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## **2.1 Purpose**

An Ordinance providing for nuisance generally, an Ordinance Inspector, an Ordinance complaint filing and resolution process and penalties for the violation of said Ordinance.

## **2.2 Nuisances Generally**

### **2.2.1 Nuisances Defined**

A nuisance is any item, thing, manner, condition whatsoever that annoys, is a danger to human life or health or renders soil, air, water, or food impure or unwholesome.

### **2.2.2 Public Nuisance Definitions**

- A. A public nuisance is a crime against the order and economy of the Town and consists in unlawfully doing any act or omitting to perform any duty, which act or omission either:
1. Annoys, injures, or endangers, the comfort, repose, health, or safety of the public.
  2. Unlawfully interferes with, obstructs, or tends to obstruct or renders dangers for passage, any lake, stream, canal, or basin, or any public park, square, street or highway.
  3. In any way renders residents insecure in life or the use of their property.
  4. Garbage – Household waste, food waste, all animal and vegetable refuse from kitchens or residences, hotels, cafes, restaurants and places where food is prepared for human consumption, including all animal and vegetable refuse from such kitchens, the materials in which such food products are packaged, and also all condemned, or decayed or unsound vegetables, meats, fish, fruit and all waste and offal there from markets, stores and factories and any other manner of refuse, rubbish, rotting hay, or trash which in and of itself has no value.
  5. Junk – All discarded metals, scrap metals, iron, glass, paper, wood, building materials, plastics, fiberglass which may have value second hand but not in its present condition, unused or discarded bicycles, tricycles or other recreational vehicles or parts therefore, waste paper products, unused or discarded building materials, machinery or machinery parts, lumber, accumulations of dirt, gravel, ashes, or fire remains, or any inoperable or abandoned vehicles, parts, or any other waste materials.
  6. Inoperable or Abandoned Vehicle – Includes any trailer, semi-trailer or motor vehicle not currently registered and licensed in this state or another state, that cannot be operated in its existing condition because the parts necessary for operation such as, but not limited to, tires, windshield, engine, drive train, driver’s seat, steering wheel or column, gas or brake pedals are removed, destroyed, damaged, deteriorated, or nonconforming.

7. Public nuisance animal – any animal which violates the provisions of this Title as defined or the title on Nuisance Generally and:
- a. Causes damage to the property of anyone other than its owner;
  - b. Causes unreasonable odors;
  - c. Causes unsanitary conditions, either for the animal(s) or person(s) living nearby;
  - d. Is a potentially dangerous or vicious animal as defined in the Animal Control Title;
  - e. Every dog or animal which by barking, howling or making other noises disturbs or disrupts the peace and quiet of more than three persons, or in the case of disturbing one or more persons is documented by an Animal Control or Huntsville Town Law Enforcement Officer on at least three separate occasions or for an extended period of time;
  - f. Regularly chases vehicles;
  - g. Regularly chases other animals.
8. Noxious weeds – any plant the Utah Commissioner of Agriculture determines to be especially injurious to public health, crops, livestock, land or other property.
- B. An act which affects the public in any of the ways specified in this section is still a nuisance regardless if the extent of annoyance or damage inflicted on individuals is unequal.

### **2.2.3 Public Nuisance Maintenance**

Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of public nuisance, is guilty of a Class C misdemeanor.

### **2.2.4 Public Nuisance Abatement**

The Huntsville Town Attorney is empowered to institute an action in the name of Huntsville Town, to abate a public nuisance. The action shall be brought in the Justice's Court and shall be in the form prescribed by the Rules of Civil Procedure of the State of Utah for injunctions, but the Huntsville Town Attorney shall not be required to execute a bond with respect to the action.

### **2.2.5 Public Nuisance Relief**

If the existence of a public nuisance is admitted or established, either in a civil or criminal proceeding, a judgment shall be entered which shall permanently enjoin each defendant and any other person from further maintaining the nuisance at the place complained of and each defendant from maintaining such nuisance elsewhere.

