



City Council Meeting/Work Session

Tuesday, July 26, 2022 at 7:00 pm

Attendees: Mayor Bayley Hedglin, Councilmember Kim Henderson, Councilmember Ron Skinner, Councilmember Nathan Chamberlain, Councilmember Kevin Dunn, Councilmember George Rice, City Manager Evan Bolt, City Recorder Melissa Gill (Not Present), Assistant City Manager/Acting Deputy Recorder Kaeden Kulow

Monticello City Council Meeting

Meeting Location: Hideout Community Center 648 S Main

- 1. Call to Order/Invocation - Opening Remarks**
- 2. Public Comment**
- 3. Nuisance Ordinance (discussion/action)**

Roll Call Vote (if action made)

Attachments:

- **Nuisance Ordinance Draft** (Nuisance_Ordinance_Draft.pdf)

- 4. No Parking Signs/Painting Streets (discussion/action)**

Roll Call Vote (if action made)

- 5. Pool Utility Discussion**

Attachments:

- **Pool Discussion** (Pool_Discussion.pdf)

- 6. BLM Land Transfer Letter (discussion/action)**

- 7. Work Session**

- 8. Consider Upcoming Agenda Items (action)**

Recommendation: Motion to add ____ to the next agenda. Consensus

- 9. Adjournment**

AUDIO FILE

NOTICE OF SPECIAL ACCOMMODATIONS

THE PUBLIC IS INVITED TO ATTEND ALL CITY MEETINGS In accordance with the Americans with Disabilities Act, anyone needing special accommodations to attend a meeting may contact the City Office, 587-2271, at least three working days prior to the meeting. City Council may adjourn to closed session by majority vote, pursuant to Utah

Code §52-4-4 & 5. The order of agenda items may change to accommodate the needs of the City Council, the staff, and the public.

Contact: Melissa Gill, Recorder (melissa@monticelloutah.org 435-587-2271) | Agenda published on
07/22/2022 at 1:00 PM

NUISANCE ORDINANCE

DEFINITION:

NUISANCE: A nuisance is anything that 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.

The following are factors that may be considered but may not necessarily be dispositive in determining nuisances and is not an exclusive list: 1) noise that by reason of time, nature, intensity or duration are out of character with the noise customarily heard in the surrounding area. 2) Disturbing the peace of the surrounding properties by engaging in shouting, fighting, loud music, racing of cars or recreational vehicles on streets, or other similar activities after 10:00 p.m. or similar activities that results in law enforcement response and action. 3) interference with the privacy of neighboring properties or trespassing onto surrounding property. 4) the presence or release of noxious or offensive odors that passes onto the surrounding property. 5) excessive foot or vehicular traffic after 10:00 p.m. or the repeated blocking of the streets or creation of excessive vehicle traffic to or from the property out of character with the traffic customary for the surrounding area. 6) the collection or storage of materials, refuse, or equipment at a dwelling or dwelling accessory building or in the surrounding yard out of character with that customary for the surrounding area. 7) the dilapidation of the structures on the property or of the yard in contrast to the character of the surrounding properties. 8) the manufacture, distribution, possession, or presence of illegal substances on the property. 9) water discharge, runoff, surface drainage, or animal waste that leaves the property or contaminates water ways or drainages.

The following are factors which may weigh against the finding of a nuisance which may not necessarily be dispositive and is not an exclusive list: 1) noise, dust, odors, exhaust, storage of equipment, and materials caused by the temporary process of construction on the property. 2) Whether the activity on the property existed prior to the change in the character of the area. 3) Temporary road closure that has been permitted by the appropriate entity. 4) Allowed recreational activities at public or private parks that occur occasionally.

DECLARATION OF SPECIFIC NUISANCES:

The city may avail itself of all remedies available at law or in equity to abate any nuisance or public nuisance. Each of the following acts is hereby declared to be a nuisance and may be abated in as such:

- A. Any act which constitutes a nuisance or public nuisance under state law;
- B. The occupation of any building or structure for which a certificate of occupancy and land use compliance has not been issued; and
- C. The occupation or use of a building or structure with a greater density or intensity of use than is permitted in the certificate of occupancy and land use compliance.

