Ordinance _____

AN ORDINANCE REGULATING NUISANCES WITHIN THE TOWN OF _____

1. The Town of _____ (the "Town") is a political subdivision of the state of Utah, authorized and organized under the provisions of Utah law;

2. The Town has legal authority, pursuant to Title 10, Chapter 8, Section 60 and Title 10, Chapter 11, Sections 1 through 4, Utah Code Annotated, as amended, to declare what is a nuisance, provide for the abatement of the same, and to provide for criminal and civil action to be taken against persons who create, continue or suffer nuisances to exist; and

3. The Town has found regulating nuisances to be in the best interest of _____ Town and its residents and will promote the health, safety, and welfare of the public.

NOW THEREFORE, the Town Council hereby ordains as follows.

SECTION A. Adoption of the _____ Town Nuisance Abatement Ordinance. _____ town hereby adopts the following, in its entirety, as the _____ Town Nuisance Abatement Ordinance

**Section 1: PURPOSE**

It is the purpose of this chapter to establish a means whereby _____ Town may remove or abate, or cause the removal or abatement, of injurious and noxious weeds; garbage and refuse, nuisances, or any unsightly, illegal, or deleterious objects or structures pursuant to the powers granted to it by Utah Code Ann. §§ 10-8-60 and 10-11-1 *et seq*. The provisions adopted herein are intended to:

A. Prevent fire hazards;

B. Prevent insect and rodent harborages;

C. Prevent the introduction of hazardous pollens, pollutants, or contaminants in the water, air, or soil;

D. Prevent further spreading of vegetation that threatens the public health, safety, or welfare;

E. Abate the existence of objects, structures, or solid waste that threaten the public health, safety, and welfare of the Town; and

F. Protect and promote the public health and safety of the community by preventing or abating conditions on real property or the structures thereon which create or maintain nuisances.

**Section 2: DEFINITIONS - NUISANCES AND WEEDS**

The following words and phrases used in this chapter shall have the following meaning unless a different meaning clearly appears from the context:

ABATEMENT: The destruction, removal, or termination of that which causes or constitutes a nuisance.

LANDOWNER: The property owner of record according to the records of the Wayne County Recorder.

NUISANCE: One or more of the following shall constitute a nuisance subject to abatement under this chapter:

A. A nuisance as defined and described under Utah Code Ann. § 76-10-801;

B. A public nuisance as defined and described under Utah Code Ann. § 76-10-803, as amended;

C. A nuisance as defined and described under Utah Code Ann. § 78B-6-1101, as amended;

D. Vegetation on private property which, due to its size or proximity to any public property or right-of-way, interferes with the public safety or lawful use of the public property or right-of-way;

E. Vegetable waste, litter, garbage, filth, or refuse of any nature, kind, or description detrimental to health allowed to accumulate upon any private yard or area;

F. Any property which has been allowed to become a fire hazard due to the accumulation of garbage, refuse, litter, waste products, dry or drying weeds, or any combustible materials, objects, or structures;

G. Weeds, garbage, refuse, objects or structures that create a source of contamination or pollution of water, air, or property, a danger to health, a breeding place of habitation for insects, rodents, or other forms of life deleterious to human habitation, or that otherwise create a condition deleterious to their surroundings;

H. Rank, injurious, or noxious weeds, at any state of maturity, pursuant to Utah Code Ann. § 4-17-102;

I. Any property where the outside storage, keeping, accumulation, or abandonment of the following material or objects is visible from a public street and is not a use of property specifically permitted under the land use code or appropriately licensed:

    1. Uncontained garbage, refuse, litter, or other solid waste;

    2. Household items, indoor appliances, indoor furniture or equipment, construction waste, or demolition waste;

    3. Auto parts, tires, scrap metal, machinery or parts thereof, or other junk or salvage material; or

    4. Abandoned, wrecked, dismantled, inoperable or unlicensed vehicles, including but not limited to cars, trucks, boats, motorcycles, trailers, and other recreational vehicles;

J. Any scrap, waste, reclaimable material, or debris, whether or not stored or used in conjunction with dismantling, processing, salvaging, storing, disposing or other use. Junk includes, but is not limited to, tires, batteries, furniture, tools, paper, rags, plastics, cordage, scrap iron or other metal, glass, building materials, salvage materials, dismantled equipment, machinery and appliances or parts thereof, brush, wood and lumber, solid waste, and inoperable or wrecked vehicles and parts thereof. Junk does not include lumber or other reclaimable material used by a properly licensed and operating business;

K. Vacant buildings or structures which have not been secured against entry by placing secured coverings on openings and which buildings are not maintained in accordance with the maintenance requirements of this code; or

L. Construction sites for which building permits have been abandoned for greater than six months, and which contain conditions that render the site dangerous or an attractive nuisance, such as unsecured holes or structures, sharp metal, or exposed rebar. Such sites shall be rendered secure and safe by the property owner.

