is located, or undeveloped land.
10. “Violation” means conduct or evidence of conduct prohibited under this Chapter. A violation does not require criminal prosecution and conviction but only a preponderance of evidence that the prohibited conduct is occurring or has occurred. Evidence of prohibited conduct may include, but is not limited to, police reports, investigative reports, execution of search warrants, results of police surveillance, arrest and/or conviction of local and state and federal laws, activities associated with trafficking of controlled substances, finding of weapons

and/or controlled substances on or near the property, increased volume of traffic associated with the premises or property.

**8.18.030. Action to Abate.**

- I. Nuisance Declared. Every premises or property within the City is declared a public nuisance and subject to abatement under the provisions of this Chapter, where:
  - a. There occurs, or has occurred, the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition of any controlled substance, precursor, or analog specified in the Utah Controlled Substances Act, Title 58, Chapter 37, Utah Code;
  - b. Gambling is, or has been, permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 10, Part 11 of the Utah Code;
  - c. Criminal activity is, or has been, committed in concert with two or more persons as provided in §76-3-203.1, Utah Code;
  - d. Parties or activities occur frequently that create the conditions of a nuisance as defined in Subsection 78-38-1(1) of the Utah Code;
  - e. Prostitution or promotion of prostitution is, or has been allowed to be, regularly carried on by one or more persons as provided in Title 76, Chapter 10, Part 13, Utah Code;
  - f. Used for the purpose of, or to aid in, the commission of a violation of Title 76, Chapter 10, Part 5 (Weapons) of the Utah Code;
  - g. There is, or has occurred, a criminal nuisance as defined in Sections 76-10-801, 802, 803, 804, or 805 of the Utah Code;
  - h. Used for the purposes of pornographic performances and/or promotion of pornographic material as defined and prohibited in Title 76, Chapter 10, Part 12 of the Utah Code;
  - i. Used for purpose of a business, activity, or enterprise that is not licensed as required by federal, state, or the provisions of the Title 5 of the Municipal Code, exclusive of any license required only for revenue purposes;
  - j. There exists, or has been allowed to exist, alcoholic beverages or products possessed, kept, used, offered for sale, sold, given, furnished, supplied, received, purchased, stored, warehoused, manufactured, adulterated, shipped, carried, transported, or distributed in violation of Chapter 3, Title 5 of this Code or in violation of Alcohol Beverage Control Act, Title 32A of the Utah Code, which alcoholic products, packages, equipment, or other property kept or used in maintaining the public nuisance on such premises or property shall also be considered to be a public nuisance;
  - k. There is, or has occurred, a violation of the provisions of §76-6-408 (Receiving Stolen Property), §41-1a-1313 (Possession without Identification Number), §41-1a-1316 of the Utah Code (Receiving or Transferring Stolen Vehicle), §41-1a-1317 (Selling or Buying without Identification Numbers), §41-1a-1318 (Fraudulent Alteration of Identification Number) of the Utah Code;

1. Used for the purpose of animal fighting as prohibited under Title 76, Chapter 9, Part 3 of the Utah Code, or §13-3-1 of this Code; or
2. Code Violation. There is occurring code violation(s) of:
  - a. The applicable building codes adopted in the Municipal Code, including where there is an outstanding order or failure to comply.
  - b. Zoning, land use regulations, subdivision regulations, or development standards set forth in the Municipal Code, including where there is an outstanding order or failure to comply.
  - c. An unauthorized encroachment on any public property, public infrastructure, irrigation way or watercourse, public road, road by use, or public right of way.
3. Habitual Nuisance. Premises or property determined to be a habitual nuisance as defined in this Chapter shall be deemed to be a public nuisance subject to abatement under the provisions of this Chapter, and a cause of irreparable harm to the City and the public under this Chapter.

**8.18.040. Civil Abatement Proceeding.**

1. Action. Whenever there is reason to believe that a public nuisance, as defined in this Chapter, is kept, maintained, or exists in the City, the City Attorney or their designee may initiate a civil proceeding:
  - a. To abate or enjoin the public nuisance, through the issuance of one or more of the following:
    - i. Temporary restraining order, including, but not limited to, the issuance of a closing order or vacation order under this Chapter.
    - ii. Preliminary injunction, including, but not limited to, the issuance of a closing order or vacation order under this Chapter.
    - iii. Permanent injunction, including, but not limited to, the issuance of a closing order or a vacation order under this Chapter.
  - b. For damages for causing or maintaining the public nuisance, including but not limited to:
    - i. The cost, if any, of abating the public nuisance, or
    - ii. The actual costs, expenses and disbursements of the City in investigating, bringing and maintaining the action, including reasonable attorney fees.
  - c. To abate any public nuisance defined in this Chapter and obtain an order for the automatic eviction of the tenant of the premises or property harboring the public nuisance, pursuant to Utah Code §78-38-10 through §78-38-16.
  - d. For the imposition of civil penalties in this Chapter.
  - e. Any other equitable relief determined by the court or allowed by law to be appropriate or necessary for the abatement of such public nuisance.
  - f. Each action shall be initially brought in the Second District Judicial Court of the State of Utah in the form and manner prescribed by the Rules of Civil Procedure of the State of Utah for injunctions, and the City Attorney is not required to execute a bond with respect to any action under this Chapter or other applicable law.