Other actions may be shown by evidence to constitute a nuisance resulting in a title violation as outlined in this ordinance.

RESPONSIBLE PERSONS DEFINED:

Where a nuisance exists upon property and is the outgrowth of the usual, natural, or necessary use of the property, the landlord or his agent, the tenant or his agent, and all other persons having control of the property on which such nuisance exists shall be equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors thereof.

ENFORCEMENT ACTIONS

The provisions of this title shall be administered by (?), under the supervision of the City Council. The enforcement officer may investigate alleged violations of this title and may initiate enforcement actions if violations are found to exist. The enforcement officer shall be authorized to make examination and investigation of all real property in the city, as allowed by law, to determine whether the responsible person is complying with the provisions of this title. The City Council may in its discretion, instruct the City Attorney to file such actions in court as are necessary upon

a showing of a violation. The city's non-enforcement of any of the requirements of this title or conditions or rules imposed through this title shall not operate to waive or stop the city from pursuing subsequent enforcement actions. Permits issued in violation of this title shall have no force or effect.

A. Responsibility for Violation of Title: Anyone found to have committed a violation of this title or any condition or rules imposed through this title is a violating person and is responsible for correcting zoning violations under this title. In the event a violating person cannot be ascertained after the exercise of due diligence, the city may also institute proceedings as allowed by this section or law against the property on which a zoning violation has been committed.

B. Finding of Title Violation: If, after investigating, the enforcement officer has determined that a title violation exists, the enforcement officer may attempt to have the responsible person correct the violation in accordance with this section. The officer may pursue any remedy or combination of remedies available pursuant to this title, state law, or common law to correct the violation. Nothing in this section shall be interpreted to prohibit the city from engaging in its standard prosecution practices without first having to comply with the provisions of this section. In the event a responsible person cannot be ascertained, the city shall post notice on the property on which a title violation has been committed and may institute proceedings against the property itself as allowed by law.

C. Notice Of Title Violation:

1. Except as otherwise provided by city ordinance, whenever a title violation is found to exist and the Enforcement Officer determines action should be taken, the Enforcement Officer shall first serve written notice to the responsible person before other remedies in this section are taken. The notice of violation shall contain:

- i. The location of the title violation, if the same is stationary;
- ii. A description of what constitutes the title violation;
- iii. A list of the acts necessary to correct the title violation ("corrective action");
- iv. The warning period, including the completion date, in which the responsible person may cure the violation before civil fines are assessed for the violation;
- v. A statement of the actions the city will take if the violation is not corrected within the warning period; and
- vi. A statement that the responsible person may enter into a voluntary correction agreement during the warning period to prevent further action by the city.

2. The written notice shall be delivered personally or sent via registered mail to the responsible person's address, as shown on the records of the city recorder, and to any other person who may be responsible for the violation.

3. The written notice shall serve to start any warning periods provided in this section, commencing upon receipt of notice. If the violation remains uncured once the warning period expires, the civil penalties shall begin to accrue in accordance with this section.

4. In cases where the enforcement officer determines that a delay of enforcement would pose a danger to the public health, safety or welfare, or would otherwise compromise the effective enforcement of this title, the enforcement officer may seek immediate enforcement under subsection F2 of this section without prior written notice.

D. Civil Fines:

1. Civil fines shall be assessed to the responsible person for uncorrected violations beginning on the day following the completion date (as stated in either the notice of violation or the voluntary correction agreement). The amount of such fine shall be fifty dollars (\$50.00) for each day the title violation continues after the completion date.

2. Daily Violation: Each day a violation is continued or maintained after the completion date shall give rise to a separate civil fine. All applicable fines shall cease the following day after the

enforcement officer receives written notice from the responsible person that the corrective action is complete. The City may waive any fees accrued if corrective action is completed. Within five (5) business days, the enforcement officer shall inspect and pass off the corrective action as completed, and, if not completed, fines shall be applied retroactively to the date notification was received and shall continue to accrue in accordance with this section.