OCCUPANT: A non-owner occupant of the real property at issue, if the owner of property is not the occupant of the property

**Section 3: DUTY TO MAINTAIN PROPERTY**

A. It shall be the duty of the landowner and occupant to keep their exterior property free of conditions which violate the provisions of this chapter.
B. It shall be the duty of the landowner and occupant to keep the area between their property line and the curb or edge of the roadway free of conditions which violate the provisions of this chapter. Such area shall include sidewalks, park strips between streets and sidewalks, or other adjacent landscaped or open areas within a dedicated public right-of-way.

**Section 4: ABATEMENT PROCEDURE**

A. **Nuisance Inspector**:
    1. **Established**: There is hereby established the position of nuisance inspector, whose duties it shall be to enforce the provisions of this chapter. Until another person is designated, the _____ Town Maintenance Supervisor, or his or her designee, shall enforce the provisions of this chapter. More than one person may be appointed to act as nuisance inspector under this section.
    2. **Authority**: The nuisance inspector is authorized to:
        a. Perform all functions necessary to enforce the provisions of this chapter.
        b. Inspect, examine, and investigate, or cause to be inspected, examined or investigated, as often as needed, all buildings,

structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this chapter.

B. **Violation**: If the nuisance inspector concludes there exists an object or condition in violation of this chapter, the inspector shall:
    1. Ascertain the identity and contact information of the landowner and occupant, together with a description of the premises where such objects and conditions constituting a nuisance exist.
    2. Serve notice in writing upon the landowner and occupant of such premises, either personally or by mailing notice prepaid, addressed to the landowner at the last known address of the landowner according to the records of the county recorder and addressed to the occupant at the address of the real property at issue, or as otherwise ascertained, requiring such landowner and occupant to eradicate or destroy and remove the object or condition constituting a nuisance within such time as the inspector may designate; provided, that any landowner and occupant notified pursuant to this paragraph shall be given at least ten (10) days following the date of service of such notice, to correct the objectionable condition. The notice shall:
        a. Identify the landowner of record according to the records of the county recorder;
        b. Identify and attach this ordinance;
        c. Describe the property and the nature and results of nuisance inspector's examination and investigation, including a description of the violation;
        d. Inform the landowner and occupant that in the event they disagree with the determination of the inspector or that they object to the factual or legal basis for the notice, they may request in writing a hearing before the Town Council. The request must be made within ten (10) days from the date notice is served on the landowner and occupants. The landowner and occupant's written request for a hearing must be served on the Town, c/o the Town Recorder, at its current business address during its regular business hours;
        e. Inform the landowner and occupant that in the event they fail or neglect to correct or abate the violating condition within the time prescribed within the notice, the Town will correct the violating condition and will collect the costs of so correcting the violating condition by either a court action, in which case they will be assessed such costs, together with reasonable attorney fees and court costs, or will charge the cost of correcting the violation against the property as a tax; and
        f. Be signed by the municipal inspector under penalty of perjury.
    3. In the event the landowner or occupant makes such request for a hearing, the Town Council shall set the time and place for hearing objections and the Town Recorder shall notify the landowner and occupant having an interest in said property in writing of the time and place at which they may appear and be heard.

4. If the nuisance inspector serves notice on the landowner or occupant by personal service, service shall be deemed completed upon delivery. If the nuisance inspector serves notice on the landowner or occupant by mail, service shall be deemed complete upon mailing.
5. If the notice is for a violation due to rank, injurious, or noxious weeds, the inspector is not required to make more than one notice for each annual season of weed growth for weeds growing on a property.

C. **Hearing**:

1. **Informal Hearing; Written Decision**: At the written request of the landowner and occupant having an interest in property which is the subject of the notice to abate, the Town Council shall conduct an informal hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, 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 Town Council shall also permit the presentation of evidence and argument by the inspector and other interested parties. The Town Council shall, over the signature of the Mayor or such other member of the Town Council as it may designate, within ten (10) days from the date of the hearing, 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.
2. **Notice Of Decision; Abatement By Owner Or Occupant**: In the event the decision of the Town Council upholds the determination of the inspector, the notice originally given by the inspector as above provided shall be deemed to be sufficient to require the owner, occupant or other landowner and occupant to remove or abate the objectionable conditions or objects affecting the property, and they shall have either the time remaining on the original notice to cure the objectionable condition or not more than ten (10) days from the date of notice of the Town Council's written decision, whichever time is longer, within which to conform thereto, unless additional time is authorized by the inspector.
3. **Time Period For Compliance**: In the event the decision of the Town Council either overrules or modifies the determination of the inspector, the written decision of the Town Council shall apprise the landowner and occupant of that fact and set forth the details and extent to which they must make removal or other abatement of the objectionable objects or conditions, if any. The owner, occupant or other landowner and occupant shall be required to conform to the decision of the Town Council within the time remaining on the original notice to cure the objectionable conditions or not more than ten (10) days after service or mailing of a copy of the Town Council's written decision, whichever period is longer, and the decision shall be deemed to be the modified decision of the inspector unless additional time is authorized by the Town Council.

