

CHAPTER 12. NUISANCES

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Article 12-1. In General

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12-1-1. Definition.

For the purposes of this Chapter, the word "nuisance" is hereby defined as any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

(a) Injures or endangers the comfort, repose, health or safety of others; or

(b) Offends decency; or

(c) Is offensive to the senses; or

(d) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or

(e) In any way renders other persons insecure in life or the use of property; or

(f) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

12-1-2. Illustrative enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

(a) Noxious weeds and other rank vegetation.

(b) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.

(c) Any condition which provides harborage for rats, mice, snakes or other vermin.

(d) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than

ordinarily dangerous fire hazard in the vicinity where it is located.

(e) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.

(f) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.

(g) The carcasses of animals or fowl not disposed of within a reasonable time after death.

(h) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.

(i) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.

(j) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

(k) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

(l) The operation of an unlicensed, or the operation of a business at variance with the terms and conditions imposed in granting the license.

(m) The use of dynamic braking devices, also known as engine retarders, and commonly known as "Jacob's Brake" or "Jake Brake", on Highway US 189 in Provo Canyon from the Utah County-Wasatch County Boundary for a distance of one and one-half (1½) miles on Highway US 189 to the Southwest.

12-1-3. Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

State law reference - Nuisance as a misdemeanor, U.C.A. 1953, Section 76-10-801(2).

12-1-4. Notice to abate.

Whenever a nuisance is found to exist within the County, the health officer or some other duly designated officer of the County shall give written notice to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance. (R.O. 1956, Section 3-1-7)

12-1-5. Contents of notice.

The notice to abate a nuisance issued under the provisions of this Chapter shall contain:

(a) The location of the nuisance, if the same is stationary.

(b) A description of what constitutes the nuisance.

(c) A statement of acts necessary to abate the nuisance.

(d) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the County will abate such nuisance and assess the cost thereof against such person.

12-1-6. Service of notice.

The notice to abate a nuisance shall be served as any other legal process may be served pursuant to law.

12-1-7. Abatement by County.

Upon the failure of the person upon whom a notice to abate a nuisance was served pursuant to the provisions of this Chapter to abate the same, the local health officer or other duly designated officer of the County may proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof. (Ord. 2003-18, 6-10-03)

12-1-8. Costs declared lien.

Any and all costs incurred by the County in the abatement of a nuisance under the provisions of this Chapter shall constitute a lien against the property upon which such nuisance 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.

Article 12-2. Cleaning of Real Property

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12-2-1. Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings respectively ascribed to them:

(a) "Property" means any real property within the County which is not a street or highway.

(b) "Street or highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(c) "Vehicle" means a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides, and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon. (Ord. No. 1970-1, Section 1, 3-11-70)

12-2-2. Real property to be kept clean.

It shall be unlawful for any person owning or occupying any real property in the County to fail to control the growth of injurious and noxious weeds on such property or to fail to remove from such property any such weeds or any refuse and any unsightly or deleterious objects of structures upon notice from the County as provided in this Article. (Ord. No. 1970-1, Section 2, 3-11-70)

12-2-3. Control of unsightly wastes.

It shall be unlawful for any person to cause or permit junk, scrap metal, waste paper products, discarded building materials, or any unused, abandoned vehicle, vehicles, or abandoned parts, machinery, or machinery parts, or other waste materials to be in or upon any yard, lot, or piece of property within the County or in or upon the parking space, or sidewalk adjoining such yard, lot, or piece of property within the County, whenever said items shall be unsightly and in public view. (Ord. No. 1970-1, Section 3, 3-11-70)

12-2-4. Abandonment of vehicles.

No person shall abandon any vehicle within the County and no person shall leave any vehicle at any place within the County for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. (Ord. No. 1970-1, Section 4, 3-11-70)

12-2-5. Leaving of wrecked, nonoperating vehicle on street.

