

**TITLE VI**

**CODE ENFORCEMENT**

**PUBLIC NUISANCE ABATEMENT LAW**

**CHAPTER 1**

**ADMINISTRATIVE IMPOSITION OF CIVIL PENALTIES**

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- 6-1-1: LEGISLATIVE DECLARATION.** The City Council of Syracuse City finds that public nuisances exist in the City in the operation of certain commercial establishments and the use, alteration, maintenance or operation of residential, commercial, and industrial properties, in flagrant violation of the ordinances of the City or the laws of the State of Utah. All of these interfere with the interest of the public in property values, public health, safety, and welfare, and the quality of life and community environment. The Council further finds that the continued occurrence of such activities and violations is detrimental to the health, safety, and welfare of the people of the City and the businesses thereof. It is the

purpose of the Council to create a standardized procedure for securing legal and equitable remedies in the civil courts relating to the subject matter encompassed by this law, without prejudice to the use of other remedies or procedures available under existing and subsequently enacted statutes or ordinances, and to strengthen existing laws on the subject.

**6-1-2 PURPOSE; APPLICABILITY OF TITLE.** The purpose of this Title is to provide a standardized procedure for the administrative imposition of certain civil penalties authorized under various sections, articles, chapters, or titles of this Code and to encourage the correction of code violations without resort to the criminal courts.

**6-1-3: DEFINITIONS.** The following terms, as used in this Title, are defined as follows:

**ABATE, ABATEMENT:** To repair, replace, rehabilitate, remove, destroy, demolish, correct, or otherwise remedy a condition that constitutes a public nuisance.

**CIVIL CITATION, CITATION:** A written notice, issued by an enforcement officer to a responsible party, that a violation of this code has occurred and that a civil penalty has been assessed.

**CLOSING, CLOSING ORDER:** A court order prohibiting use or occupancy of premises or property, except as reasonably necessary for the performance of maintenance or abatement work in accordance with City ordinances.

**DATE OF NOTICE:**

- A. The date of personal delivery of any notice or civil citation to the responsible party; or
- B. Five (5) days after any notice or civil citation is mailed via first class mail, postage prepaid, to the:
  - a. Owner of the real property that is subject of the notice or citation at the last known address as shown on the records of the Davis County Assessor, as evidenced in the records maintained in the Davis County Recorder's Office.
  - b. Occupant of the real property that is subject of the notice or citation at the address of the property in violation, unless another address for such occupant is shown on the records of the Davis County Assessor's Office, as evidenced in the records maintained in the Davis County Recorder's Office; or
- C. The date that a notice or civil citation is affixed to a vehicle found in violation or mailed via first class mail, postage prepaid, to the registered owner of such vehicle at the address as shown in the registration records of the State of Utah.

**ENFORCEMENT OFFICER:** An officer, employee, or other person authorized to issue any notice of code violation or civil citation.

**HABITUAL NUISANCE:** Any premises or property located within the City:

- A. Where there have occurred two (2) or more convictions of a public nuisance related offense on the part of the lessees,

owners, operators, or occupants within the period of one year prior to the commencement of an action under this Title.

- B. Where there have occurred three (3) or more violations of a public nuisance related offense on the part of the lessees, owners, operators or occupants within the period of one year prior to the commencement of an action under this Title; or

HEARING OFFICER: Any hearing officer designated by the Mayor.

NOTICE OF VIOLATION, NOTICE OF CODE VIOLATION: (Also known as NOTICE AND ORDER or WARNING NOTICE) A written notice, issued by an enforcement officer to a responsible party, that a violation of this code has occurred.

NOTICE TO ABATE: A written notice to abate or otherwise correct a public nuisance as defined herein.

PERSONAL DELIVERY: Hand delivery to the responsible party, or leaving the notice at the responsible party's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.

PREMISES: A building or structure, or the premises on which a building or structure is located, or undeveloped land.

PROPERTY: A lot, parcel, or plot of ground, whether occupied or not.

RESPONSIBLE PARTY: Any person liable for a violation or civil penalty under the applicable provisions of this Code.

UTAH CODE: Utah Code Annotated, 1953, as amended.

WARNING PERIOD: Ten (10) days after the date of notice, unless a greater period of time is given by the enforcement officer. If the notice of violation is delivered by first class mail, the time for correction listed in such notice shall include the additional five (5) days required for delivery.

**6-1-4: NOTICE OF VIOLATION.** If an enforcement officer finds that a violation exists within the City, the enforcement officer may provide a notice of violation to the responsible party. The notice of violation shall indicate the nature of the violation, the action necessary to correct it, the warning period established before imposition of civil penalties, and the civil penalty amount for failure to correct the violation within the established warning period. The date of notice applicable to such notice shall serve to start the warning period.