3. The civil fine shall be cumulative. Payment of a civil fine pursuant to this section does not relieve the responsible person from the duty to correct the title violation. The civil fine constitutes a personal obligation of the responsible person or a lien against the subject property, as the case requires. Any civil fine assessed must be paid to the city within thirty (30) calendar days of incurrence.
4. The city manager, upon approval by the city council, is authorized to take appropriate action to negotiate the amount of the civil fine, collect the fine, determine the time period in which the fine shall be paid, and take any other action necessary to resolve the fine.
5. Collection: The City is authorized to take appropriate action to collect the civil fines by any and all appropriate means, whether in personam or in rem. The city may collect reasonable attorney fees and costs incurred in collecting the civil fine where allowed by law. The city may collect pre- and post-judgment interest on such civil fines.
6. The incurrence of civil fines under this section shall not limit the available remedies of the enforcement officer or the city attorney's office under this section.

E. Voluntary Corrective Action: The enforcement officer may allow the responsible person to take voluntary correction action. Voluntary correction action allows the responsible person to correct the title violation within a specified time and according to specified conditions. If the responsible person completes the voluntary corrective action, the city will take no further actions against the responsible person, unless the title violation recurs. This option is a privilege and not a right, and, if the circumstances warrant, the enforcement officer may choose to correct the title violation using one or more of the other procedures set forth in this title or law.

- I. Contents of a written voluntary corrective action shall include the following:
 - i. The name and address of the responsible person;
 - ii. The street address of the title violation, or a description sufficient to identify the building, structure, premises or land upon or within which the title violation exists;
 - iii. A description of the title violation;
 - iv. The necessary corrective action to be taken, and a date or time by which correction or abatement must be completed ("completion date"). The completion date shall not be longer than six (6) months from the date the agreement is entered into;
 - v. An agreement by the responsible person that the city may inspect the premises as may be necessary to determine compliance with the voluntary corrective action
 - vi. An agreement by the responsible person that, if the terms of the agreement are not met, the city may:
 - a. Issue a civil fine or criminal citation;
 - b. Correct the title violation, recover its costs and expenses, and place a lien on the property; and/or
 - c. Pursue any other legal remedy available;
 - vii. An agreement by the responsible person acknowledging that he/she waives the right to appeal the enforcement officer's finding that a title violation exists and the right to appeal the specific corrective action required by the voluntary correction agreement; and
 - viii. An acknowledgement by the responsible person that failure to comply with the voluntary correction agreement may be grounds for criminal prosecution.

2. Extension of Time: The enforcement officer may grant an extension of time for correcting the title violation for completion of the voluntary corrective action if the responsible person has shown due diligence and/or substantial progress in abating the title violation but unforeseen circumstances render correction or abatement under the original conditions unattainable.
3. Temporary Stay: The enforcement officer will delay further enforcement actions and monetary fines will be temporarily suspended once a voluntary corrective action has been undertaken. However, the responsible person shall still be liable for any accrued fines.
4. Failure to Comply: Failure to complete the corrective action by the completion date shall constitute an additional violation and shall be handled in accordance with this section, except that no further notice need be given before enforcement proceedings are initiated. The city may proceed on the violation pertaining to failure to comply with the voluntary corrective action and/or the original title violation. Monetary fines shall be imposed from either the date of the initial violation or the day following the failure to comply with the voluntary corrective action and shall continue to accrue thereafter as set forth in this Section.