No person shall leave any partially dismantled, nonoperating, wrecked or junked vehicle on any street or highway within the County. (Ord. No. 1970-1, Section 5, 3-11-70)

12-2-6. Disposition of wrecked or discarded vehicles.

No person in charge or control of any property within the County, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, nonoperating, wrecked, junked, or discarded vehicle to remain on such property longer than thirty (30) days; and no person shall leave any such vehicle on any property within the County for a longer time than thirty (30) days; except that this Article shall not apply with regard to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the County. (Ord. No. 1970-1, Section 6, 3-11-70)

12-2-7. Impounding.

The Sheriff or any member of the Sheriff's office designated by the Sheriff is hereby authorized to remove or have removed any vehicle left at any place within the County which reasonably appears to be in violation of this Article or lost, stolen, or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with State law. (Ord. No. 1970-1, Section 7, 3-11-70)

12-2-8. Presumption.

For purposes of this Article, a vehicle shall be prima facie presumed abandoned if it is not registered and inspected thirty (30) days after the date on which such registration and inspection is required by the laws of the State. (Ord. No. 1970-1, Section 8, 3-11-70)

12-2-9. Standards of weed control.

Weeds shall be cut and cleared from all real property in the County, except property zoned for grazing which has not been subdivided, to a height of not more than twelve (12) inches at all times. After cutting, all such weeds shall be promptly removed from the premises. (Ord. No. 1970-1, Section 9, 3-11-70)

12-2-10. Examination and investigation.

The County Board of Health, authorized employees of the County Health Department, or such employees as may be designated by the Board of County Commissioners shall be authorized to make examination and investigation of all real property in the County, as allowed by law, to determine whether the owners of such property are complying with the provisions of this Article. (Ord. No. 2003-18, 6-10-03)

12-2-11. Notice of violation.

Upon a determination that a violation of the provisions of Section 12-2-2, 12-2-3, 12-2-6, or 12-2-9 exists, the County Board of Health or the employee designated by the Board of County Commissioners shall ascertain the name of the owner and description of the premises where the violation exists, and shall serve notice in writing upon the owner or occupant of such property, either personally or by mailing notice, postage prepaid, addressed to the owner or occupant at the last-known post-office address as disclosed by the records of the County Assessor, requiring such owner or occupant, as the case may be, to eradicate or destroy or remove the weeds, refuse, objects, or structures causing the violation within such time as the County Board of Health or the employee designated by the Board of County Commissioners may designate, which shall be no less than ten (10) days after the date of service of such notice. If notice has already been served once during the calendar year directing removal of weeds, no further notice need be served to compel such weed removal during such calendar year. (Ord. No. 1970, Section 11, 3-11-70)

12-2-12. County to clean property.

If any owner or occupant of property described in the notice provided in this Article shall fail to eradicate or destroy and remove such weeds, refuse, objects or structures in accordance with such notice, the County Board of Health or the employee designated by the Board of County Commissioners is hereby authorized to employ necessary assistance and cause such weeds, refuse, objects or structures to be destroyed or removed. The County Board of Health or the employee designated by the Board of County Commissioners shall prepare an itemized statement of all expenses incurred in the removal and destruction of same and shall mail a copy thereof to the owner demanding payment within twenty (20) days of the date of mailing. Such notice shall be deemed delivered when mailed by registered mail addressed to the last-known address of the property owner. (Ord. No. 1970-1, Section 12, 3-11-70)

12-2-13. Compelling payment.

In the event the owner fails to make payment of the amount set forth in the statement to the County Treasurer within twenty (20) days of the date of mailing, the County Board of Health or the employee designated by the Board of County Commissioners either may cause suit to be brought in an appropriate court of law or may refer the matter to the County Treasurer as provided in this Article. (Ord. No. 1970-1, Section 13, 3-11-70)

12-2-14. Collection by lawsuit.