**6-1-5: FAILURE TO COMPLY.** If a violation within the City remains uncorrected after expiration of the warning period, the responsible party shall be liable for the civil penalties imposed under such title, chapter, article, or section of this Code. Such penalty shall be assessed by the issuance of a citation by the enforcement officer. Any penalty assessed herein shall be in addition to such other penalties as may be provided in this Code.

**6-1-6: DAILY VIOLATIONS.** Each day a violation remains uncorrected after expiration of the warning period shall give rise to a separate civil penalty. The City may

combine any action to recover daily penalties with any other civil penalty regarding the same property or person. No civil citation shall be issued for a daily violation that occurs in conjunction with another criminal violation as part of a single criminal episode that will be prosecuted in a criminal proceeding.

**6-1-7: REOCCURRING VIOLATIONS.** If a violation is corrected but reoccurs on or related to the same property within two (2) years following the imposition of any civil penalty and the violation is committed by the same person, after expiration of a new warning period such violation shall subject that person to the applicable maximum penalty.

**6-1-8: MULTIPLE VIOLATIONS.** If a notice of violation describes more than one violation on or related to the same property, only the highest civil penalty shall be applicable for daily violations.

**6-1-9: PAYMENT.** Any person issued a civil citation shall, within twenty (20) days of the date of the notice, pay the civil penalty unless a written request for a hearing is filed pursuant to section 6-4-1 of this Title.

**6-1-10: EXTENSIONS OF TIME.** Upon receipt of a written application from any person who may be subject to future civil penalties under the provisions of this article and by agreement of such person to comply with the notice if allowed additional time, the enforcement officer may grant an extended warning period, if the officer determines that good cause exists for such extended warning period and the extension will not seriously threaten the effective enforcement of the applicable title, chapter, article, or section of this Code, nor pose an imminent danger to the public health, safety, or welfare. The City Council may adopt written guidelines for the granting of extensions under this section. The grant of an extension shall not restrict the power of the Building Official to require vacation of premises, nor restrict the enforcement of other code violations.

**6-1-11: APPEALS:**

- A. Request, Application: Any person having received a notice of violation or a civil citation may request a hearing before a hearing officer by filing a written application for a hearing in the office of the Planning Division of the City within ten (10) calendar days of the date of the notice. Hearings shall be conducted as provided in Chapter Four of this Title. All applications for hearing shall be accompanied by a copy of the Notice of Violation and by a filing fee established by the City's fee schedule.
- B. Notification of Enforcement Officer: Upon receipt of an application for hearing, the Planning Division shall immediately notify the Enforcement Officer.
- C. Burden of Proof: The burden to prove any defense shall be upon the person raising such defense.
- D. Applicable Defenses: The hearing officer may dismiss the notice and release the person from liability if any of the following defenses are applicable:
  - a. Notice was not served in compliance with the provisions of this article;
  - b. The violation was corrected within the warning period;
  - c. It is determined that no violation of the ordinance existed under the notice or civil citation; or
  - d. At the time of the notice or civil citation, compliance would have violated the criminal laws of the State.

- E. Mitigating Circumstances: If the hearing officer finds that a violation did occur, but that mitigating circumstances did exist, the penalty may be reduced after the violation is corrected. Mitigating circumstances may include:
  - a. If a change of the actual ownership of the subject property was recorded with the Davis County Recorder's Office after the notice of violation was issued and the new owner is not related by blood, marriage, or common ownership to the prior owner;
  - b. If the violation or inability to cure were caused by a force majeure event such as war, act of nature, strike, or civil disturbance;
  - c. Compliance with the notice would have presented an imminent and irreparable injury to persons or property; or
  - d. Such other mitigating circumstances as may be approved by the hearing officer.
- F. Correction After Expiration of Warning Period Not a Defense: It shall not be a defense that the responsible party corrected the violation after expiration of the warning period.
- G. Agreement for Delayed or Periodic Payments: If the hearing officer finds that the violation occurred and no applicable defense applies, the City may, in the interest of justice, enter into an agreement for the delayed or periodic payment of the applicable penalties. In the absence of an agreement for delayed or periodic payments, any civil penalty upheld or reduced by the hearing officer shall be paid within twenty (20) days of the date of the hearing officer's written decision.
- H. Appeal to Board of Zoning Adjustment: Any administrative determination by the hearing officer regarding an interpretation of the provisions of the City Zoning Code may be appealed to the Board of Adjustment.
- I. Appeal to District Court: Any person adversely affected by the decision of the hearing officer may petition the district court for review of the administrative determination pursuant to Section 10-3-703.7(5), Utah Code Annotated, or its successor provision.