2. Review. The standard of review is based upon the preponderance of the evidence. In any action to abate or enjoin any public nuisance, the Court need not find that the property involved was being unlawfully used at the time of the hearing.
3. If the action is instituted to abate the distribution or exhibition of material alleged to offend public decency, no restraining order or injunction shall issue except upon notice to the person sought to be enjoined, and that person shall be entitled to a trial and order within the time provided by law. As used in this paragraph, “distribute,” “exhibit,” and material” mean the same as provided in Utah Code §76-10-1201.

**8.18.050. Permanent Injunction.**

1. Personal Property. A judgment awarding a permanent injunction may direct law enforcement to seize and remove from the premises or property, all material, equipment, and instrumentalities used in the creation and maintenance of the public nuisance and shall direct the sale by law enforcement of such property in the manner provided for the sale of personal property under execution pursuant to the provisions of the Rules of Civil Procedure of the State of Utah.
2. Removal. Removal and correction of construction and structural alterations. A judgment awarding a permanent injunction may authorize officers, employees, contractors, or agents of the City to forthwith remove or correct construction and structural alterations in violation of this Chapter or applicable code.
3. Vacation Order. If the premises or property are in such condition as to make it immediately dangerous to the life, limb, health, property; or safety of the public or its occupants, a judgment awarding a permanent injunction shall order that the premises or property be vacated until such condition is abated, in addition to any other order of the court. A vacation order shall not prohibit abatement work performed pursuant to the Municipal Code.
4. Closing Order. A judgment awarding a permanent injunction may direct the closing of premises or property by law enforcement, to the extent reasonably necessary to abate the nuisance, which order shall direct law enforcement to post a copy of the judgment and a printed notice of such closing conforming to the requirements of this Chapter. The closing ordered by the court shall be for such period as the court may direct, and is typically a period of one (1) year.
5. Surety. In lieu of closure, at the sole discretion of the City Attorney, the owners, lessee, tenant, or occupant shall provide a surety, such as a bond, as approved by the court. Any surety shall be approved by the court in the value of the premises or property ordered to be closed, and submits proof to the court that the public nuisance has been abated and will not be created, maintained, or permitted for the period of time ordered by the court.
6. Posting. Upon issuance of a permanent injunction directing the closure or vacation of the premises or property, the officer shall post a copy thereof in a conspicuous place or upon one (1) or more of the principal doors at entrances of such premises where the public nuisance is being conducted, maintained or permitted. In addition, where a permanent injunction has been granted prohibiting or restricting specific activity upon the premises or property, law enforcement shall affix, in a conspicuous place or upon one or more of the principal doors at

entrances of such premises, a printed notice that shall state that certain described activity is prohibited by court order. Where an order of closure or vacation has been issued, the notice shall contain the legend “Closed by Court Order” in block lettering of sufficient size to be observed by anyone intending or likely to enter the premises, the date of the order, the court from which issued and the name of the office or agency posting the notice, and that it is a class B misdemeanor to occupy or use the premises or to mutilate or remove this notice. A notice for an order of vacation shall also state that the building is “unsafe to occupy.”

7. Costs. A judgment awarding a permanent injunction pursuant to this Chapter shall provide, in addition to the costs and disbursements allowed by the Rules of Civil Procedure of the State of Utah, the actual costs, expenses, and disbursements of the City in investigating, bringing and maintaining the action, including reasonable attorney fees.
8. Possession. A closing order or order of vacation pursuant to this Section shall not constitute an act of possession, ownership or control by law enforcement or the City of the closed property or premises. Nor shall such orders relieve the owner or lessee from any duty to comply with laws and ordinances affecting the premises or property.
9. Remedy. The provisions of this Chapter are not intended to preclude other remedies that may be imposed by the court at law or equity.

