

CHAPTER 4. ABATEMENT OF WEEDS, JUNKED, WRECKED, UNLICENSED, ABANDONED, AND INOPERABLE MOTOR VEHICLES, AND NUISANCES

8-4-1. Purpose.

8-4-2. Determination of nuisance.

8-4-3. Definitions.

8-4-4. Nuisances and other unlawful conditions.

8-4-5. Ordinance enforcement authority.

8-4-6. Criminal penalties.

8-4-7. Civil penalties.

8-4-8. Nuisance abatement.

8-4-1. Purpose.

The purposes of this Chapter 8-4 are to protect human health and safety and to implement City policies to promote the neat and orderly appearance of Tooele City, through the abatement of nuisances, as defined in this Chapter and in Tooele City Code §1-3-1(10), as amended. (Ord. 2006-08, 03-01-2006); (Ord. 2004-22, 12-15-04); (Ord. 94-52, 10-25-94)

8-4-2. Determination of nuisance.

It is hereby declared that weeds, motor vehicles, objects, and structures constitute a nuisance when they create a fire hazard, a source of contamination or pollution of water, air, or property, a condition that gives rise to a threat to human health or safety, a breeding place or habitation for insects or rodents or other pests or vermin, or are unsightly, malodorous, or deleterious constitute nuisances. Motor vehicles are expressly declared to be unsightly and deleterious when they are junked, wrecked, unlicensed, abandoned, or inoperable and not kept within an enclosed structure or carport as provided for herein. Real property and appurtenant structures are expressly declared to be unsightly and deleterious when they bear graffiti. (Ord. 2006-08, 03-01-2006); (Ord 2004-22, 12-15-04)

8-4-3. Definitions.

(1) "Abandoned motor vehicle" means any motor vehicle as defined in Utah Code Ann. §41-6-116.10, or which displays other common indicia of abandonment.

(2) "Association" means any business entity, including, without limitation, corporation, partnership, company, business, but not Person as defined in this Chapter.

(3) "Developed land" means real property, whether subdivided or not, upon which is built one or more buildings.

(4) "Graffiti" means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of public or private property by any implement or material.

(5) "Inoperable motor vehicle" means any motor vehicle which is mechanically not functionable for a period of over thirty (30) days. The thirty-day period may be extended by the Community Development Director for a maximum of six (6) months upon proof by the owner of

ongoing restoration.

(6) "Junked motor vehicle" means a motor vehicle which has outlived its usefulness in its original form and which is commonly gathered up and sold to be converted into another product, either of the same or of a different kind, or as scrap.

(7) "Motor vehicle" means any motorized vehicle which initially was designed or constructed to be self-propelled. The term "motor vehicle" includes, without limitation, automobiles, motorcycles, and heavy equipment.

(8) "Nuisance" has the meaning given in Tooele City Code §8-4-2 and §1-3-1(1), each as amended.

(9) "Officer" means Ordinance Enforcement Officer.

(10) "Person" means any individual man or woman.

(11) "Undeveloped land" means real property that is subdivided into building lots but is not built upon.

(12) "Unimproved land" means real property that is not subdivided or built upon.

(13) "Unlicensed motor vehicle" means any motor vehicle which is not currently registered or licensed by the State of Utah, but does not include vehicles exempt from registration under Section 41-22-9, Utah Code Annotated, 1953, as amended, provided that such exempt vehicle is operable. "Unlicensed motor vehicle" does not include motor vehicles kept or stored at an approved, licensed impound lot or commercial storage yard.

(14) "Wrecked motor vehicle" means a motor vehicle which has been destroyed, disabled, or seriously damaged. (Ord. 2006-08, 03-01-2006); (Ord. 2004-22, 12-15-04); (Ord. 94-52, 10-25-94)

8-4-4. Nuisances and other unlawful conditions.

(1) It shall be unlawful for any person or association owning or occupying real property in Tooele City to permit, cause, or allow any of the following nuisances or conditions to exist:

(a) weeds in excess of six (6) inches in height upon real property or in the public right-of-way between the sidewalk and the curb line of any street, or, if the street is unimproved, within six (6) feet of the edge of street pavement, except that weeds on undeveloped or unimproved land that are located at least fifteen (15) feet from any real property ownership line shall not be deemed a nuisance;

(b) the accumulation of garbage, refuse, or unsightly or deleterious objects or structures upon real property, unless contained in connection with a business enterprise lawfully situated and licensed for the same;

(c) junked, wrecked, unlicensed, or inoperable motor vehicles upon real property, for longer than 72 hours, except that up to two (2) such vehicles or parts thereof may be stored within an enclosed building or completely screened by a sight-obscuring fence.