**6-1-12: COLLECTION.** If a civil penalty imposed pursuant to this article remains unpaid, the City may use such lawful means as are available to collect such penalty, including costs and attorney's fees.

**6-1-13: COLLECTION ACTION NOT RELIEF OF CORRECTION RESPONSIBILITY.** Commencement of any collection action shall not relieve the responsibility of any person to cure any violation if still uncorrected.

**6-1-14: ASSISTANCE OF SYRACUSE CITY POLICE DEPARTMENT.** The Syracuse City Police Department shall, upon the request of the Code Enforcement Officer, assist in the enforcement of any order issued pursuant to this article.

## CHAPTER 2

### PROPERTY MAINTENANCE REGULATIONS

- 6-2-1: Property Maintenance Responsibilities; Sidewalks and Park Strips**
- 6-2-2: Waste Materials or Junk; Prohibited on Premises**
- 6-2-3: Weed Control**
- 6-2-4: Noxious Weeds**
- 6-2-5: Vegetation Interfering with Public Ways or Property**
- 6-2-6: Empty Buildings to be Kept Secured**
- 6-2-7: Inspectors Authorized to Enforce Chapter**
- 6-2-8: Penalties and Remedies for Violations**
- 6-2-1: PROPERTY MAINTENANCE RESPONSIBILITIES; SIDEWALKS AND PARK STRIPS.**
- A. It shall be the duty of the owner, agent, occupant, and/or lessee of real property to keep their exterior property free of conditions which violate the provisions of this Chapter.
  - B. It shall be the duty of the owner, agent, occupant, and/or lessee of real property abutting and bordering on any public street in the City to keep the area between their property line and the curb or edge of the roadway free of conditions which violate the provisions of this Chapter. Such area shall include sidewalks, park strips between streets and sidewalks, or other adjacent landscaped or open areas within a dedicated public right of way.
- 6-2-2: WASTE MATERIALS OR JUNK; PROHIBITED ON PREMISES.**
- A. Prohibition: It is unlawful for any owner, occupant, agent, and/or lessee of real property within the City to allow, cause, or permit the following material or objects to be in or upon any yard, garden, lawn, or outdoor premises of such property:
    - 1. Junk or salvage material;
    - 2. Litter;
    - 3. Any abandoned vehicle or inoperable vehicle.
  - B. Exceptions: The prohibition in subsection A of this Section shall not apply to:
    - 1. Materials or objects used, kept, or maintained in connection with a business enterprise lawfully situated and licensed for the same and operating in conformance with the Land Use Code or other provisions of this Code; or
    - 2. The outdoor storage of no more than one vehicle at a residence, as described in the definition of "Junk Yard", Section 10-2-040 of this Code.
  - C. Prohibition on Park Strips, Sidewalks, Etc.: It is unlawful for any owner, occupant, agent, and/or lessee of real property abutting and bordering on any public street in the City, for the distance such real property abuts and borders

such street, to allow, cause, or permit litter, or junk or salvage material, to be in or upon the area from the property line to the curb line of the street or edge of the roadway.

**6-2-3: WEED CONTROL.**

- A. Premises: It is unlawful for any owner, occupant, agent, and/or lessee of real property in the City to fail to maintain the height of weeds and grasses, in the manner provided herein, on such property, or to fail to remove from the property any cuttings from such weeds or grasses.
- B. Park Strips: It is unlawful for any owner, occupant, agent, and/or lessee of real property in the City abutting and bordering on any public street, for the distance such property abuts and borders the street, to fail to maintain the height of the weeds and grasses, in the manner provided herein, in the area from the property line to curb line of the street, or to fail to remove from such area any cuttings from such weeds or grasses.
- C. Weed Control Specifications:
  - 1. Except as otherwise provided in Subsection C2 of this section, weeds and grasses shall be maintained at a height of not more than six inches (6") at all times, and the cuttings shall be promptly cleared and removed from the premises; provided, however, that this subsection shall not be applicable to any ornamental grass so long as it is used and maintained solely, or in combination with any other ornamental grass or grasses, as a supplement to an overall landscaping plan.
  - 2. Weeds and grasses shall be maintained at a height of not more than twelve inches (12") at all times on any of the following properties, and the cuttings shall be promptly cleared and removed from the premises:
    - i. Ditches, ditch rights of way, or railroad rights of way; and
    - ii. Undeveloped property or vacant lots with no buildings or structures located thereon.
  - 3. Weeds which are eradicated by chemicals must be done so before their height exceeds the height limits provided herein, or they must be cut at a level not exceeding such height limits.
  - 4. Weeds which are roto-tilled or removed by the root must be buried under the soil or removed from the property.
  - 5. When, in the opinion of the Fire Chief, or any Assistant Fire Chief, the large size or terrain of property makes the cutting of all weeds or grasses impractical, the Fire Chief, or any Assistant Fire Chief, may, by written order, allow and limit the required cutting of weeds and grasses to a firebreak of not less than fifteen feet (15') in width cut around the complete perimeter of the property and around any structures existing upon the property, unless the Fire Chief, or Assistant Fire Chief, determines that a firebreak of a lesser width will provide adequate protection against fire spread at the particular location.
  - 6. The Fire Chief may from time to time exempt from, or limit, in whole or in part, the required cutting of weeds and grasses for property established and maintained as a nature park or wetland mitigation area, if the Fire Chief, or Assistant Fire Chief, determines that such limitation or exemption will not present a potential fire hazard to adjacent properties.

