

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

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**8-4-1. Purpose.**

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 danger to health, a breeding place or habitation for insects or rodents or other forms of life deleterious to human habitations, or are unsightly or deleterious to their surroundings. Motor vehicles are expressly declared to be unsightly or deleterious when they are junked, wrecked, unlicensed, abandoned or inoperable and not kept within an enclosed structure or carport. (Ord. 94-52, 10-25-94)

**8-4-2. Definitions.**

(1) "Motor vehicle" means any motorized vehicle which initially was designed or constructed to be self-propelled.

(2) "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.

(3) "Wrecked motor vehicle" means a motor vehicle which has been destroyed, disabled or seriously damaged.

(4) "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 impound lot or commercial storage yard.

(5) "Abandoned motor vehicle" means any motor vehicle as defined in Utah Code Ann. §41-6-116.10.

(6) "Inoperable motor vehicle" means any motor vehicle which is mechanically not functionable for a period of over thirty days. The thirty-day period may be

extended upon proof by the owner of ongoing restoration. (Ord. 94-52, 10-25-94)

**8-4-3. Criminal provision.**

It shall be unlawful for any person, firm, corporation, partnership or other legal entity owning or occupying real property in Tooele City to permit, cause or to allow:

(1) weeds to be upon real property in excess of six inches in height, or to permit weeds to exist between the sidewalk and the curb line of any street fronting such property;

(2) garbage, refuse, unsightly or deleterious objects or structures to exist upon such real property, unless in connection with a business enterprise lawfully situated and licensed for the same; or

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

(4) Automobile impound and wrecking yards, which are lawfully established and operated within the City, are exempt from the requirements of Subsection (3). (Ord. 94-52, 10-25-94)

**8-4-4. Penalty.**

(1) A violation of this Chapter is a class B misdemeanor. A person convicted of an offense may be sentenced to pay a fine not exceeding \$1,000. The sentence to pay a fine, when imposed upon a corporation, association, partnership, or governmental instrumentality for an offense shall be to pay an amount, fixed by the court, not exceeding \$5,000.

(2) Each and every day that violation of this Chapter continues shall constitute a separate offense.

(3) In addition to other penalties imposed by a court of competent jurisdiction, any person, corporation, association, partnership or other entity found guilty of violating any provision of this Chapter shall be liable for all expenses incurred by the city in removing or abating any item described in Section 8-4-3. (Ord. 94-52, 10-25-94)

**8-4-5. Code enforcement officer.**

The office of code enforcement officer is hereby created for the purpose of administering the provisions of this Chapter and the powers delegated to Tooele City by Utah Code Ann. §10-11-1 et seq., subject to such control and review as the mayor may from time to time direct. Until such time as the mayor may otherwise appoint a code enforcement officer, the building inspector and fire department inspectors shall perform the functions of code enforcement officer. The mayor may appoint such assistant code enforcement officers and delegate to them

such powers and duties as may from time to time be determined. The powers and duties of the assistants shall be the same as those of the code enforcement officer. (Ord. 94-52, 10-25-94)

#### **8-4-6. Duties.**

(1) The code enforcement 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, junked, wrecked, unlicensed, abandoned or inoperable motor vehicles, refuse or unsightly or deleterious objects or structures, and for the purpose of determining whether or not the existence of those weeds or objects creates a fire hazard or constitutes a source of contamination or other danger to health and safety, or otherwise creates nuisances, as above declared.

(2) If the code enforcement officer concludes that such conditions exist in whole or in part, the officer shall, with the approval of the mayor:

(a) ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions exist;

(b) serve notice in writing upon the owner and occupant of such land, either personally or by mailing notice, postage prepaid, addressed to the owner and occupant at their last known post office addresses, as disclosed by the records of the county assessor, or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the same within such time as the code enforcement officer may designate, which shall not be less than ten days from the date of service of such notice;

(c) inform the owner or occupant or both by means of the notice or an attached document that in the event he disagrees with the determination of the code enforcement officer and does not wish to remove the objects or objectionable conditions, he may request in writing a hearing before the city council at a time and place to be set by the city council. A written application for a hearing shall stay the time within which the owner or occupant must conform to the decision of the code enforcement officer.

