

ORDINANCE NO. 95-12-01 

WHEREAS, the Town Council of Mantua Town, Box Elder County, Utah, having previously adopted ORDINANCES OF MANTUA CITY; and,

WHEREAS, the Town Council has determined that for the general health and welfare of the residents of Mantua there is a need to establish an ordinance concerning private nuisances and public nuisances within the Town of Mantua.

NOW, THEREFORE, the Town Council of Mantua, Utah, hereby adopts, passes and establishes the following:

AN ORDINANCE REGULATING AND CONTROLLING PRIVATE NUISANCES AND PUBLIC NUISANCES WITHIN THE TOWN OF MANTUA.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Mantua Town, Box Elder County, State of Utah as follows:

1. Nuisances generally - Definition.

For the purposes of this chapter:

A. "Nuisance" means whatever is dangerous 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 is unlawful for any person either as owner, agent or occupant to create, or aid in creating or contributing to or maintaining a nuisance.

Further, a nuisance is any term, thing, manner, condition whatsoever that is dangerous to human life or health or renders soil, air, water or food impure or unwholesome.

B. Any person, whether as owner, agent or occupant who creates, aids in creating or contributes to a nuisance, or who supports, continues or retains a nuisance is guilty of a Class B Misdemeanor.

C. "Public nuisance" means a crime against the public order and economy of this municipality 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 three or more persons;
- 2) Offends public decency;

3) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake, stream, canal or basin, or any public park, square, street or highway; or

4) In any way renders three or more persons insecure in life or the use of property.

An act which affects three or more persons in any of the ways specified in this definition is still a nuisance regardless of whether the extent of annoyance or damage inflicted on individuals is unequal.

2. Nuisances generally - 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.

3. Nuisances generally - Declaration of nuisance.

A. Every act or condition made, permitted, allowed or continued in violation of Section 1 of this chapter is declared to be a nuisance and may be abated and punished as provided in this chapter.

B. Nuisances include, but are not limited to:

1) Befouling water in any spring, stream, well or water source supplying water for culinary purposes;

2) Allowing any privy, vault, septic tank or cesspool or other individual wastewater disposal system to become a menace to health or a source of odors to air or water;

3) Permitting any garbage container to remain on premises when it has become unclean and offensive;

4) 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;

5) Permitting the accumulation of manure in any stable, stall, corral, feed yard, yard or in any other building or area in which any animals are kept;

6) Permitting any slaughter house, market, 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;

7) Discharging or placing any offensive water, liquid waste or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural water course, 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;

8) Keeping or collecting any stale or putrid grease or other offensive matter;

9) Having or permitting upon any premises any fly or mosquito-producing condition;

10) Failing to furnish any dwelling house, boarding house or factory or other place of employment with such toilets, sinks or other facilities as may be required to maintain the same in sanitary condition;

11) Neglecting or refusing to discontinue use of, clean out, disinfect and fill up all privy vaults and cesspools or other individual wastewater disposal systems within twenty days after notice from an enforcement officer or official of the municipality;

12) Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substance;

13) Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalks, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of the governing body.

4. Nuisances generally - Enumeration of nuisances.

The types of nuisances stated in Section 3 shall be deemed in addition to and in no way a limitation of the nuisances subject to this chapter.

5. Nuisances generally - Toilet or sewer facilities.

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

6. Nuisances generally - Restrictions on blocking water.

A. It is 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;

B. Maintenance of any such watercourse in such condition shall constitute a nuisance and the same shall be subject to abatement.

7. Nuisances generally - Befouling waters.

A person is guilty of a class B misdemeanor if he:

A. Constructs or maintains a corral, sheep pen, goat pen, stable, pigpen, chicken coop or other offensive yard or outbuilding where the waste of drainage therefrom shall flow directly into the waters of any stream, well or spring of water used for domestic purposes;

B. Deposits, piles, unloads or leaves any manure heap, offensive rubbish or the carcass of any dead animal where the waste or drainage therefrom shall flow directly in the waters of any stream, well or spring of water used for domestic purposes;

C. Dips or washes livestock in any stream, or constructs, maintains, or uses any pool or dipping vat for dipping or washing livestock in such close proximity to any stream located within this municipality or over which this municipality may exercise its jurisdiction and used by the inhabitants of this municipality for domestic purposes as to make the waters thereof impure or unwholesome.

