

ORDINANCE NO. 15-2015

AN ORDINANCE OF WEST HAVEN CITY, UTAH, CREATING A NEW CHAPTER 32 OF THE CITY'S ORDINANCES ADDRESSING NUISANCES WITHIN THE CITY AND ESTABLISHING RULES AND PROCEDURES FOR THEIR ABATEMENT BY MAKING NECESSARY LANGUAGE CHANGES; AND ESTABLISHING AN EFFECTIVE DATE FOR THOSE CHANGES.

Section 1 - Recitals:

WHEREAS, West Haven City ("City") is a municipal corporation duly organized and existing under the laws of the State of Utah; and,

WHEREAS, the City Council finds that in conformance with UCA §10-3-717, and UCA §10-3-701, the governing body of the city may exercise all administrative and legislative powers by resolution or ordinance; and,

WHEREAS, the City Council finds that in conformance with UCA §10-3-717, and UCA §10-3-701, the governing body of the city has previously adopted Regulations, which deal with the manner in which nuisances are identified and dealt with within the City; and,

WHEREAS, the City Council finds that the it is in the public interest to promulgate these new regulations and that the adoption of this Ordinance will serve those ends; and,

WHEREAS, the City Council finds that the requirements herein should be effective upon passage of this Ordinance; and,

WHEREAS, the City Council finds that the public safety, health and welfare is at issue and requires action by the City as noted above;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF WEST HAVEN CITY, UTAH that

The Zoning Ordinance of the City of West Haven, Chapter 32, is amended/created and readopted as set out in Attachment "A" attached hereto, and incorporated as if fully set out, and the same is amended, re-adopted and enacted as part of the Zoning Ordinance of West Haven City.

Section 2 - Repealer of Conflicting Enactments:

All orders, ordinances and resolutions regarding the changes enacted and adopted which have heretofore been adopted by the City, or parts thereof, which conflict with any of this

Ordinance, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 3 - Prior Ordinances and Resolutions:

The body and substance of all prior Ordinances and Resolutions, with their provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

Section 4 - Savings Clause:


If any provision of this Ordinance shall be held or deemed to be or shall be invalid, inoperative or unenforceable for any reason, such reason shall not have the effect of rendering any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Ordinance being deemed to be the separate independent and severable act of the City Council of West Haven City.

Section 5 - Date of Effect

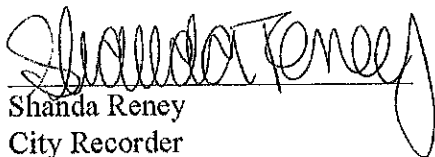
BE IT FURTHER ORDAINED this Ordinance, and the requirements listed, shall become effective on the 19th day of August, 2015, and after publication or posting as required by law.

DATED this 19th day of August, 2015

WEST HAVEN CITY, a municipal corporation

by:  _____
Sharon Bolos, Mayor

Attested and recorded


Shanda Reney
City Recorder

ATTACHMENT "A"

ORDINANCE NO. 15-2015

An Ordinance Of West Haven City, Utah, Creating A New Chapter 32 Of The City's Ordinances Addressing Nuisances Within The City And Establishing Rules And Procedures For Their Abatement By Making Necessary Language Changes; And Establishing An Effective Date For Those Changes.

19 Aug 15

Chapter 32

Section I - Generally

- 32.01.01 Nuisances defined
- 32.01.02 Author of nuisance defined
- 32.01.03 Declaration of nuisance
- 32.01.04 Enumeration of nuisances
- 32.01.05 Toilet or sewer facilities
- 32.01.06 Restrictions on blocked water

Section II - Abatement of Weeds and Deleterious Objects

- 32.02.01 Real property to be kept clean
- 32.02.02 Weeds defined
- 32.02.03 Standards of weed control

Section III - Nuisances on Property

- 32.03.01 Definition of nuisance
- 32.03.02 Duty of maintenance of private property
- 32.03.03 Storage of personal property
- 32.03.04 Abatement of nuisance by owners

