

## CHAPTER 12. NUISANCES

### Article 12-1. In General

#### Article 12-2. Cleaning of Real Property

#### Article 12-3. Utah County Weed Control

### Article 12-1. In General

#### 12-1-1. Definition.

#### 12-1-2. Illustrative enumeration.

#### 12-1-3. Prohibited.

#### 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.

## Utah County Code

(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). (Ord. No. 2019-26, 7-9-19).

## **Article 12-2. Cleaning of Real Property**

**12-2-1. Definitions.**

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

**12-2-3. Control of unsightly wastes.**

**12-2-4. Abandonment of vehicles.**

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

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

**12-2-7. Impounding.**

**12-2-8. Presumption.**

**12-2-9. Reserved**

**12-2-10. Examination and investigation.**

**12-2-11. Notice of violation.**

**12-2-12. County to clean property.**

**12-2-13. Compelling payment.**

**12-2-14. Collection by lawsuit.**

**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.

## Utah County Code

(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

## **Utah County Code**

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. Reserved.**

### **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.**

## **Utah County Code**

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. Utah County Weed Control Board**

### **12-3-1. Definitions**

### **12-3-2. Jurisdiction to Control Weeds**

### **12-3-3. Authority to Create County Noxious Weed Control Fund**

### **12-3-4. Utah County Weed Control Board**

### **12-3-5. Authority of Utah County Weed Control Board**

### **12-3-6. Authority of Commission to Designate County Noxious Weeds**

### **12-3-7. Authority to Create Weed Control Supervisor**

### **12-3-8. Duties of Weed Control Supervisor**

### **12-3-9. Annual Notice of Noxious Weeds**

### **12-3-10. Authority of Utah County Weed Control Board to Provide Notice of Violation**

### **12-3-11. Authority of the County to Control or Prevent the Spread of Noxious Weeds and Seek Reimbursement from Property Owner**

### **12-3-12. Appeal Process for Disputing a Notice of Violation**

### **12-3-1. Definitions.**

Whenever used in this Article:

- (a) "Commission" means the Board of County Commissioners of Utah County.
- (b) "Commissioner" means the commissioner of agricultural and food for the State of Utah, or the Commissioner's representative.
- (c) "County noxious weed" means any plant that is:
  - (i) not on the state noxious weed list;
  - (ii) especially troublesome in Utah County; and
  - (iii) declared by the Commission to be a noxious weed within Utah County.
- (d) "Department" means the Utah Department of Agriculture and Food.
- (e) "Noxious weed" means any plant the Commissioner determines to be especially injurious to public health, crops, livestock, land, or other property.

### **12-3-2. Jurisdiction to Control Weeds.**

The Utah legislature through the Utah Noxious Weed Act has granted Utah County jurisdiction to develop, implement, and pursue an effective program for the control and containment of noxious weeds on all lands under the county's jurisdiction, including highways,

## **Utah County Code**

roadways, rights-of-way, easements, game management areas, and recreation areas.

### **12-3-3. Authority to Create County Noxious Weed Control Fund.**

The Commission may establish and maintain a noxious weed control fund for use in the administration of the Utah Noxious Weed Act and this Article.

### **12-3-4. Utah County Weed Control Board.**

There is hereby created a Utah County Weed Control Board under the Utah Noxious Weed Act. The Commission shall appoint no less than three nor more than five appointed members. The chair of the Commission shall appoint one member of the Commission who shall act as a coordinator between the county and the Utah County Weed Control Board. At least two members of the board shall be farmers or ranchers whose primary source of income is derived from production agriculture. Members are appointed to four-year terms of office and serve with or without compensation as determined by the Commission. Members may be removed for cause and any vacancy that occurs on the Utah County Weed Control Board shall be filled by appointment for the unexpired term of the vacated member.

### **12-3-5. Authority of Utah County Weed Control Board**

The Utah County Weed Control Board is responsible, under the general direction of the Commission, for the formulation and implementation of a county-wide coordinated noxious weed control program designed to prevent and control noxious weeds within Utah County. The weed control board is required, under the general direction of the Commission, to cooperate with other county weed control boards to prevent and control the spread of noxious weeds.

