

SAN JUAN COUNTY, UTAH

ORDINANCE NO. 2023 - _____

(NUISANCE AND WEED CONTROL)

AN ORDINANCE AMENDING AND REPLACING IN ITS ENTIRETY TITLE IX, CHAPTER 90, OF THE SAN JUAN COUNTY, STATE OF UTAH, WITH THE FOLLOWING PROVISIONS DEALING WITH NUISANCES AND WEED CONTROL.

WHEREAS, San Juan County (“County”) does not currently have a nuisance ordinance;

WHEREAS, Presently, Chapter 90 of the San Juan County Code addresses the abatement of noxious weeds, together with related provisions;

WHEREAS, the Board of Commissioners for San Juan County (the Board) believe it to be in the best interests of the County to adopt an ordinance to identify and define nuisances, and to identify certain conditions which constitute a nuisance, together with enforcement provisions available to the County;

WHEREAS, the County desires to repeal the Noxious Weed Ordinance presently codified at Chapter 90 of the San Juan Code as of the effective date herein and to include the identification and abatement of noxious weeds as part of the new amended Chapter 90 of the Code, as of the date of adoption as set forth herein;

NOW, THEREFORE, THE BOARD OF SAN JUAN COUNTY COMMISSIONERS ORDAINS THE FOLLOWING:

Title IX CHAPTER 90: NUISANCE AND WEED CONTROL

Section

- 90.01 Purpose and intent**
- 90.02 Definitions**
- 90.03 Nuisances Declared**
- 90.04 Specific Conditions Constituting Nuisance**
- 90.05 Fire Prevention**
- 90.06 Inspections and Investigations**
- 90.07 Enforcement**
- 90.08 Criminal, Civil and Administrative Penalties**

CHAPTER 90.01: PURPOSE

The purpose of this Chapter is to identify with particularity actions constituting a nuisance so that property within the County may be maintained in a manner that:

1. Protects public health and safety.
2. Fosters neighborhood stability.
3. Preserves the appearance, character, and beauty of neighborhoods.
4. Reflects community pride and caring.
5. Protects property values.
6. Protects and encourages economic development.
7. Protects the general welfare of its residents.

CHAPTER 90.02: DEFINITIONS

ABATEMENT. The removal and stoppage of the spread of such noxious weeds, as defined under the State's Noxious Weed Act, UCA Title 4, Ch. 17, as amended, the administrative rules promulgated under that code, or any noxious weed as defined by the County's Weed Control Board, consistent with UCA Title 4, Ch. 17, § 107.

ATTRACTIVE NUISANCE: Shall refer to a hazardous object or condition on the land that is likely to attract children who are unable to appreciate the risk posed by the object or condition.

NOXIOUS: Shall mean harmful to health.

NOXIOUS WEED: Any such noxious weed, as defined under the State's Noxious Weed Act, UCA Title 4, Ch. 17, as amended, the administrative rules promulgated under that code, or any noxious weed as defined by the County's Weed Control Board, consistent with UCA Title 4, Ch. 17, § 107.

NOXIOUS WEED NUISANCE: The presence of any such noxious weed, as defined under the State's Noxious Weed Act, UCA Title 4, Ch. 17, as amended, the administrative rules promulgated under that code, or any noxious weed as defined by the County's Weed Control Board, consistent with UCA Title 4, Ch. 17, § 107.

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

OCCUPANT: Any person who has, or has a right to, the physical occupancy or use of property.

OWNER: The person, firm or corporation in whose name property is listed in the records of the County Recorder's office.

PERSON: Any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the state or its departments, institution, bureau, agency, municipal corporation, county, city, political subdivision, or any legal entity recognized by law.

PROPERTY: Any form of real property, including a habitable structure or any structure that is appurtenant thereto, object, or anything that is visible or tangible, specifically including, but not limited to, hedges, automobiles, etc. Property shall also include any sidewalks, park strips and gutters that border the property.

REFUSE: Shall mean the worthless or useless part of something; trash or garbage.

SOLID WASTE: Garbage, refuse, trash, rubbish, hazardous waste, dead animals, sludge, liquid or semiliquid waste, and other spent, useless, unsightly, worthless or discarded materials.

STRUCTURE: Anything constructed or erected which requires location on or below the ground, specifically including, but not limited to, fences, wells, poles, buildings, or sheds.