**6-2-4: NOXIOUS WEEDS.** It shall be unlawful for the owner or occupant of any real property to allow to grow on such property any noxious weeds or other noxious

vegetable growth determined by the County Health Department to be especially injurious to public health, crops, livestock, land, or other property.

- 6-2-5: VEGETATION INTERFERING WITH PUBLIC WAYS OR PROPERTY.** It shall be unlawful for the owner or occupant of any real property to allow vegetation on the owner's or occupant's real property to grow to such an extent or in such a manner that, because of its proximity to public property or a public right of way, it interferes with the safe or lawful use of public property or the public right of way, or obstructs the vision of any posted uniform traffic control device.
- 6-2-6: EMPTY BUILDINGS TO BE KEPT SECURED.** It shall be unlawful for the owners or agents or persons in charge of unoccupied buildings or structures within the City to fail to keep such buildings and structures closed and securely locked or otherwise secured against entry.
- 6-2-7: INSPECTORS AUTHORIZED TO ENFORCE CHAPTER.**
- A. The City shall employ inspectors who are authorized to enforce the provisions of this Chapter.
  - B. Powers and Duties:
    - 1. An inspector is authorized and directed to inspect and examine real property situated within the City for the purpose of determining whether a property maintenance violation exists.
    - 2. All matters involving health shall be pursued in coordination with the County Health Department. All matters involving weeds or other fire hazards shall be pursued in coordination with the Fire Department. All matters involving the boarding of dangerous buildings shall be pursued in coordination with the Building Official. All matters involving the lawful use of land under the Land Use Code shall be pursued in coordination with the Community Development Director, or the Director's designee.
    - 3. The City Administrator may assign primary responsibility in those areas of overlapping jurisdiction.
- 6-2-8: PENALTIES AND REMEDIES FOR VIOLATIONS.**
- A. Misdemeanor: Owners, agents, occupants, and/or lessees who violate the provisions of this Chapter shall be guilty of a Class B misdemeanor and upon conviction shall be punishable according to law.
  - B. City Abatement and Associated Civil Penalties: Litter or other unlawful accumulations or conditions not removed from private property, or adjacent sidewalks, park strips, or other adjacent areas for which the person is responsible for under the provisions of this Chapter, may be removed by the City pursuant to Chapter 3 of this Title, with costs and expenses for such cleaning or removal and civil penalties to be assessed in accordance with the provisions of such Chapter.
  - C. Civil Penalties: Owners, agents, occupants, and/or lessees who fail to correct a violation of the provisions of this Chapter after notice of violation and expiration of the warning period shall be subject to the following civil penalties:
    - 1. The first civil citation issued after expiration of the warning period shall subject the responsible party to the initial penalty of one hundred twenty five dollars (\$125.00).
    - 2. The second civil citation issued after expiration of the warning period and the prior imposition of the initial penalty shall subject the

responsible party to the intermediate penalty of two hundred fifty dollars (\$250.00).

3. Any subsequent civil citation issued after expiration of the warning period and the prior imposition of the intermediate penalty, or any recurring violation of this code, shall subject the responsible party to the maximum penalty of five hundred dollars (\$500.00).
- D. Other Remedies: This Chapter may also be enforced by injunction, mandamus, judicial abatement, or any other appropriate action in law or equity.
  - E. Daily Violations: Each day that any violation of this Chapter continues shall be considered a separate offense for the purposes of the penalties and remedies available to the City.
  - F. Compliance: Accumulation of penalties for violations, but not the obligation for payment of penalties already accrued, shall stop on correction of the violation.
  - G. Cumulative: Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce the provisions of this Title.