F. Abatement By City:

1. Once the enforcement officer has exercised due diligence in obtaining compliance from the responsible person in accordance with this section and this title, and the responsible person fails to correct the violation, it shall then constitute a Class B misdemeanor. Upon conviction of the violating party of the title violation a court may authorize the city to enter upon the subject property and remove, correct, or abate the condition which is subject to the title violation. The city shall provide the court an itemized statement of all expenses incurred in the removal and any destruction and request payment within sixty (60) days as restitution in the court case. The court may authorize seizure of person property as restitution.
2. Emergency Abatement: Whenever a zoning violation constitutes an immediate and emergent threat to the public health, safety, or welfare, or to the environment, the city, when feasible and allowed by law, may summarily and without prior notice correct or 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 correction or abatement.
3. Confiscation of Property: During an abatement proceeding, any personal property constituting a title violation may be confiscated as part of the abatement process. Any property that has been confiscated will be held pending order of restitution. The owner may recover the property upon showing that the title violation has been corrected or that substantial efforts, as determined by the enforcement officer, have been made to correct the violation; provided, however, that the property owner pay the cost of storage of the property. If, after ninety (90) days of the property being confiscated, the property owner fails to claim the confiscated property, and after the city complies with the requirements of Utah Code Annotated section 77-24a-5, as currently amended, the city may dispose of the property, including sale at auction, disposal, etc., and seek to collect the cost of storage from the property owner. The city may also pursue any other remedy as allowed by law.
4. Costs Declared Lien: Any and all costs incurred by the city in the abatement of a violation under the provisions of this title or other city ordinance shall constitute a lien against the property upon which such zoning violation existed, which lien shall be filed, proven and collected as provided for by law. Such lien shall be notice to all persons from the time of its recording and shall bear interest at the legal rate thereafter until satisfied.

G. Civil Enforcement: Appropriate actions and proceedings may be taken by the city in law or in equity to prevent any violation of this title, to prevent unlawful construction, to recover damages, including the cost, if any, of

correcting the violation, to restrain, correct or abate a violation, and to prevent illegal occupancy of a building, structure or premises.

H. Nonexclusive Remedies, Building Permits, Etc.: The City may take any or all of the actions listed in this title to abate, enjoin or correct a zoning violation, including against any person or entity that creates, causes, or allows a zoning violation to exist, and to recover damages for violation of this title or other city zoning ordinances. The abatement of a zoning violation does not prejudice the right of the city or any person to recover damages or penalties for its past existence. Notwithstanding the procedures outlined in this section, the city may also enforce this title and other zoning violations as provided under State law.

HEARING:

A Informal Hearing; Written Decision: At the written request of an owner, occupant or other person having an interest in property which is the subject of a notice of a violation on property, the City Council shall conduct an informal hearing (which need not be reported), wherein such persons may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this Chapter. The City Council shall also permit the presentation of evidence and argument by the enforcement officer and other interested parties. Thereafter within not less than five (5) nor more than ten (14) days, the City Council shall, over the signature of the Mayor, or such other member of the City Council as it may designate, render its written decision, a copy of which shall be mailed to or served upon the owner or any other person to whom the original notice was given by the Inspector.

B Notice Of Decision; Abatement By Owner Or Occupant: In the event the decision of the City Council upholds the determination, the notice originally given by the enforcement officer as above provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the violation, and he shall have up to ten (10) days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed thirty (30) days, is authorized by the enforcement officer.

C Time Period For Compliance: In the event that the decision of the City Council either overrules or modifies the determination, the written decision of the City Council shall apprise the owner or occupant of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the violation, if any. The owner or occupant shall be required to conform to the decision of the City Council within ten (10) days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision, unless additional time is authorized by the City Council.

Monticello City Pool

Utility Costs:

	2019		2020		2021		2022	
	Electric	Gas	Electric	Gas	Electric	Gas	Electric	Gas
January	\$312.92	\$233.72	\$269.96	\$345.90	\$273.96	\$329.06	\$441.67	\$113.43
February	\$271.81	\$333.29	\$232.01	\$268.78	\$187.10	\$314.07	\$214.33	\$348.07
March	\$168.73	\$146.23	\$201.75	\$136.26	\$156.73	\$280.92	\$706.23	\$1,841.30
April	\$916.38	\$1,675.98	\$193.83	\$50.85	\$759.06	\$1,526.77	\$1,357.02	\$1,232.61
May	\$2,190.55	\$2,759.49	\$181.23		\$1,591.67	\$2,089.77	\$1,054.01	\$131.72
June	\$2,435.35	\$1,521.69	\$208.50	\$38.99	\$2,446.03	\$1,491.53	\$807.41	\$983.25
July	\$2,424.25	\$1,312.43	\$188.63		\$2,499.38	\$651.03		
August	\$1,882.06	\$841.94	\$187.32		\$1,362.39	\$385.18		
September	\$675.50	\$413.95	\$232.41	\$35.62	\$735.92	\$205.76		
October	\$321.14	\$189.71	\$152.79		\$205.94	\$71.94		
November	\$350.94	\$186.90	\$169.54	\$175.32	\$147.00			
December	\$245.92	\$366.35	\$267.60	\$409.35	\$279.14	\$309.79		
Yearly Totals	\$12,195.55	\$9,981.68	\$2,485.57	\$1,461.07	\$10,644.32	\$7,655.82	\$4,580.67	\$4,650.38