Section IV - Administrative Notices --Disposal of Nuisance -- Lien -- Penalty for Violation

- 32.03.01 Appointment and duties of the code enforcement officer
- 32.03.02 Failure to comply
- 32.03.03 Itemized statement
- 32.03.04 Failure to make payment
- 32.03.05 Collection by lawsuit
- 32.03.06 Collection through taxes
- 32.03.07 Criminal proceedings
- 32.03.08 Penalty for failure to comply

Section I - Generally

32.01.01 Nuisances defined

Whatever is dangerous or deleterious to human life or health and whatever renders soil, air, water, or food impure or unwholesome is declared to be a nuisance and unlawful. It shall be unlawful for any person either as an owner, agent, or occupant to create, or aid in creating, or contributing to, or maintaining a nuisance.

32.01.02 Author of nuisance defined

Where a nuisance exists upon property and is the outgrowth of the usual, natural, or necessary use of the property, the landlord or his agent, the tenant or his agent, and all other persons having control of the property on which such nuisance exists shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any such nuisance shall arise from

the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.

32.01.03 Declaration of nuisance

- 1) Every act or condition made, permitted, allowed or continued in violation of 32.01.01 is hereby declared to be a nuisance and may be abated and punished as hereinafter provided.
- 2) Nuisances include:
 - a) Befouling water in any spring, stream, well, or water source supplying water for culinary purposes.
 - b) Allowing any privy vault or cesspool or other individual wastewater disposal system to become a menace to health or a source of odors to air or water.
 - c) Permitting any garbage container to remain on premises when it has become unclean and offensive.
 - d) Allowing vegetable waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard or area except when it is temporarily deposited for immediate removal.
 - e) Permitting the accumulation of manure in any stable, stall, feed yard, yard, or in any other building or area in which any animals are kept.
 - f) Permitting any slaughter house, market, meat shop, stable, feed yard, or other place or building wherein any animals are slaughtered, kept, fed, or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed.
 - g) Discharging or placing any offensive water, liquid waste, or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal, or any vacant lot or which as the result of continued discharge will render the place of discharge offensive or likely to become so.
 - h) Keeping or collecting any stale or putrid grease or other offensive matter.
 - i) Having or permitting upon any premises any fly or mosquito producing condition.
 - j) Keeping any drinking vessel for public use without providing a method of decontamination between uses.
 - k) Permitting or performing any ablutions in or near any public drinking fountain.
 - l) Failing to furnish any dwelling house, boardinghouse, or factory or other place of employment with such privy vaults, water closets, sinks or other facilities as may be required to maintain the same in sanitary condition.

- m) Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all privy vaults and cesspools or other individual wastewater disposal systems
- n) Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substances.
- o) Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalk, lake, stream, drainage canal or basin, or any public park without first obtaining the written permission of the code enforcement officer

32.01.04 Enumeration of nuisances

The types of nuisances stated in RCC 32.01.03 shall be deemed in addition to and in no way a limitation of the nuisances subject to this chapter.

32.01.05 Toilet or sewer facilities

All toilet or sewer facilities shall be constructed and maintained in accordance with the ordinances of the city. All such facilities that do not comply with such provisions are hereby declared to be a nuisance and are subject to abatement as herein prescribed.

32.01.06 Restrictions on blocking water

- (1) It shall be unlawful for any person or persons to permit any drainage system, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, to become so obstructed as to cause the water to back up and overflow therefrom, or to become unsanitary.
- (2) Maintenance of any such watercourse in such condition shall constitute a nuisance and the same shall be subject to abatement.
- (3) It shall be unlawful for any person or persons to use irrigation water or drainage from property or structures in a manner that harms the property of adjacent landowners. Such use of water shall be declared to be a nuisance.