## CHAPTER 3

### ADMINISTRATIVE ABATEMENT OF NUISANCES

- 6-3-1: **Purpose; Conditions Constituting Nuisance**
- 6-3-2: **Inspector**
- 6-3-3: **Service of Notice; Abatement Orders; Personal Property**
- 6-3-4: **One Notice Per Season Sufficient; Proof of Service**
- 6-3-5: **Appeals**
- 6-3-6: **Decision of Hearing Officer**
- 6-3-7: **Itemized Statement; Preparation and Delivery**
- 6-3-8: **Failure to Make Payment; Procedure**
- 6-3-9: **Expenses; Collection**
- 6-3-10: **Chapter Procedure Not Exclusive**
- 6-3-11: **Prohibited Activities; Penalties**
- 6-3-1: **PURPOSE; CONDITIONS CONSTITUTING NUISANCE.**
  - A. It is the purpose of this Chapter to establish a means whereby the City may remove or abate or cause the removal or abatement of injurious and noxious weeds; and of garbage, refuse, or any unsightly or deleterious objects or structures pursuant to the powers granted to it by Utah Code Title 10, Chapter 11, and pursuant to its general power to abate nuisances. The provisions adopted herein are intended to:
    - 1. Prevent fire hazards;
    - 2. Prevent insect and rodent harborages;
    - 3. Prevent the introduction of hazardous pollens in the air;
    - 4. Prevent further spreading of vegetation that threatens the public health, safety, or welfare;
    - 5. Abate the existence of objects, structures, or solid waste that threaten the public health, safety, and welfare;
    - 6. Protect and promote the public health and safety of the community by preventing or abating conditions on real property or the structures thereon which create or maintain public nuisances.
  - B. The following conditions shall constitute a nuisance subject to abatement under this Chapter:
    - 1. Vegetation on private property which, due to its proximity to any public property or right of way, interferes with the public safety or lawful use of the public property or right of way.
    - 2. Weeds, grasses, or noxious vegetable growth which has grown to a height exceeding the height limitations or otherwise violating the weed control specifications and requirements under section 6-2-3 of this Title.

3. Vegetable waste, litter, garbage, filth, or refuse of any nature, kind, or description detrimental to health allowed to accumulate upon any private yard or area.
  4. Any property which has been allowed to become a fire hazard due to the accumulation of garbage, refuse, litter, waste products, dry or drying weeds, or any combustible materials, objects, or structures.
  5. Weeds, garbage, refuse, objects or structures that create a source of contamination or pollution of water, air, or property, a danger to health, a breeding place of habitation for insects, rodents, or other forms of life deleterious to human habitation, or that otherwise create a condition deleterious to their surroundings.
  6. Noxious weeds determined to be especially injurious to public health, crops, livestock, land, or other property.
  7. Any property where the outside storage, keeping, accumulation, or abandonment of the following unsightly material or objects is clearly visible from a public street and is not a use of property permitted or allowed under the Land Use Code:
    - i. Uncontained garbage, refuse, litter, or other solid waste;
    - ii. Auto parts, tires, scrap metal, machinery or parts thereof, or other junk or salvage material as defined in either this Title or Title 10 of this Code; or
    - iii. Any inoperable and unlicensed vehicles.
  8. Vacant buildings or structures which have been secured against entry by placing secured coverings on openings and which buildings are not maintained in accordance with the maintenance requirements of this code.
  9. Vegetation or structures obstructing the view of drivers of motor vehicles as prohibited by this Title.
  10. Public nuisances as defined in this Title.
  11. Other conditions involving weeds, garbage, refuse, or any unsightly or deleterious conditions, objects or structures subject to City abatement under other provisions of this Code.
- C. Property owners shall be responsible for any of the above conditions existing on the area between their property line and the curb or edge of the roadway, as provided in 6-2-1 of this Title.