Electric Monthly Averages	\$1,016.30	2019	\$207.13	2020	\$887.03	2021	\$381.72	2022
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Set Electric Charges

Connection Fee	\$51.87	Monthly
	\$622.44	Yearly

Pool – What really has been happening!

Below is a timeline of what has been happening at the Monticello Swimming Pool and how the city has been working to get the facility open for use and why they have decided to keep the facility closed for the 2022 season. This timeline covers the last three years but explains what has been done to mitigate closures and just the bad luck with supply chain issues.

Timeline:

April 2020: City Council officially closes the pool due to COVID to protect the citizens and city employees.

March 2021: Redd Mechanical inspects facility after 2020 closure and finds/repairs minor plumbing problems for showers but otherwise give the all clear to start the pool for the season. During the repairs they also installed a pool water line to the slide that will allow for treated and warmed pool water to be used at the slide instead of cold fresh water.

May 2021: Pool opens at the end of the month due to training of new lifeguards who had busy schedules due to Sports and other post COVID activities.

June 2021: Near the end of June pool closed two days waiting for new ignitors for boiler. These repairs and diagnostic done by city employees.

July 2021: Tuesday the week of Pioneer Days the boiler goes out again. New errors appear and ignitor replacement doesn't solve the problem. No companies in the area were willing to work on the boiler so those with mechanical knowledge did their best but could not narrow down the problem. Kept finding different error codes.

August 2021: Group from Price – Pinnacle HVAC – came and found that the control board had gone out and needed to be replaced. They thought this should fix the problem but could not foresee any issues since the failure of the main board.

January 2022: Due to the pandemic shortages the control board finally arrives and is installed. The boiler is tested over a few days and found to be in working order.

March 2022: At the end of March the facility was started up like normal.

April 2022: In early April the boiler went out again and after contacting Pinnacle HVAC they recommend checking ignitors. After replacing one it operated for about a week working on heating the water. Then it required a second ignitor to keep going. This prompted the request for a new boiler since the current boiler was starting to show signs of total failure and was shut down until a decision could be made.

May 2022: In the May 10th meeting city council approved the purchase of a new boiler and some ignitors to try and make the pool operational until the new boiler could arrive. Evan ordered the boiler with a promise from the supplier that it should only take about 6 business days once on the truck. Since the boiler was “on its way” it was better to wait to restart the boiler until the replacement arrived.

June 2022: At mid-June the pool was started up so lifeguards could get trained and ready for the season. The boiler seemed to go out about on average once a week. By July 4th we had burned through a total of 5 ignitors for the 2022 year each of which cost \$75. Beyond ignitor replacements the boiler has started leaking water and running beyond it's expected behavior causing concern of facility damage if continued to be operated. At this point it was decided that it would be best to wait for the new boiler.

July 2022: Finally, we got ahold of customer service at the company and found that the salesmen lied to us about the arrival. It could be arriving anywhere from August 18th to September 1st or later. This has prompted the final decision to keep the facility closed to allow for some other minor repairs and the replacement of the boiler. Once repairs are complete we will re-evaluate the situation and announce any plans for operating for the remainder of the 2022.

Many people have asked why the boiler is needed. Our pool is kept at 80 – 86 degrees for safe swimming use. The coldest pool used are for competitive swimming with a temp around 78 degrees. Due to our pools design (indoors with a constant on air handling system) 78 degrees water feels freezing and would not allow patrons to enjoy the facility before becoming too cold. Plus, the pool is constantly losing about 1 to 2 degrees every day until it reaches night temperatures. Yes, the lake is a lot colder, but the sun helps keep you warm to enjoy the experience, without the sun's warmth it is not recommended.