## **2.3 Ordinance Inspector Appointment**

The Huntsville Town Council will appoint an Ordinance Inspector by resolution, to perform inspections and to examine real property situated within the corporate limits of Huntsville Town for the purpose of determining whether, in their opinion, the property contains objects or conditions of the kind in nature described above and for the purpose of determining whether the existence of the objects or conditions create or constitute a public safety hazard or nuisance as defined in this section and the Fire Code Title. Huntsville Town may appoint such other assistant inspectors and delegate to them such powers and duties as it may from time to time, to be determined by resolution. The powers and duties of the assistants shall be the same as those of the Ordinance Inspector unless otherwise so specified by resolution.

### **2.3.1 Violation, Classification of Offense, Service of Notice**

Proof of service of such notices or delivery of such documents as may be required in this Title shall be made under oath by the Huntsville Town Ordinance Inspector, and filed with the Huntsville Town Clerk.

## 2.4 Nuisances on Property

### 2.4.1 Nuisances on Property Designated

It is unlawful for any owner or occupant of any real property or estate therein, or his agent, to cause or permit upon such property, parking space, or sidewalk on or adjacent thereto, or after notice as provided hereinafter, to fail to remove, abate, or cause the removal or abatement of any injurious and noxious weeds, grass or offensive vegetation, and of any dirt, garbage, refuse, junk, scrap metal, wastepaper products, machinery parts, unused construction materials, dead trees, ashes, tin cans, or other waste materials or products or unsightly or deleterious objects or structures pursuant to the powers granted to Huntsville Town and pursuant to its general powers authorizing the abatement of nuisances. It is declared that the above-listed objects and conditions constitute a nuisance when they create a fire hazard, a source of contamination, pollution of water, air, or property, damage to health or public safety, a breeding place, or habitation for insects or rodents or other forms of life deleterious to human habitation, or are unsightly or deleterious to their surroundings. Failures to remove, abate, or cause the removal of the above listed objects and conditions are considered an infraction of this Title, and will be subject to the penalties and proceedings described herein.

### 2.4.2 Exemptions

This Title shall not apply to items which are clearly accessory and incidental to any agricultural use permitted in the zone, or to items completely and lawfully enclosed within a building or enclosure where it is not visible from a public or private way or other public or private property and which does not constitute a nuisance, endanger or adversely affect the health or welfare of the community, or the keeping of which does not violate any other law or title.

## 2.5 Abatement Determination Notice

Upon complaint or during periodic patrols, the Huntsville Town Ordinance Inspector is authorized and directed to inspect and examine real property situated within the corporate limits of Huntsville Town for the purpose of determining whether, in their opinion, the property contains objects or conditions of the kind in nature described above and for the purpose of determining whether the existence of the objects or conditions create or constitute a nuisance as defined in this section. The Ordinance Inspector shall notify the Huntsville Town Council, in writing, of their findings and of their recommendation. Upon direction from the Huntsville Town, the Ordinance Inspector will be authorized and directed whether to proceed or not with the process as described herein.

In the event the Huntsville Town Council accepts the Ordinance Inspector's determination that the property constitutes a nuisance, upon direction from the Huntsville Town Council, the Ordinance Inspector shall:

- A. Ascertain the names of the owners and occupants and description of the premises where such objects and conditions exists;
- B. Prepare a form letter explaining the ordinance and its definition. The letter should encourage all residents who could be in violation of this Title to take measures to remove or correct would-be violations. This form letter should be sent to all Huntsville Town Residents whom are affected by the violation and include a phone number in case anyone has questions.
- C. After a period of thirty (30) days, if nuisances have not been resolved, another form letter will be sent directly to the offenders. This letter should mention the previous form letter that went out to all affected Huntsville Town residents and it should take note that this particular offender has not been in contact with the Huntsville Town Ordinance Inspector, etc. This letter should inform the possible offender that: he/she has 30 days to be in compliance with the ordinance; to-wit: remove or correct the violation forthwith and if that doesn't happen a citation will be issued.
- D. If the specific offender does not comply within the thirty-day time frame after the second letter, a citation should be issued by the Ordinance Inspector, Weber County Sheriff or Weber County Constable. This citation shall inform the violator that he/she has been cited for a Nuisance pursuant to the Huntsville Town Title, a Class C misdemeanor, and the violator has a certain time period to contact the Clerk of the Huntsville Town Justice of the Peace Court in which to schedule a hearing.