#### **8.18.060. Preliminary Injunctions and Temporary Restraining Orders.**

1. General. Pending an action for a permanent injunction, the court may grant a temporary restraining order or preliminary injunction enjoining a public nuisance within the scope of this Chapter and the person or persons conducting, maintaining or permitting the public nuisance from further conducting, maintaining or permitting the public nuisance. A temporary restraining order or preliminary injunction shall include a temporary or preliminary vacation order where the premises or property are in such condition as to make it immediately dangerous to the life, limb, health, property or safety of the public or its occupants. A temporary restraining order or preliminary injunction shall include a temporary or preliminary closing order where reasonably necessary to prevent the further conducting, maintaining or permitting of a public nuisance on the premises or property. Where a preliminary injunction has been granted, the court shall render a decision with respect to a permanent injunction at its earliest convenience after conclusion of the trial. The procedure and grounds for entry of a preliminary injunction or temporary restraining order shall be as prescribed by the Rules of Civil Procedure of the State of Utah. The City Attorney shall not be required to execute a bond or provide other security with respect to the action.
2. Temporary Order. A temporary restraining order or preliminary injunction entered pursuant to this Chapter shall restrain the defendants and all persons from further conducting, maintaining or permitting the public nuisance and, if applicable, from removing or transferring off the premises or property or in any manner interfering with fixtures or movable property used in conducting, maintaining or permitting the public nuisance. The court may also order all other temporary or preliminary relief it deems appropriate.
3. Dangerous Premises. A temporary or preliminary vacation order shall order that the premises or property be vacated until the conditions creating immediate danger to the life, limb, health,

- property, or safety of the public or its occupants are abated. A vacation order shall not prohibit abatement work performed pursuant to the Municipal Code.
4. Closing Order. A temporary or preliminary closing order shall order the closing of those portions of the premises or property wherein the public nuisance is being, or has been, conducted, maintained or permitted until further order of the court.
  5. Issuance. If the City Attorney submits evidence warranting both a temporary or preliminary closing order or vacation order, the court shall grant both orders.
  6. Service. Law enforcement serving a temporary restraining order imposing a temporary or preliminary closing order or vacation order of the premises or property shall, upon service of the order, command all persons present in the premises or property to vacate the premises forthwith. Upon the premises or property being vacated, the premises shall be securely locked and all keys delivered to law enforcement serving the order who thereafter shall deliver the keys to the fee owner, lessor or lessee of the premises involved. If the fee owner, lessor or lessee is not at the premises or property when the order is being executed, the officers shall securely padlock the premises and retain the keys until the fee owner, lessor or lessee of the building is ascertained, at which time, the officers shall deliver the keys to such owner, lessor or lessee, if such individual resides within Weber County.
  7. Posting. Upon issuance of a temporary or preliminary closing order or vacation order, law enforcement shall post a copy thereof in a conspicuous place or upon one or more of the principal doors at entrances of such premises where the public nuisance is being conducted, maintained or permitted. In addition, where a temporary restraining order or preliminary injunction has been granted prohibiting or restricting activity upon the premises or property, law enforcement shall affix, in a conspicuous place or upon one or more of the principal doors at entrances of such premises, a printed notice that shall state that certain described activity is prohibited by court order. Where a closing order or vacation order has been issued, the notice shall contain the legend "Closed by Court Order" in block lettering of sufficient size to be observed by anyone intending or likely to enter the premises, the date of the order, the court from which issued and the name of the office or agency posting the notice, and that it is a class B misdemeanor to occupy or use the premises or to mutilate or remove this notice. A notice for an order of vacation shall also state that the building is "unsafe to occupy."
  8. Inventory. If a temporary restraining order or preliminary injunction restrains the defendants and all persons from removing or transferring off the premises or property or in any manner interfering with the fixtures and movable property used in conducting, maintaining or permitting the public nuisance, the officers serving a temporary restraining order or preliminary injunction shall forthwith make and return to the court an inventory of personal property situated in and used in conducting, maintaining or permitting a public nuisance within the scope of this chapter and shall enter upon the premises or property for such purpose. Such inventory shall be taken in any manner that is deemed likely to evidence a true and accurate representation of the personal property subject to such inventory including, but not limited to, photographing such personal property.

9. Possession. A closing order or vacation order entered pursuant to this Section shall not constitute an act of possession, ownership or control by law enforcement or the City of the closed property or premises. Nor shall such order relieve the owner or lessee from any duty to comply with laws and ordinances affecting the premises or property.
10. Remedy. The provisions of this Section are not intended to preclude other remedies that may be imposed by the court at law or equity.