In the event collection of expenses of destruction and removal are pursued through the court, the County shall sue for and receive judgment for all of said expenses of destruction and removal, together with reasonable attorney's fees, interest and court costs and shall execute upon such judgment in the manner provided by law. (Ord. No. 1970-1, Section 14, 3-11-70)

Article 12-3. Unreasonable Noise

- 12-3-1 Declaration of Intent, Policy and Scope
- 12-3-2 Definitions
- 12-3-3 Excessive Sound Levels
- 12-3-4 Monitoring and Enforcement
- 12-3-5 Violations

12-3-1 Declaration of Intent, Policy and Scope

It is declared to be the intent of Utah County, in the exercise of its police power, to prohibit unnecessary, excessive and annoying sound levels from all sources where such will negatively impact users of adjoining property. At certain levels, sounds are detrimental to the health and welfare of the citizenry, and, in the public interest, shall be systematically proscribed. It is the purpose of this Article to prescribe standards for and to provide an effective and readily available remedy for violations of this Article. The provisions of this Article and the remedies contained herein shall be cumulative and are not intended to replace any otherwise available remedies for public, private, or mixed nuisance, or any other civil or criminal remedies available. The scope of the provisions of this Article shall be the unincorporated area of Utah County.

12-3-2 Definitions

All terminology used in this Article and not elaborated upon in the definitions in this section shall be in conformance with applicable American National Standards Institute publications. For the purpose of the administration and enforcement of this Article, certain words and phrases are defined as follows:

“Decibel” means the customary logarithmic and dimensionless unit of measures used in describing the amplitude of sound. Decibel is abbreviated herein as “dB”.

“Cyclically Varying Noise” means any sound which varies in sound level so that the same level or nearly the same level of sound is obtained repetitively at spaced intervals of time. Example: Back-up beeper on heavy equipment.

“Impulse Noise” means a noise with a duration of two seconds or less. Example: a gunshot.

“Intermittent Noise” is a noise similar to a cyclically varying noise but with an irregular interval and a continuous duration of 6 minutes or less for high level sound levels. Example: a motor vehicle passing a fixed location

“Noise Source” means any instrument or device for amplifying sound, or anything which produces, reproduces, or amplifies sound. The term shall include multiple sources of sound.

“Sound pressure level” means the sound level measured with a sound level meter using the A-weighting network. The standard notation or abbreviation is “dB(A)”.

12-3-3 Excessive Sound Levels

(a) Except as provided in subsections (e) or (f) of this section 12-3-3, no person shall:

(1) Operate any type of vehicle, machine, instrument or other device;

(2) Carry on any activity; or

(3) Promote or facilitate the carrying on of any activity;

which makes sound in excess of the levels specified in this section.

(b) Sound from a moving vehicular source operated on a public right-of-way shall not exceed eighty decibels on the A weighting scale (80 dB(A)), as measured at a distance at least twenty-five feet (25') from said vehicle located in the right-of-way. Exception: The maximum sound level shall be eighty-eight decibels (88 dB(A)) for vehicles on State Highways and on county roads adopted by a resolution of the County Commission as arterial roads.

(c) Sound from any source, other than a vehicle operated on a public right-of-way, shall not exceed the levels stated in the table below when measured off-site (meaning measured upon the property owned by someone other than the owner of the property from which the sound was emitted). The zone designations refer to the zoning districts as identified in Chapter 4 of the Utah County Zoning Ordinance and on the Utah County Zone Map.

(1) The limits in each zone prescribed by this section are set forth in the following table:

Zoning district in which the property lies where the sound is received	Maximum number of decibels (dB(A)) permitted between the hours of 7:00 a.m. and 10:00 p.m.	Maximum number of decibels (dB(A)) permitted between the hours of 10:00 p.m. and 7:00 a.m.
Residential Zones: RA-5, RR-5, TR-5 and CE-2	55 dB(A)	50 dB(A)
Commercial Zones: NC-1 and HS-1	65 dB(A)	60 dB(A)
Industrial & Other Zones: I-1, CE-1, M&G-1 and A-40	80 dB(A)	80 dB(A)

(2) Exception: Sound from construction work at a site for which a current building permit has been issued and is in effect shall be deemed to be received in an industrial district during the hours of 7:00 a.m. to 10:00 p.m. Under no circumstances shall amplified sound be considered as construction work activity, nor shall the period of this exception exceed one year.