**6-3-2:**

**INSPECTOR.**

- A. Office Created: The office of inspector is created for the purpose of administering the provisions of this Chapter and the power delegated to the City by the statutes cited in 6-3-1 of this Chapter, subject to such control and review as the City Council may from time to time direct. The City Administrator may authorize any officer or employee of the City to exercise the powers and duties of an inspector under the provisions of this Chapter. Absent such authorization from the City Administrator, the following officers are hereby authorized to perform the powers and duties of an inspector:
  1. The City Fire Chief and the Chief's assistants, and the Building Official and the Building Official's duly authorized representatives, are authorized to perform the functions of inspector for the abatement of nuisances as defined under this Chapter.
  2. The Public Works Director, or the Director's designee, is also authorized to perform the functions of inspector for nuisances under subsections 6-3-1(B)(1), (B)(9), and (B)(11) of this Chapter.
- B. Powers and Duties:

1. An inspector is authorized to enter upon any property or premises within the City to determine whether a public nuisance exists as described in subsection 6-3-1(B) of this Chapter and to make any examinations and surveys as may be necessary, including the taking of photographs, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner based upon cause. If the owner or occupant refuses to allow the inspector to enter the property, the inspector may obtain an administrative search warrant.
2. Nuisances involving health concerns shall be pursued in coordination with the Davis County Health Department. Nuisances involving weeds or other fire hazards shall be pursued in coordination with the Fire Department. Nuisances involving the boarding, repair, or demolition of dangerous buildings shall be pursued in coordination with the Building Official. All matters involving the permitted or allowed use of land under the zoning title shall be pursued in coordination with the Community Development Director, or the Director's designee.

**6-3-3:**

**SERVICE OF NOTICE; ABATEMENT ORDERS; PERSONAL PROPERTY.**

- A. If the inspector concludes that any of the conditions described in section 6-3-1 of this Chapter exist in whole or in part, he shall:
  1. Ascertain the names of the owners and descriptions of the premises where such objects and conditions exist; and
  2. Serve notice in writing upon the owner or occupant of such land, either personally or by following the notification procedures of this Title, requiring such owner or occupant to abate the nuisances within the warning period as defined by this Title.
- B. If a written request for hearing is not filed pursuant to Section 6-3-5 of this Chapter, the notice of the inspector shall be final.
- C. If the owner or occupant fails to abate the nuisance, either in whole or in part, as required in a final notice, the City may summarily and without prior notice to the owner or occupant proceed to abate the nuisance. If such action is to be taken, the inspector shall prepare an abatement order to be approved by the Community Development Director, or the Director's designee, authorizing City personnel to perform such abatement work or to engage a private contractor to perform such work under the direction of the City. The order shall identify the property and describe the abatement work to be performed thereon.
- D. Upon issuance of an abatement order, City personnel or any authorized private contractor may enter upon the described private property and perform the work specified in the abatement order in any reasonable manner. If the owner or occupant eliminates the nuisance before the City performs the abatement work, the owner or occupant shall still be responsible for the costs incurred by the City in responding to the owner's or occupant's failure to abate the nuisance in a timely manner.
- E. If the owner or occupant refuses to allow entry, or other conditions exist on the property affecting the City's ability to enter the property or otherwise complete the necessary abatement work, the City may seek, but is not required to seek, such judicial process as it deems necessary to effect the abatement.
- F. Personal property constituting a nuisance under this Chapter may be confiscated as part of the abatement process. The City Council may adopt

rules and regulations providing for the disposition of such property, including the disposition of inoperable, unlicensed, or abandoned vehicles.

**6-3-4: ONE NOTICE PER SEASON SUFFICIENT; PROOF OF SERVICE.** One notice shall be deemed sufficient on any lot or parcel of property for the entire season of weed growth during that year.

**6-3-5: APPEALS:**

- A. Any person served a notice pursuant to 6-3-3 of this Chapter, or mailed a statement of itemized costs and demand for payment pursuant to 6-3-7 of this Chapter, may request a hearing before the designated hearing officer. All applications shall be made by filing a written application in the office of the Planning Division of the City, together with a copy of the notice or statement and the fee established by the City's fee schedule, within ten (10) calendar days of the date of mailing or the date of personal service of the notice or statement.
- B. Upon receipt of the application for hearing, the Planning Division shall immediately notify the inspector. If the application is for a hearing in regards to a statement of itemized costs and demand for payment, the Planning Division shall also notify the City Finance Manager.
- C. Except as otherwise provided in section 6-3-6 of this Chapter, hearings shall be conducted as provided in Section 6-4-1(A) of this Code.