(d) abandoned motor vehicles;

(e) the failure, by any person owning or exercising control over any real property abutting any sidewalk, to remove or cause to be removed from such sidewalk all hail, snow, or sleet falling thereon, or ice forming thereon, within twenty-four hours after such hail, snow, or sleet has ceased falling or ice has ceased forming;

(f) any other unsightly or deleterious condition

that gives rise to a threat to human health or safety; or,

(g) the failure, by any person owning or exercising control over any real property within the city, to remove graffiti from the person's property within fifteen (15) days after the graffiti appears on the property.

(2) Automobile impound and wrecking yards, which are lawfully established, licensed, and operated within the City, are exempt from the requirements of Subsection (1)(c) if the yards are completely screened by a sight-obscuring fence and are compliant with all Tooele City conditional use permit, site plan, building permit, and other City requirements.

(Ord. 2006-08, 03-01-2006); (Ord. 2004-22, 12-15-04); (Ord. 94-52, 10-25-94)

8-4-5. Ordinance enforcement authority.

(1) Criminal. The Police Department and City Attorney's Office shall have criminal enforcement authority.

(2) Civil. The Code Enforcement Officer shall have civil enforcement authority, as well as the Police Department officers and Community Development Department inspectors (referred to in the Chapter collectively as the "Officer").

(3) Nuisance Abatement. The Officer shall have authority to pursue nuisance abatement through the Notice of Abatement (referred to in this Chapter as "Notice") procedures contained in this Chapter.

(Ord. 2004-22, 12-15-04); (Ord. 94-52, 10-25-94)

8-4-6. Criminal penalties.

(1) In addition to other penalties provided in this Chapter, a violation of this Chapter is a class B misdemeanor criminal offense.

(2) An individual person convicted of a criminal offense shall be sentenced to pay a fine up to \$1000. An association convicted of a criminal offense shall be sentenced to pay a fine up to \$5,000.

(3) Restitution. In addition to any fines imposed, any person or association convicted of a criminal offense shall pay to the City restitution for all expenses incurred by the City in removing or abating the violation for which the person or association was charged.

(4) Each and every day that a violation of this Chapter continues after being charged, by criminal citation or Information, shall constitute a separate criminal offense.

(Ord. 2004-22, 12-15-04); (Ord. 94-52, 10-25-94)

8-4-7. Civil Penalties.

(1) In addition to other penalties provided in this Chapter, a violation of this chapter is a civil infraction.

(2) A civil infraction committed by a person shall be punishable as follows:

- (a) written warning for a first violation;
- (b) \$50 fine for a second violation;
- (c) \$200 fine for a third violation; and,
- (d) \$500 fine for a fourth violation.

(3) A civil infraction committed by an association shall be punishable as follows:

- (a) written warning for a first violation;
- (b) \$100 fine for a second violation;
- (c) \$500 fine for a third violation; and,

(d) \$1,000 fine for a fourth violation.

(4) Compliance period. A person or association served with a civil citation shall have the following time periods within which to eliminate the violation;

(a) 30 days for junked, wrecked, unlicensed, abandoned, or inoperable motor vehicles;

(b) 7 days for weeds; and,

(c) 7 days for graffiti; and,

(d) 7 days for other nuisances or conditions that give rise to a threat to human health or safety.

(5) Restitution. In addition to any fines imposed, any person or association cited for a civil infraction shall pay to the City restitution for all expenses incurred by the City in removing or abating the violation for which the person or association was cited.

(6) Form. Civil citations shall be on a form approved by the City Attorney, Chief of Police, and Community Development Director.

(7) Service. Service of civil citations shall be accomplished by:

(a) Personal delivery to any adult occupant or owner of the property upon which the violation has occurred; or,

(b) If no such adult is available:

(i) by posting the citation on the primary building on the property upon which the violation has occurred; or,

(ii) via certified U.S. mail to the owner of the property upon which the violation has occurred, as shown on the records of the Tooele County Recorder.

(c) An adult is not available when, without limitation:

(i) no such adult is known to be present upon the property at the time of service;

(ii) such an adult is known to be present but fails to respond to the officer's attempts to serve the citation; or,

(iii) such an adult refuses personal service.

(8) Appeals. Any person or association receiving a civil citation for a violation of this Chapter may file a written appeal with the Mayor's officer within seven (7) days of the date of the citation. The Administrative Hearing Officer shall schedule and conduct an informal hearing on the scheduled date and time, and shall issue a written decision within fifteen (15) days of the hearing. The decision shall be mailed via first-class mail to the address of the property upon which the violation occurred.

(9) Collection. The City may use all available legal remedies for collection of unpaid fines.