D. **Failure To Comply; Abatement By Town**:

1. If the landowner and occupant described in such notice of decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the abatement of the nuisance, the inspector shall employ all necessary assistance and take such other action as deemed appropriate under the circumstances to carry out the purpose of this chapter.
2. Personal property, including wrecked, dismantled, unlicensed, or inoperable vehicles, constituting a nuisance under this chapter may be deemed abandoned, confiscated, removed, or destroyed as part of the abatement process.

E. **Itemized Statement**: The nuisance inspector shall prepare an itemized statement of all expenses, including administrative expenses, incurred in the removal and destruction of objects or conditions constituting a nuisance, and shall serve upon or mail a copy thereof to the owner, occupant or other landowner and occupants 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 certified or priority mail, addressed to the last known address of the property owner, occupant or persons having an interest in the property. The notice shall include the address of the municipal treasurer was payment may be made. The notice shall inform the landowner and occupant that failure to pay the expenses may result in a lien on the property in accordance with Utah Code Ann. § 10-11-4. The notice shall inform the landowner and occupant that they may file a written objection to all or part of the statement within twenty (20) days.

**F. Objection and Hearing**: If an objection is timely made, the Town Council shall conduct an informal hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act. At such hearing, the Town Council shall review and determine the actual incurred cost of abatement, if any. Within thirty (30) days of the Town Council's determination regarding the actual incurred cost of abatement, the responsible party shall pay any actual cost due.

G. **Failure To Make Payment**: In the event the owner, occupant or other person having an interest in the property fails to make payment of the amount set forth in the statement to the Town Treasurer within the twenty (20) days, the inspector may either cause suit to be brought in an appropriate court of law or may refer the matter to the County Treasurer as provided in this chapter.

H. **Collection**:
1. **Lawsuit**: In the event collection of expenses of destruction and removal are pursued through the courts, the Town shall sue and receive judgment for all of said expenses of destruction and removal, together with reasonable attorney fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.
2. **Referral To County Treasurer**:
    a. In the event that the nuisance inspector elects to refer the expenses of abating the nuisance to the County Treasurer for inclusion in the tax notice of the property owner, the inspector shall make in triplicate an itemized statement of all expenses incurred in the destruction or removal of the same, and shall deliver the three (3) copies of the statement to the County Treasurer within ten (10) days

after the completion of work of abating or removing the nuisance. Thereupon, the owner, occupant or other landowner and occupant of the property shall be subject to those statutory provisions governing the collection of Property Taxes, together with those rules or regulations, if any, promulgated by the County Treasurer's Office for the collection of Property Taxes.

b. In the event the Town Council elects the remedy under this paragraph, the nuisance inspector shall file the notice and proof of service of said notice in the Office of the County Treasurer.

I. **Criminal Proceedings**: The commencement of criminal proceedings for the purpose of imposing penalties for violations of this chapter shall not be conditioned upon prior issuance of a notice or the granting to the defendant an opportunity to abate or remove the nuisance. The provisions of this chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this chapter.

**Section 5: CRIMINAL PENALTY**

Any person who creates, maintains, allows or aids in creating, maintaining or allowing, or contributes to a nuisance, or who supports, continues, or retains a nuisance, is guilty of a class B misdemeanor.

SECTION B. Publication. This Ordinance, or a summary of this Ordinance, is ordered published in accordance with Utah Code Annotated § 10-3-711.

SECTION C. Effective Date. This ordinance shall become effective upon publication.

PASSED BY THE TOWN COUNCIL AND APPROVED BY THE MAYOR OF _____, UTAH on this _____ day of _____, 2022.

_____
_____, Mayor

ATTEST:

_____

VOTING:

| | |
|---|---|
| ___Yea | ___Nay |
| ___Yea | ___Nay |
| ___Yea | ___Nay |
| ___Yea | ___Nay |
| ___Yea | ___Nay |