**6-3-6: DECISION OF HEARING OFFICER:**

- A. Notification; Compliance: In the event the decision of the designated hearing officer upholds the determination of the inspector, the notice originally given by the inspector as provided in this Chapter shall be deemed to be sufficient to require the owner or occupant to remove or abate said objects or conditions and he shall have up to ten (10) calendar days from the date of the notice of the decision within which to conform thereto. In the event that the decision of the designated hearing officer either overrules or modifies the determination of the inspector, the written decision of the hearing officer shall apprise the inspector of that fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the said objects or conditions, if any. The owner or occupant shall be required to comply with the decision of the hearing officer within ten (10) calendar days after of the date of mailing of a copy of said decision unless more time is provided for compliance in such decision, and said decision shall be deemed to be the modified notice of the inspector, which notice shall become final after expiration of the time given for compliance.
- B. Failure to Comply; Inspection Action: If any owner and/or occupant of lands described in such notice or decision fails or neglects to conform to the requirements thereof relating to the eradication or destruction or removal of weeds, garbage, refuse, objects or structures, the inspector may employ all necessary assistance to cause such weeds, garbage, refuse, objects or structures, to be removed or destroyed or otherwise abated at the expense of the City to the extent that such public funds are available.

**6-3-7: ITEMIZED STATEMENT; PREPARATION AND DELIVERY:** The City Finance Manager, in coordination with the inspector and the other City officers or employees responsible for performing or contracting for the performance of abatement work, shall prepare an itemized statement of all expenses incurred in the abatement of the conditions described in this Chapter, together with all administrative costs incurred by the City, and shall mail a copy thereof to the

owner demanding payment within thirty (30) days of the date of mailing. Said notice shall be considered delivered when mailed by certified mail addressed to the property owner's last known address.

**6-3-8: FAILURE TO MAKE PAYMENT; PROCEDURE.** In the event the owner or occupant fails to make payment of the amount set forth in the statement described in section 6-3-7 of this Chapter to the City Finance Manager within said thirty (30) days, the City Finance Manager may either cause suit to be brought in an appropriate court of law or refer the matter to the County Treasurer as provided in this Chapter.

**6-3-9: EXPENSES; COLLECTION.**

- A. 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 all administrative costs incurred by the City, reasonable attorney fees, interest, and court costs, and shall execute upon such judgment in the manner provided by law.
- B. Taxes:
  - 1. In the event that the City elects to refer the expenses to the County Treasurer for inclusion in the tax notice of the property owner, the City Finance Manager shall make in triplicate an itemized statement of all expense and administrative costs incurred in the destruction and removal of the offending conditions and shall deliver three (3) copies of said statement to the County Treasurer within ten (10) days after the expiration of the thirty (30) day period. The City Finance Manager shall also provide to the County Treasurer proof of service of the notice required under section 6-3-3 of this Chapter under oath of the City officer or employee who served such notice.
  - 2. Upon receipt of the itemized statement of all expenses, the County Treasurer shall, in accordance with the requirements of section 10-11-4 of the Utah Code, forthwith mail one copy to the owner of the land upon which the abatement work was performed, together with a notice that objection in writing may be made within thirty (30) days to the whole or any part of the statement so filed. The County Treasurer shall, at the same time, deliver a copy of the statement to the clerk of the Board of County Commissioners.
  - 3. If objections to any statement are filed with the Board of County Commissioners, the Board shall set a date for hearing, giving notice thereof, to the party objecting, the inspector, the City Finance Manager, and the City Attorney and, upon the hearing of the matter, determine and fix the actual cost of the abatement work, reporting the findings to the County Treasurer.
  - 4. If no objections to the items of the account are made within thirty (30) days of the date of mailing such statement, the County Treasurer shall certify and enter the amount of such statement on the assessment rolls of the County in the column prepared for that purpose; otherwise, the County Treasurer shall, within ten (10) days of the date of the action of the board of County Commissioners, upon any objections filed, enter in the prepared column upon the tax rolls the amount found and certified by the Board to be the cost of the abatement work.
  - 5. If current tax notices have been mailed, the taxes so incurred may be carried over the rolls to the following year. After the entry by the County Treasurer of the certified costs of such work, the amount so

entered shall have the force and effect of a valid judgment of the district court, and shall be a lien upon the lands upon which the work was performed, and shall be collected by the County Treasurer at the time of and in the manner provided for the payment of general taxes. The County Treasurer shall send a copy of the certification to the City Finance Manager. Thereafter, upon payment, a receipt shall be acknowledged upon the general tax receipt issued by the County Treasurer and the collected funds shall be reimbursed to the applicable abatement fund.

6. Pending receipt of the County Treasurer's entry of the costs on the assessment rolls of the County and payment of such costs, the City Finance Manager may provide notice of pending lien by recording a notice in the records of the Davis County Recorder's Office.

**6-3-10:** **CHAPTER PROCEDURE NOT EXCLUSIVE:** The procedure and authority granted by this Chapter shall be in addition to and not in lieu of procedures provided in other ordinances of the City which have heretofore been or may hereafter be enacted to accomplish the same or related purposes.