VEHICLE: A motor vehicle, trailer, semitrailer, off highway vehicle, manufactured home, or "mobile home", as defined by **Title 41-6A-601, U.C.A., as amended.**

CHAPTER 90.03: NUISANCES DECLARED: It shall be unlawful and declared a public nuisance for any person owning, renting, leasing, occupying, or having charge or possession of any property in the County to allow any item, thing, manner, or condition whatsoever that is dangerous to human life or health or renders soil, air, water, or food impure or unwholesome

CHAPTER 90.04: SPECIFIC CONDITIONS CONSTITUTING NUISANCE:

It shall be unlawful and declared a nuisance for any person owning, renting, leasing, occupying, or having charge or possession of any property in the County to allow any of the following conditions to exist on such property:

1. A condition that causes visual blight, is offensive to the senses, creates a harborage for rodents or pests, or detrimentally affects property in the surrounding neighborhood or community.
2. A condition that impairs the reasonable and lawful use of property.
3. A condition that unreasonably or unlawfully affects the health or safety of one or more persons or animals.
4. A fire hazard as defined in the Fire Code.
5. Emanation of noxious or unreasonable odors, fumes, gas, smoke, soot or cinders.
6. Noxious weeds located on vacant lots or other property, along public sidewalks or outer edge of any public street, or weeds in any other location which constitutes an unreasonable fire hazard or is contrary to the purpose of this Chapter.

7. Keeping or storing of any refuse and waste matter which interferes with the reasonable enjoyment of nearby property.
8. Polluted or stagnant water which constitutes an unhealthy or unsafe condition.
9. Accumulation of soil, litter, debris, plant trimmings, or trash, on sidewalks, in vestibules, doorways, passages, breezeways, parking areas or any public right-of-way or alley.
10. Accumulation of used or damaged lumber; junk; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, cabinets, or other fixtures or equipment stored so as to be visible from a public street, alley, or adjoining property. However, nothing herein shall preclude the placement of stacked firewood for personal non-commercial use on the premises.
11. Any attractive nuisance dangerous to children and other persons including, but not limited to, abandoned, broken, or neglected household appliances, equipment and machinery, ponds, abandoned foundations or excavations, or improperly maintained pools.
12. Dead, decayed, diseased, or hazardous trees, weeds, hedges, and overgrown or uncultivated vegetation which is in a hazardous condition, is an obstruction to pedestrian or vehicular traffic, or which is likely to harbor rats, vermin or other pests.
13. Any front, rear, or side yard area which causes excessive dust, water run-off, off-site tracking, or sluffing onto the property of another due to non-maintenance or other cause, or which contains the accumulation of debris.
14. The keeping, storing, depositing or accumulating on the premises or in the public right-of-way for an unreasonable period of time dirt, sand, gravel, concrete, or other similar materials, or maintenance of such material on public rights-of-way.
15. The leaving of any garbage can or refuse container in the street, other than on collection day, for more than twenty four (24) hours after collection day.
16. Construction equipment or machinery of any type or description parked or stored on property when it is readily visible from a public street, alley or adjoining property, except while excavation, construction or demolition operations covered by an active building permit are in progress on the subject property or an adjoining property, or where the property is zoned for the storage of construction equipment and/or machinery.
17. Improper maintenance of a sign; or signs which advertise a business that is no longer operating on the property or advertising a product that is no longer sold on the property.
18. Improper storage of inoperative, unregistered, abandoned, wrecked or dismantled vehicles or vehicle parts, including recreational vehicles.
19. Any wall, sign, fence, gate, hedge, or structure maintained in such condition of deterioration or disrepair as to constitute a hazard to persons or property.

20. Graffiti which remains on the exterior of any building, fence, sign or other structure and is visible from a public street.

21. Maintenance of buildings and/or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair including, but not limited to:

a. Any building or structure which is unfit for human habitation, or which is an unreasonable hazard to the health of people residing in the vicinity thereof, or which presents an unreasonable fire hazard in the vicinity where it is located;

b. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of San Juan County's Building Code and/or San Juan County's Land Use Ordinances.

c. Buildings which are abandoned, partially destroyed, or left in an unreasonable state of partial construction for a period of six (6) months or longer. An "unreasonable state of partial construction" is defined as any unfinished building or structure where the appearance or other conditions violate the building code(s) adopted by San Juan County.

d. Buildings having dry rot, warping, termite infestation, decay, excessive cracking, peeling, or chalking, as to render the building unsightly and/or in a state of disrepair;

e. Buildings with missing doors and/or windows containing broken glass and/or no glass at all where the window is of a type which normally contains glass;

f. Building exteriors, walls, fences, gates, driveways, sidewalks, walkways, signs or ornamentation, or alleys maintained in such condition as to violate this Chapter 90.004; and

g. Buildings or conditions that violate any Building, Electrical, Plumbing, Fire, Housing, or other Code adopted by San Juan County.