### **12-3-6. Authority of Commission to Designate County Noxious Weeds.**

The Commission may declare a particular weed or competitive plant, not appearing on the state noxious weed list a county noxious weed within Utah County. The Commission may petition the Commissioner for removal of a particular noxious weed from the state noxious weed list after first conducting a public hearing that was duly noticed.

### **12-3-7. Authority to Create Weed Control Supervisor.**

The Commission may employ one or more weed control supervisors qualified to:

- (a) detect and treat noxious weeds; and
- (b) direct the weed control program for the county weed control board.

The Commission shall prescribe the terms and conditions of the employment.

### **12-3-8. Duties of Weed Control Supervisor.**

Under the direction of the county weed control board, the supervisor shall:

- (a) examine all land under the jurisdiction of the county weed control board to determine whether the Utah Noxious Weed Act and the rules adopted by the Department have been met;
- (b) compile data on infested areas;
- (c) consult and advise upon matters pertaining to the best and most practical method of noxious weed control and prevention;
- (d) render assistance and direction for the most effective control and prevention;
- (e) investigate violations of this Article and the Utah Noxious Weed Act;

## Utah County Code

- (f) enforce noxious weed controls within the county; and
- (g) perform any other duties required by the county weed control board.

### **12-3-9. Annual Notice of Noxious Weeds.**

The Utah County Weed Control Board shall annually post a general notice of the noxious weeds within the county before the first of May in at least three public places within the county and publish the same notice on:

- (a) at least three occasions in a newspaper or other publication of general circulation within the county; and
- (b) as required in Utah Code section 45-1-101.

### **12-3-10. Authority of Utah County Weed Control Board to Provide Notice of Violation.**

If the Utah County Weed Control Board determines that a particular property within the county requires prompt and definite attention to prevent or control noxious weeds, the board shall serve the owner or the person in possession of the property, personally or by certified mail, a notice specifying when and what action is required to be taken on the property. Methods of prevention or control may include definite systems of tillage, cropping, use of chemicals, and use of livestock. An owner or person in possession of property who fails to take action to control or prevent the spread of noxious weeds as specified in the notice is maintaining a public nuisance.

### **12-3-11. Authority of the County to Control or Prevent the Spread of Noxious Weeds and Seek Reimbursement from Property Owner.**

In accordance with the Utah Noxious Weed Act, the County has the authority to do the following:

- (a) If the owner or person in possession of the property fails to take action to control or prevent the spread of noxious weeds within five working days after the property is declared a public nuisance, the county may, after reasonable notification, enter the property, without the consent of the owner or the person in possession, and perform any work necessary, consistent with sound weed prevention and control practices, to control the weeds.
- (b) If the county controls weeds on a piece of property, as described in subsection (a), and seeks reimbursement from the property owner of record or the person in possession of the property, the county shall:
  - (i) send the property owner or person in possession of the property a documented description of the expenses, and
  - (ii) a demand for payment within 30 days of the day on which the weed control took place.
- (c) The property owner of record or the person in possession of the property, as the case may be, shall reimburse the county for the county's expense within 90 days after receipt of the demand for payment, as described in subsection (b)(ii).
- (d) If the demand for payment is not paid within 90 days after receipt, the charges become a lien against the property and are collectible by the county treasurer at the time general property taxes are collected.

### **12-3-12. Appeal Process for Disputing a Notice of Violation**

## **Utah County Code**

Any person served with notice to control noxious weeds may request a hearing to appeal the terms of the notice before the Utah County Weed Control Board within 10 days of receipt of such notice. The person may appeal the decision of the weed control board to the Commission within 10 days of receipt of the weed control board's decision. In accordance with Utah law, any person served with notice to control noxious weeds who has had a hearing before both the Utah County Weed Control Board and the Commission may further appeal the decision of the Commission by filing a written notice of appeal with a court of competent jurisdiction.