**8.18.070 Defendant's Remedies.**

1. Affidavit. A temporary restraining order shall be vacated by the court, upon notice to the City Attorney, if the defendant shows by affidavit and such other proof as may be submitted that the public nuisance has been abated and will not be resumed during the pendency of the action. An order vacating a closing order, vacation order, or other temporary restraining order shall include a provision authorizing officers or employees of the City to inspect the premises or property, which is the subject of an action pursuant to this Chapter, periodically without notice, during the pendency of the action, for the purpose of ascertaining whether or not the public nuisance has been resumed.
2. Undertaking. A temporary restraining order may be vacated by the court, upon notice to the City Attorney, by defendant who demonstrates a completed undertaking to abate and the court is satisfied that the public health, safety, or welfare is protected adequately after the undertaking is completed and inspected by the City.

**8.18.080 Temporary Receiver.**

1. General. In any action wherein the complaint alleges that the public nuisance is being conducted or maintained in the residential portions of any premises or portion thereof, which are occupied in whole, or in part, as the home, residence or sleeping place of one (1) or more humans, the court may, upon motion on notice by the City, appoint a temporary receiver to manage and operate the premises or property during the pendency of the action, in lieu of a temporary closing order. A temporary receivership shall not continue after final judgment unless otherwise directed by the court. Upon the motion of any party, including the temporary receiver, or on its own initiative, the appointing court may remove a temporary receiver at any time.
2. Powers and Duties. The temporary receiver shall have such powers and duties as the court shall direct, including, but not limited to:
  - a. Collecting and holding all rents due from all tenants.
  - b. Leasing or renting portions of the premises.
  - c. Making or authorizing other persons to make necessary repairs or to maintain the premises or property.
  - d. Hiring security or other personnel necessary for the safe and proper operation of a dwelling.
  - e. Efforts to prosecute or defend suits flowing from his or her management of the premises or property and retaining counsel therefore, and expending funds from the collected rents in furtherance of the foregoing powers.

3. **Fiduciary.** A temporary receiver has a fiduciary duty to faithfully and fairly discharge the trust committed to such receiver.
4. **Accounting.** A temporary receiver shall keep written accounting with itemizing receipts and expenditures, and describing the premises or property and naming the depository of receivership funds, which shall be open to inspection by any person having an apparent interest in the premises or property. Upon motion of the temporary receiver, or of any person having an apparent interest in the premises or property, the court may require the keeping of particular records, or direct or limit inspection or require presentation of a temporary receiver's accounting.

**8.18.090 Assistance.**

The Weber County Sheriff's Department or other designated law enforcement, upon the request of the City Attorney, shall assist in the enforcement of any order issued under this Chapter.

**8.18.100. Non-exclusive.**

This Chapter shall not be construed to exclude any other remedy provided by law or equity.

**8.18.110. Penalties.**

1. **Criminal.** In addition to any other punishment prescribed by law, the following acts are punishable, on conviction, as a class B misdemeanor with a fine not to exceed \$1,000 per violation:
  - a. Mutilation or removal of a closing order, vacation order, or other temporary restraining order, preliminary injunction or permanent injunction, posted in accordance with this Chapter while it remains in force.
  - b. Disobedience of, or resistance to, a closing order, vacation order, or other temporary restraining order, preliminary injunction or permanent injunction, issued by a court under this Chapter.
  - c. Disobedience of, or resistance to, an inspection or provision of an order issued under this Chapter.
2. **Civil.** A defendant lessee, owner, operator or occupant of any premises or property determined to be a public nuisance is also subject to a civil penalty in the amount of \$1,000.00 for each day the defendant conducted, maintained, or permitted the public nuisance after a notice to abate was given to the defendant by the City. Such civil penalty may also be imposed by the court for each day a defendant is in violation of any closing order, vacation order, or other temporary restraining order, preliminary injunction or permanent injunction. Such penalties shall be in addition to any other civil penalty imposed under the Municipal Code.

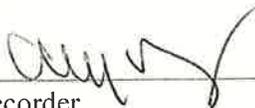
**Section 3: Severability.** If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of this Ordinance, shall be severed from the remainder, which shall continue in full force and effect.

**Section 4: Effective date.** This Ordinance takes effect immediately upon adoption and posting.

PASSED AND ADOPTED by the City Council on this 21 day of OCTOBER, 2025.

  
\_\_\_\_\_  
Mayor MARK C. ALLEN

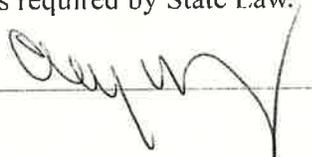
ATTEST:

  
\_\_\_\_\_  
City Recorder

RECORDED this 21 day of OCTOBER, 2025.  
PUBLISHED OR POSTED this 22 day of OCTOBER, 2025.

**CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING**

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the City Recorder of Washington Terrace City, hereby certify that foregoing ordinance was duly passed, published and/or posted as required by State Law.

  
\_\_\_\_\_  
City Recorder

DATE: 10.21.25