**6-3-11:** **PROHIBITED ACTIVITIES; PENALTIES:**

- A. Causing or Permitting Nuisance; Duty to Abate: It shall be unlawful for any owner and/or occupant of any lot, tract, or parcel of land to cause or permit any nuisance as defined in section 6-3-1 of this Chapter to be created or to remain upon such premises; and it shall be the duty of such owner and/or occupant to abate and remove any such nuisance from such premises.
- B. Failure to Abate: It shall be unlawful for any owner or occupant to fail to abate, within the required time period, any nuisance as defined in section 6-3-1 of this Chapter, after service of notice pursuant to section 6-3-3 of this Chapter.
- C. Civil Penalties: Any person who owns and/or occupies any lot, tract, or parcel of land and fails to abate, within the required time period, any nuisance defined in section 6-3-1 of this Chapter, after service of notice pursuant to section 6-3-3 of this Chapter, shall be liable for a civil penalty in the amount of one hundred twenty five dollars (\$125) unless a greater civil penalty is required herein. If abatement of the same type of nuisance is required by the City a second time within the same season or calendar year as applicable, the owner or occupant shall be liable for a civil penalty in the amount of two hundred fifty dollars (\$250). If abatement is required by the City a third time within the same season, the owner and/or occupant shall be liable for a civil penalty in the amount of five hundred dollars (\$500). Notwithstanding the above, if the owner and/or occupant was assessed a civil penalty for the same type of violation on the same property in the prior calendar year or season, the owner and/or occupant shall be liable for a civil penalty in the amount of five hundred dollars (\$500) upon any failure to abate within the required time period or upon any abatement performed by the City. Imposition and collection of such civil penalties shall comply with the procedures provided in section 6-1-9 of this code.

## CHAPTER 4

### ADMINISTRATIVE HEARINGS

**6-4-1: Request for Hearing**

**6-4-2: Procedure**

**6-4-3: Exceptions**

**6-4-1: REQUEST; APPLICATION.** Any person having received a notice of violation or a civil citation may request a hearing before a hearing officer by filing a written application for a hearing in the office of the City Planning Division within ten (10) days of the date of notice. All applications for hearing shall be accompanied by a copy of the notice of violation and the filing fee of \$25 established by the City's fee schedule.

**6-4-2: PROCEDURE.** Unless another procedure is provided by statute, ordinance, or adopted rules and procedures, any administrative action or proceeding by the City for which a hearing is required shall conform to the following:

- A. **Conducting of Hearing:** Administrative hearings shall be conducted by one or more hearing officers appointed by the Mayor and shall be conducted in accordance with the provisions of *Utah Code Ann.* § 10-30703.7 and this Ordinance. Hearings shall be considered to be a public meeting, and held either during the regular office hours of the City or during times regularly scheduled for the hearing of appeals. Hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply; however, an informal exchange of discovery may be required, if requested in writing. Failure to request discovery shall not be a basis for continuance. Complainant information is protected and shall not be released unless the complainant is a witness at the hearing. Except as otherwise provided herein, the procedure and format of the hearing shall be determined by the hearing office.
- B. **Notice of Hearing:** Reasonable notice stating time, place, and subject matter shall be given to the parties involved prior to any hearing. No hearing, or the result thereof, shall be invalidated by any defect in giving notice to the parties involved, unless a denial of due process is caused thereby.
- C. **Witnesses, Evidence, and Minutes and Findings:** All shall be recorded or otherwise documented so that a true and correct transcript may be made of proceedings, if required. At the request of the any party, witnesses shall be sworn by the hearing officer. Each party shall have the opportunity to cross examine witnesses and present evidence in support of his or her case. A written declaration signed under penalty of perjury may be accepted in lieu of a personal appearance. Testimony may be given by telephone or other electronic means. The hearing officer shall adopt written findings and enter a written order or decision, which shall be filed with the City Recorder.
- D. **Burden of Proof:** In any hearing challenging an administrative determination that a City ordinance has been violated, the City bears the burden of proof to establish the existence of the violation. The standard of proof to be used by a hearing officer in deciding the issues at any hearing is whether such finding is supported by a preponderance of the evidence.
- E. **Final Decision:** A written order or decision of a hearing officer shall constitute a final decision from which an appeal (for purposes of review and not a trial

de novo) may be taken to a court of law, in the time and manner otherwise provided by law.

**6-4-3:** **EXCEPTIONS.** The above provisions shall not apply to administrative hearings and decisions of public bodies, including, but not limited to, the Planning Commission and the Board of Zoning Adjustment. The hearings of such bodies shall be conducted in accordance with their duly adopted rules and procedures.