

## **Noxious Weeds**

### **90.001 Definitions**

### **90.002 Violation**

### **90.003 Enforcement; abatement; notice of complaint**

### **90.004 Right to a hearing**

### **90.005 Weed Control Board; authority**

## **NOXIOUS WEEDS**

### **§ 90.001 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**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.

**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.

**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.

**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.** An individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission or political subdivision of a state.

**PROPERTY.** Any real property, premises or location on which noxious weeds are alleged to exist located in San Juan County, Utah..

### **§ 90.002 VIOLATION.**

(A) Any person, whether as Owner or Occupant, who creates, maintains, allows or aids in creating, maintaining or allowing, or otherwise contributes to, the nuisance of the presence of any noxious weed, is in violation of this subchapter.

(B) A violation of any provision in this Subchapter is a Class B Misdemeanor and upon conviction, the Owner or Occupant are subject to the fines, imprisonment or other penalties that apply to a conviction of a Class B misdemeanor.

(C) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.

(D) If a penalty for a violation of an ordinance includes any possibility of imprisonment, the County shall, under UCA § 78B-22-301, provide for indigent defense services, as that term is defined in UCA § 78B-22-102. (Ord. 07, passed 4-7-2020) Penalty, see § 10.999

### **§ 90.003 ENFORCEMENT; ABATEMENT; NOTICE OF COMPLAINT.**

(A) Upon the receipt of any complaint received by the Weed Control Board regarding the existence of a nuisance caused by presence of any noxious weed upon a property in the County, the Weed Control Board, will provide notice to the Owner and Occupant and inspect the property for the presence of a noxious weed.

(B) If the presence of a noxious weed is confirmed in accordance with UCA Title 4, Ch. 17, § 108, the County, through the Weed Control Board, will provide written notice to the Owner and Occupant **that if the noxious weeds are not removed and abated to the satisfaction of the Weed Control board, within five (5) working days, the County will designate and declare the Property a Public Nuisance, consistent with §4-17-109, Utah Code Annotated.**

(C) **If the Public Nuisance is not removed within five working days after the Property is declared a Public Nuisance, the County after providing reasonable notice may enter the property, without the consent of the Owner or Occupant, and perform any work necessary, consistent with sound weed prevention and control practices, to control the weeds on the Property, consistent with §4-17-110, Utah Code Annotated.**

(D) **In the event that the County is required to control weeds on the Property, the County may seek reimbursement from the Property Owner of record or the Occupant of the property. In that event, the County shall send a documented description of the expense for labor and materials spent to bring the property into compliance and a demand for payment within 30 days of the day on which the weed control took place, consistent with §4-17-110, Utah Code Annotated.**

(E) **The Property Owner or the Occupant will be required to reimburse the County for the County's expense within 90 days after receipt of the demand for payment, consistent with §4-17-110, Utah Code Annotated.**

(F) **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, consistent with §4-17-110, Utah Code Annotated.**

### **§ 90.004 RIGHT TO A HEARING.**

(A) **Any person served with notice to control noxious weeds may appeal the terms of the notice before the County Weed Control Board by filing a Notice of Appeal**

(B) **I within 10 days of being served with the Notice. The Notice of Appeal shall be filed with the County Clerk of San Juan County with a copy delivered to the County Attorney's Office.**

(B) **Any person may appeal the decision of the County Weed Control Board to the San Juan County Appeal Authority by filing a Notice of Appeal within 10 days after the date of receipt of the decision of the County Weed Control Board. The Notice of Appeal shall be filed with the County Clerk of San Juan County with a copy delivered to the County Attorney's Office.**

(C) **Any person served with notice to control noxious weeds who has had a hearing before both the County Weed Control Board and the county legislative body may further appeal the decision of the county legislative body by filing written notice of appeal with a court of competent jurisdiction.**

(D) **Consistent with UCA Title 4, Ch. 17, § 111, any person receiving notice of a complaint may request a hearing to the Weed Control Board (or to the Administrative Law Judge, if there is not a standing Weed Control Board) by filing a request, in writing, with the County Administrator within ten days of receiving notice of the complaint from the county. Appeals from a decision from the Weed Control Board shall be consistent with UCA Title 4, Ch. 17, § 111. (Ord. 07, passed 4-7-2020; Ord. 2023-03, passed 5-16-2023)**

### **§ 90.005 WEED CONTROL BOARD; AUTHORITY.**

**In accordance with UCA Title 4, Ch. 17, § 107, the County authorizes the Weed Control Board to administer the Weed Control Program for the County, consistent with the duties, powers and limitation of UCA Title 4, Ch. 17. (Ord. 07, passed 4-7-2020)**