Section II - Abatement of Weeds and Deleterious Objects

32.02.01 Real property to be kept clean

It shall be unlawful for any person owning or occupying real property to allow weeds to grow or exist on such property in violation of this chapter, or not to remove from any such property any cuttings of such weeds or any refuse, unsightly or deleterious objects after having been given notice from the code enforcement officer as hereinafter provided.

(1) Except that where due to the size, location, proximity to buildings, accessibility or other circumstances regarding certain real property a code enforcement officer determines that weeds on such property, which would otherwise constitute a violation of 32.02.03, do not create a serious nuisance or fire hazard, or that requiring the removal of such weeds is deemed impractical, a code enforcement officer may:

- a) Issue an order permitting the owner to create fire breaks a minimum of 15 feet in width at locations on the property to be determined by the inspector

b) Exempt the property from the requirements of this title

32.02.02 Weeds defined

Weeds shall include any vegetation growing in an uncultivated state, not used for food, fiber, or ornamentation, or any vegetation commonly referred to as a weed, or which shall have been designated a noxious weed by the Utah State Department of Agriculture and Foods and/or the Weber County Weed Department.

32.02.03 Standards of weed control

It is hereby declared that the weeds stated in 32.02.02 constitute a nuisance when they:

- (1) Create a fire hazard, a source of contamination or pollution of the water, air or property, a danger to health, a breeding place or habitation for insects or rodents or other forms of life deleterious to humans or are unsightly or deleterious to their surroundings
- (2) Have grown to a height greater than 12 inches above ground
- (3) Have covered more than 25% of the property

Article III. Nuisances on Property

32.03.01 Definition of nuisance

For the purposes of this article, the term "nuisance" is defined to mean any condition or use of premises or of building exteriors or other structures located upon any real property which is deleterious or injurious, noxious or unsightly, which includes, but is not limited to, keeping, depositing on, scattering over, or allowing to remain on the premises any of the following:

- (1) Lumber, junk, trash, rubbish, litter, or debris.
- (2) Abandoned, discarded, unused, spent, useless, or worthless objects, materials, or equipment such as, but not limited to: furniture, appliances, and machinery or parts thereof, cans or containers, used tires, parts of vehicles, waste plant materials, trimmings, scrap building materials, waste food products, dead animals, unused or discarded bicycles or other recreational vehicles or parts thereof, scrap metal, waste paper products, accumulations of dirt, gravel, ashes, or fire remains or any other waste materials.
- (3) Graffiti - which is visible from a public street.

32.03.02 Duty of maintenance of private property

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

32.03.03 Storage of personal property

Unsheltered storage of wrecked, inoperable, obsolete, abandoned, stripped, and/or junked vehicles, machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purpose for which it was manufactured, for a period of 30 days or more (except in licensed junkyards) within this municipality, is hereby declared to be a nuisance and dangerous to the public safety.

(1) Property may include, but is not limited to:

- a) A vehicle not currently registered or licensed in this state or another state
- b) A vehicle that is or has any of the following conditions: flat tires, no tires, dismantled, broken, or missing windows, steering wheel, tail pipe, doors, fenders, bumper, hood, top, or trunk, does not run, or is in a condition that would result in the vehicle's failure to pass state safety inspection pursuant to the Motor Vehicle Act, Section 41-1a-101 et seq., Utah Code Annotated 1953; except that boats, RVs, camping or other trailers, and off-road vehicles are exempt from the current registration requirement of this section.
- c) A vehicle that is or has been made inoperable due to a collision or other event
- d) A vehicle in a state of being, or having been, wrecked, dismantled (wholly or partially)

(2) Vehicles that are the subject of an in-progress restoration project need to be kept in a building such as a storage shed or garage.

(3) This ordinance shall not apply to Antique farm machinery or other similar items when said items are used for decorative or landscaping purposes. The items must be placed in an orderly manner and must be maintained free from weeds, trash, and other unsightly items.