(3) Sound from a source regulated by this subsection:

(i) Sound from a source on private property shall be measured at or inside the property live of property owned by a person or entity other than the person or entity owning the property on which the sound is produced.

(ii) Sound from a source on public parks, County-approved shooting ranges, or other public property (other than roads, which are treated in part (b) above) shall be measured at a distance of 25 feet from the source of the sound, or at the property line or inside the property which adjoins the public property.

(4) For the purposes of this subsection, a leasehold shall be deemed a property and its boundary shall be deemed a property line.

(d) All sound measurements shall be made on a sound level meter which meets ANSI specification S1.4-1974 for Type I or Type II equipment. The manufacturer's published indication of compliance with such specifications is prima facie evidence of compliance with this subsection.

(e) It is a specific defense to a charge of violating this Article that:

(1) The sound was made by an authorized emergency vehicle which was responding to a call or acting in time of emergency;

(2) The sound was made within the terms of a temporary event such as a parade, fireworks display, or other event for which a permit and exemption was issued by the County Commission as being in the public interest, and the conditions of such permit were being complied with.

(3) The sound was made by farm animals or by the normal day or night operation of farm equipment

(4) The sound was made by the sounding of a horn of a vehicle as a warning signal of imminent danger or the sounding of any warning device required by law.

(5) The sound was made on property owned by the Federal or state and was made by an activity of that governmental entity (or those under contract with the Federal or state government to carry out such activity).

(6) The sound was made under the auspices of a variance issued by the County Commission or its designee to grant noise ordinance variances, and was made within the terms and conditions of such variance. To grant a variance the County Commission or the designee must find:

(i) The facts of the specific variance will result in no undue harm or loss to other parties.

(ii) The best available sound control technologies have been employed and the sound still exceeds the standards stated above.

(iii) No reasonable alternative exists for person or entity producing the sound.

(iv) Conditions or mitigation measures are required as a part of the variance approval which are sufficient to protect the interests of the public.

(f) The following existing shooting ranges are specifically exempted from the restrictions and violations contained in this Article 12-3 of the Utah County Code [RE: section 47-3-3 Utah Code Annotated 1953]:

(1) Utah County Shooting Range, 12771 S (6431 E) US Highway 89;

(2) Western Range Management Range, 395 S. 18159 W.;

(3) Utah Division of Wildlife Resources/Pacific States Rifle Club Shooting Range, 4896 E. Hobbie Creek Canyon Road;

(4) Goshen Dam Sporting Clays Shotgun Shooting Range, 11209 W. US Highway 6;

(5) Beer Creek Farms Shotgun Shooting Range, 5500 W. 6400 W;

(6) Wild Wings Hunting & Sporting Clays Club Shooting Range, 3446 S. 200 W.

12-3-4 Monitoring and Enforcement

The Utah County Community Development is appointed to monitor compliance with the provisions of this Article 12-3. Either department personnel or contractors doing building inspection or other work for the department may perform the monitoring work. If a violation of the provisions of this Article 12-3 is discovered during monitoring activities, the Director of the Community Development Department or his designee may refer the matter to the Utah County Attorney for legal action.

12-3-5 Violations

(a) Each offense of violation of this Article constitutes a separate and distinct violation. For a continuous sound, each day of violation of this Article constitutes a separate and distinct violation.

(b) Violations shall be a class B misdemeanor, unless otherwise provided for in Section 10-3-1(5)(a) of the Utah County Code. The County Attorney may also seek civil action to abate or enjoin the violation, or to obtain whatever other remedy or penalty the Court may deem appropriate.