22. To fail to maintain the height of weeds less than six inches (6"), including on adjacent parking strip(s), alley(s), and street edge(s).

23. To fail to remove and lawfully dispose of all cuttings from weeds, solid waste, or objects or structures with anything injurious, or with the reasonable potential to become injurious, to the health, safety, or welfare of any persons or property.

24. To fail to effectively secure any vacant structure.

25. To fail to maintain or repair any objects or structures that are injurious, or with the reasonable potential to become injurious, to the health, safety, or welfare of any persons or property.

26. To fail to remove all weeds and noxious vegetation from such property and in front thereof to the curb line of the street and to keep the sidewalks in front of such property free from litter, snow, ice or obstructions.

27. To fail to remove, bury, or compost weeds that are rototilled or removed by root.

28. Any plants specified as weeds in the Utah Noxious Weed Act, Utah Code Annotated Title 4, as amended.

29. Any violation of this Code expressly declared to be a public nuisance.

CHAPTER 90.05: FIRE PREVENTION: It shall be unlawful for the owner of any land or property to allow accumulations of waste, paper, hay, grass, straw, weeds, litter or combustible or flammable waste or rubbish of any kind upon any roof or in any court, yard, vacant lot or open space, and all weeds, grass, vines or other growth when the same endangers property or is liable to be fired, shall be cut down and removed by the owner or occupant of the property. Violations of this subsection shall be punished as provided in Chapter 90.008 herein.

CHAPTER 90.06: INSPECTIONS AND INVESTIGATIONS:

To ensure compliance with this ordinance, the County has the authority to perform inspections, investigations, reviews, and other actions as necessary.

1. Authority for County to Enter Premises.

a. Regulated Commercial Premises. Upon presenting proper identification, authorized representatives of the County may enter upon the premises of properties regulated by the County to perform routine inspections to ensure compliance with rules, standards, regulations, and ordinances adopted by the County.

b. Private Dwellings. Inspections of private dwellings are made by consent of the owner or other party having legal authority or upon a court order.

CHAPTER 90.07: ENFORCEMENT:

Whenever an enforcement official finds that a violation of this Code has occurred or continues to exist, the enforcement official has the authority and power necessary to gain compliance with the provisions of this Code through the administrative procedures available to the County, or otherwise as permitted under State law. These powers include the power to commence administrative or criminal enforcement procedures, issue a notice of violation, inspect public and private property, abate violations upon private property, and use whatever judicial and administrative remedies are available under this Code and applicable State law.

1. Criminal Enforcement Actions. The County may pursue criminal prosecution for any violation of this Ordinance, either alone or in conjunction with civil enforcement. Criminal prosecutions for environmental violations of state or federal law may be filed by the County Attorney, District Attorney, Utah Attorney General, United States Department of Justice, or other enforcement entity.

2. Civil Enforcement Actions. The County may bring an action to restrain or enjoin actions in violation of public health, environmental laws, and other laws or abate conditions in violation of such laws.

3. Administrative Actions. The County may, at its discretion, issue a Notice of Violation pursuant to the San Juan County Zoning Ordinance 2011 and seek all those administrative remedies as set forth in Chapter 11: Administrative Citations and Hearings.

CHAPTER 90.08: CRIMINAL, CIVIL AND ADMINISTRATIVE PENALTIES:

1. Criminal Penalties. Any person who is found guilty by a court of violating any of the provisions of this ordinance, either by failing to do the acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor, pursuant to Section 26A-1-123, Utah Code Ann. Each day such violation is committed or permitted to continue shall constitute a separate violation.

2. Civil and Administrative Penalties. In addition to all those civil penalties and remedies available to the County through civil action in the state or federal court, any person who is found in violation of this code may be subject to all civil and administrative penalties as more fully set forth in THE San Juan County Appeals Ordinance as amended.

PASSED AND ADOPTED by action of the Board of San Juan County Commissioners for San

Juan County in an open meeting this ____ day of _____ 20____.

Voting Aye: _____

Voting Nay: _____

ATTEST: SAN JUAN COUNTY BOARD OF COMMISSIONERS:

Lyman Duncan, Clerk/Auditor

Bruce Adams, Chair