32.03.04 Abatement of nuisance by owners

The owner, owners, tenants, lessees or occupants of any lot within this city on which such storage as defined in RCC 32.3.03 is made, and also the owner, owners or lessees of the above-described personal property involved in such storage, shall jointly and severally abate such nuisance by its prompt removal into completely enclosed and secured buildings to be used for such purposes, or otherwise to remove such property from the city.

Section IV - Administrative Notices - Disposal of Nuisance - Lien - Penalty for Violation

32.04.01 Appointment and duties of code enforcement officer

(1) The code enforcement officer shall enforce the provisions of this chapter.

(2) The code enforcement officer is authorized to:

- a) Perform all functions necessary to enforce the provisions of this chapter.
- b) Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this chapter.

(3) If the code enforcement officer concludes there exists an objectionable condition in violation of this chapter, the code enforcement officer shall:

- 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 or occupant of such premises, 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 recorder 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; provided that any person notified pursuant to this subsection shall be given not more than 14 days following the date of service of such notice, to correct the objectionable condition. Except that an owner or occupant shall be given 48 hours to remove any graffiti, which is visible from the street, from the property, the notice shall:
 - (i) Contain a specific statement of the nature of the violation and generally describe the
 - (ii) Premises on which the violation exists, inform the person that in the event he/she fails or neglects to correct the objectionable condition, the city will impose a fine and/or correct the objectionable condition and will charge the costs of so correcting the objectionable condition to the person. If the city is required to collect the costs by court action the person will be assessed court costs together with reasonable cost of correcting the violation against the property as a tax.
- c) A notice sent certified mail shall be deemed received by the addressee owner three business days following posting in the U.S. mail. In all cases practicable, the notice shall be sent through the mail with a return receipt requested. Failure on the part of the addressee to accept delivery or to sign the return receipt shall not be sufficient to defeat the presumption of receipt for the otherwise properly mailed notice and will be considered an automatic denial.
- d) Only one notification procedure shall be necessary for continuing violations on the same premises within the same calendar year and shall be deemed sufficient on any lot or parcel or property for the entire calendar year.

32.04.02 Failure to comply

If any owner, occupant or other person having an interest in the land described in such notice or decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the eradication, destruction or removal of such weeds, garbage, refuse, objects, or structures, the code enforcement officer shall impose a \$100 fee and the violator will be given 10 days to correct the violation. If after 24 days of the initial notice has been given the issue has not been corrected, the city will employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the city.

32.04.03 Itemized statement

The inspector shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant or both or to persons having an interest in the property, demanding payment within 14 days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail addressed to the last known address of the property owner, occupant, or person having an interest in the property.

32.04.04 Failure to make payment

In the event the owner, occupant or person having an interest in the property fails to make payment of the amount set forth in the statement to the city treasurer within the 14 days, the inspector 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 chapter.

32.04.05 Collection by lawsuit

In the event collection of expenses of destruction and removal are pursued through the courts, the city shall sue for and receive judgment for all of said expenses of destruction and removal, together with reasonable attorney fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

32.04.06 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 20 days after the completion of the work of destroying or removing such weeds, refuse, garbage, objects or structures. Thereupon, the cost of the work shall be pursued by the county treasurer in accordance with the provisions of Section 10-11-4 Utah Code Annotated 1953, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

32.04.07 Criminal proceeding

The commencement of criminal proceedings for the purpose of imposing penalties for violations of this chapter shall not be conditioned upon prior issuance or the granting to the defendant of an opportunity to abate or remove the nuisance. The provisions of this chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this chapter.

32.04.08 Penalty for failure to comply

(1) Any owner, occupant or person having an interest in the property subject to this chapter who shall fail to comply with the notice or order given pursuant to this chapter shall be guilty of a class B misdemeanor.

(2) Compliance by any owner, occupant or person to whom a notice has been given as provided in this chapter shall not be admissible in any criminal proceeding to determine guilt of an offense brought pursuant to this section.