(3) In the event the owner or occupant makes such request for a hearing, the city council shall set the time and place for hearing the objections and the city recorder shall notify the owner or occupant in writing of the time and place at which he may appear and be heard. The hearing shall not be held within less than five days from the date of service or mailing of the notice. (Ord. 94-52, 10-25-94)

#### **8-4-7. Proof of service.**

(1) One notice shall be deemed sufficient on any lot or parcel of property for the entire season of weed growth during that year.

(2) The code enforcement officer shall make proof of service of any notice given pursuant to §8-4-5 under oath, and file the same in the office of the county treasurer. (Ord. 94-52, 10-25-94)

#### **8-4-8. Hearing.**

(1) At the written request of an owner or occupant ordered to remove or abate weeds, objectionable conditions, junked, wrecked, unlicensed, abandoned or inoperable motor vehicles, or objects from his real property, the city council shall conduct an informal hearing which need not be reported wherein the owner or occupant 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 code enforcement officer and other interested parties. Thereafter, within not more than ten days, the governing body shall, over the signature of the mayor or such other member of the city council as it may designate by resolution, render its written decision, a copy of which shall be mailed to or served upon the owner or occupant by the code enforcement officer.

(2) In the event the city council upholds the determination of the code enforcement officer, the notice originally given by the code enforcement officer shall be deemed to be sufficient to require the owner or occupant to remove or abate the objects or conditions and he shall have up to ten days from the date of notice of the decision within which to conform thereto.

(3) In the event the city council either overrules or modifies the determination of the code enforcement officer, the written decision of the city council shall apprise him of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the city council within ten days after service or mailing of a copy of the decision and the decision shall be deemed to be the modified decision of the code enforcement officer.

(4) The code enforcement officer shall file an amended notice and proof of service of the notice in the office of the county treasurer. (Ord. 94-52, 10-25-94)

#### **8-4-9. Failure to comply.**

If any owner or occupant of lands described in such notice or decision shall fail or neglect to conform to the requirements thereof relating to the eradication or destruction or removal of such weeds, motor vehicles, garbage, refuse, objects or structures, the code enforcement officer shall employ all necessary assistance to cause such materials to be removed or destroyed at the expense of Tooele City. (Ord. 94-52, 10-25-94)

**8-4-10. Itemized statement.**

The code enforcement officer shall prepare an itemized statement of all expenses incurred in the removal and destruction of the materials and shall mail a copy thereof to the owner or occupant, or both, demanding payment within twenty days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail addressed to the property owner's or occupant's last known address. (Ord. 94-52, 10-25-94)

**8-4-11. Failure to make payment.**

In the event the owner or occupant fails to make payment of the amount set forth in the statement to Tooele City Finance Department within the twenty days, the code enforcement officer 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. (Ord. 94-52, 10-25-94)

**8-4-12. Collection by law suit.**

In the event collection of expenses of destruction and removal are pursued through the courts, Tooele City may sue for and receive judgment for all of the costs of destruction and removal, together with reasonable attorneys' fees, interest and court costs and may execute upon such judgment in the manner provided by law. (Ord. 94-52, 10-25-94)

**8-4-13. Collection through taxes.**

In the event that the code enforcement officer elects to refer the expenses of destruction or removal to the county treasurer for inclusion in the tax notice of the property owner, he shall make, in triplicate, an itemized statement of all expenses incurred in the destruction and removal of the same and shall deliver the three copies of the statement to the county treasurer within ten days after the completion of the work of destroying or removing such weeds, motor vehicles, refuse, garbage, objects or structures. Thereupon the costs of the work shall be pursued by the county treasurer in accordance with the provisions of Section 10-11-4, Utah Code Ann., 1953, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted. (Ord. 94-52, 10-25-94)