(Ord. 2006-08, 03-01-2006); (Ord. 2006-02; 1-4-2006); (Ord. 2004-22, 12-15-04)

8-4-8. Nuisance abatement.

(1) In addition to other penalties and procedures provided in this Chapter, the City may abate nuisances under the Notice procedure described in this Section.

(2) The Officer is hereby authorized and directed to inspect and examine real property situated within Tooele City for the purpose of determining whether or not it contains weeds, garbage, refuse, junked, wrecked, unlicensed, abandoned, or inoperable motor vehicles, graffiti, or other unsightly or deleterious objects or structures, or other nuisances in violation of this Chapter.

(3) If the Officer concludes that a violation of this Chapter exists, the Officer shall, to the extent practicable, do the following:

(a) ascertain the names of the owners and occupants of the property upon which the violation exists, and descriptions of the premises,

(b) serve a written Notice of Abatement upon the owner and/or occupant of the property upon which the nuisance exists.

(4) Service. Service of the Notice is made by posting the Notice on the property and mailing a copy of the Notice via certified U.S. mail to the owner of record at the address of record in the Tooele County Recorder's Office. The Notice shall reasonably describe the nuisance, how the nuisance is to be abated, and a reasonable time period within which the nuisance must be abated. One Notice shall be deemed sufficient on any lot or parcel of property for the entire season of weed growth during the calendar year in which the Notice is served. The Officer shall make written proof of service of any Notice served pursuant to this Section, and file the same in the office of the Tooele County Treasurer.

(5) Appeals of Notice.

(a) The Notice shall provide information to the owner and/or occupant stating that the findings and allegations in the Notice may be appealed, and the procedure by which to do so.

(b) Any person or association receiving a Notice may file a written appeal with the Mayor's office within seven (7) days of service of the Notice.

(c) The Administrative Hearing Officer shall schedule and conduct an informal hearing and shall issue a written decision within fifteen (15) days of the hearing. The decision shall be mailed via certified U.S. mail to the address indicated on the Notice or alternate address provided by the appellant.

(d) In the event the Administrative Hearing Officer upholds the determination of the Ordinance Enforcement Officer, the Notice originally served shall be deemed to be sufficient to require the owner and/or occupant to abate the nuisance, after which the owner and/or occupant shall have no more than fifteen (15) days from the date the mailed Administrative Hearing Officer's decision was post-marked to do so.

(e) In the event the Administrative Hearing Officer either overrules or modifies the determination of the Ordinance Enforcement Officer, the Administrative Hearing Officer's written decision shall set forth the details of, and extent to which, the owner and/or occupant must abate the nuisance described in the Notice, and shall require abatement of the nuisance, if any, within fifteen (15) days of the date the Administrative Hearing Officer's mailed decision was post-marked.

(f) The Ordinance Enforcement Officer shall file an amended Notice of Violation and proof of service of the Notice in the office of the County Treasurer.

(6) Abatement. If any owner and/or occupant of lands described in the Notice or amended Notice fails or neglects to abate the nuisance described in the Notice, the Officer shall employ all necessary assistance to cause the nuisance to be abated at the initial expense of Tooele City. This expense may be recovered in the manner described below.

(7) Itemized statement. The Officer shall prepare an itemized statement of all expenses incurred in the abatement of the nuisance and shall mail a copy thereof to the owner and/or occupant demanding payment within twenty (20) days of the mailing postmark. The statement shall be deemed delivered when mailed via certified U.S. mail addressed to the property owner's and/or occupant's last known address as shown in the records of the Tooele County Recorder.

(8) Failure to pay. In the event the owner or occupant fails to make payment of the amount set forth in the statement to the Tooele City Finance Department within twenty (20) days of the statement's mailing postmark, Tooele City may either cause suit to be brought in an appropriate court of law and/or may refer the matter to the Tooele County Treasurer as provided in this Chapter.

(9) Collection by law suit. In the event collection of expenses is pursued through the courts, Tooele City may sue for and receive judgment for all of the costs of abatement, together with reasonable attorneys' fees, interest, and court costs, and may execute upon such judgment in the manner provided by law.

(10) Collection through taxes. In the event that the City elects to refer the expenses of abatement to the County Treasurer for inclusion in the tax notice of the property owner, the Officer shall make, in triplicate, an itemized statement of all expenses incurred in the abatement and shall deliver the three copies of the statement to the County Treasurer within ten (10) days after the completion of the abatement work. Thereupon, recovery of the expenses on behalf of Tooele City shall be pursued by the County Treasurer in accordance with the provisions of law.

(Ord. 2006-08, 03-01-2006); (Ord. 2006-02, 01-04-2006); (Ord. 2004-22, 12-15-04)