- E. At the hearing (the arraignment) the Huntsville Town Attorney will be present, as a plea negotiation may be in order. Plea negotiations shall vary based on the severity of the nuisance or the prior record of the violator.

### **2.7 Abatement Hearing**

Upon the written request of an owner or occupant objecting to the decision of the Ordinance Inspector to remove or abate objects or conditions described in this chapter, the Huntsville Town Council shall conduct an informal hearing (which need not be reported) wherein the owners or occupants of the property in violation 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 Title. The Huntsville Town Council shall also permit the presentation of evidence and argument by the Ordinance Inspector and other interested parties. At the conclusion of the hearing, or within such time as may be required not to exceed ten (10) days, the Huntsville Town Council shall render its written decision, a copy of which shall be mailed to or served upon the owners or occupants by the Ordinance Inspector. In the event the decision of the Huntsville Town Council upholds the determination of the Ordinance Inspector, the notice originally given by the Ordinance Inspector shall be deemed to be sufficient to require the owners or occupants to remove or abate the objects or conditions in the manner within the time limits described therein, provided, however, that the owners or occupants shall have at least ten (10) days from the date of notice of the Huntsville Town Council's decision within which to conform thereto. In the event the decision of the Huntsville Town Council either overrules or modifies the decision of the Ordinance Inspector, the written decision of the Huntsville Town Council shall apprise him of that fact and set forth the details and extent to which the owners or occupants must remove or abate the objects or conditions. The owners or occupants shall be required to conform to the decision of the Huntsville Town Council within ten days after service of the decision upon him and the decision shall be deemed to be the modified decision of the Ordinance Inspector.

### **2.8 Abatement Removal**

If any owners or occupants of the premises described in such notice or decision of violation fail or neglect to conform to the requirements thereof relating to the abatement, removal or destruction of such objects or conditions, the town may employ all necessary assistance to cause such materials to be removed or be destroyed.

### **2.9 Abatement Expense**

The Ordinance Inspector shall prepare an itemized statement of all expenses incurred in the removal and destruction of the objects or conditions described and shall mail a copy thereof to the owners or occupants demanding payment within twenty (20) days from the date of the registered mailing.

### **2.10 Abatement Lawsuit for Recovery**

In the event the owners or occupants fail to make payment of the amount set forth in the statement to the Huntsville Town Clerk within the twenty (20) days after receipt of registered mail, the Ordinance Inspector may either cause suit to be brought in an appropriate court of law or may refer the matter to the Huntsville Town Attorney as provided for in this Title.

### **2.11 Abatement Lawsuit and Costs Judgment**

In the event collection of expenses of destruction and removal are pursued through the court, Huntsville Town shall sue for and may receive judgment for all the 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.

### **2.12 Abatement Tax Notice**

In the event Huntsville Town elects to refer the expenses of destruction or removal to the Weber County Treasurer for inclusion in the tax notice of the property owners, they 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 Weber County Treasurer within ten (10) days after completion of the work of destroying or removing such objects or conditions. Thereupon, the cost of the work shall be pursued by the Weber County Treasurer, and the recalcitrant owners shall have such rights and shall be subject to such powers as are thereby granted.



This Nuisance Ordinance shall take effect upon approval by the Huntsville Town Council.

PASSED and ADOPTED this 18th day of December 2007.

\_\_\_\_\_  
Mayor, James C. McKay

ATTEST:

Dated this 18th day of December 2007.

\_\_\_\_\_  
Clerk/Recorder, Gail Ahlstrom

Vote of the Town Council	yea	nay
Council Member Gault	___	___
Council Member Sorenson	___	___
Council Member Stevenson	___	___
Council Member Truett	___	___
Mayor McKay	___	___