D. Constructs or maintains any corral, yard or vat to be used for the purpose of shearing or dipping sheep within twelve (12) miles of the municipality, where the refuse or filth from the corral or yard would naturally find its way into any stream of water used by the inhabitants of this municipality for domestic purposes; or

E. Establishes and maintains any corral, camp or bedding place for the purpose of herding, holding or keeping any cattle, horses, sheep, goats or hogs, within seven miles of this municipality, where the refuse or filth from the corral, camp or bedding place will naturally find its way into any stream of water used by the inhabitants of this municipality for domestic purposes.

8. Nuisances on property - Definition of Nuisance

For the purpose of Sections 9, 10 and 11, "nuisance" means any condition or use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly which includes, but is not limited to, keeping or depositing on, or scattering over the premises any of the following:

A. Lumber, junk, trash, litter or debris;

B. Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans or containers.

C. Notwithstanding any other provision of this code, it shall be permissible for any person to keep not more than two inoperable, junked or unused vehicles on his or her property, but only so long as such vehicles are kept behind and are surrounded by a six-foot opaque fence or structure which shall block the view of such vehicles from the public and private property; and provided further that such vehicles are in the process of being restored to an operable and/or exhibition condition by the owners thereof. The owners of such vehicles shall be required to demonstrate, upon the request of the nuisance inspector or other appropriate city official, what steps have been taken and work accomplished in the restoration of such vehicle or vehicles during the three months immediately prior to such requests. If the nuisance inspector or other appropriate official is not satisfied that progress is being made in the restoration of such vehicle or vehicles, such facts shall be reported to the city council which may direct the removal of such vehicles from the property of the owner. A failure to comply with the direction of the city council shall be dealt with under the nuisance provisions of this code.

1). For purposes of this Section 8 and this chapter "inoperable, junked or unused vehicles" means:

a) Any vehicle, parts of which are in a state of disrepair, or parts of which have been removed therefrom rendering the same incapable of being safely or legally operated;

b) Any vehicle which has been wrecked or damaged in such a manner so that in its present condition it cannot safely or legally be operated; or

c) A motor vehicle which has not been registered for any time in excess of six months.

9. Nuisances on property - 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.

10. Nuisances on property - Storage of personal property.

Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely useable for the purposes of which it was manufactured, for a period of thirty (30) days or more (except in licensed junk yards) within this municipality, is declared to be a nuisance and dangerous to the public safety.

11. Nuisances on property - Abatement of nuisance by owners.

The owner, owners, tenants, lessees or occupants of any lot within this municipality on which such storage as defined in Section 10 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 municipality.

12. Appointment and duties of inspector.

A. There is established the position of nuisance inspector whose duties shall be to enforce the provisions of this chapter. Until another person is designated, the chief of police shall enforce the provisions of this chapter. More than one person may be appointed to act as inspector under this section.

B. The nuisance inspector is authorized to:

1) Perform all functions necessary to enforce the provisions of the chapter;

2) 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.

C. If he concludes there exists an objectionable condition in violation of this chapter, the inspector shall:

1) Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions exist;

2) Serve notice in writing upon the owner and 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 assessor 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 inspector may designate, provided that any person notified pursuant to this subsection shall be given at least ten but not more than twenty (20) days, as determined by the inspector following the date of service of such notice, to correct the objectionable condition. The notice shall:

a) Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists;

b) Inform the owner, occupant or other person that in the event he disagrees with the determination of the inspector and does not which to comply with the provisions of the notice or that he objects to the factual or legal basis for the notice, he may request in writing a hearing before the governing body at a time and place to be set by the governing body. A written application for a hearing shall stay the time within which the person must conform to the provisions of the notice;

c) Inform the person that in the event he fails or neglects to correct the objectionable condition, the municipality will correct the objectionable condition and will collect the costs of so correcting the objectionable condition by either a court action, in which case he will be assessed such costs together with reasonable attorneys' fees and court costs, or will charge the

cost of correcting the violation against the property as a tax;

3) In the event the owner or occupant makes such request for a hearing, the governing body shall set the time and place for hearing objections and the recorder clerk shall notify the owner, occupant or other persons in writing of the time and place at which they may appear and be heard. The hearing shall not be heard within less than five days from the date of service or mailing of the notice of hearing.

13. Hearing.

A. At the written request of an owner, occupant or other person having an interest in property which is the subject of a notice to remove or abate weeds, objectionable conditions, abate a nuisance, or objects from the property, the governing body shall conduct an informal hearing (which need not be reported) wherein such person 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 chapter. The governing body shall also permit the presentation of evidence and argument by the inspector and other interested parties. Thereafter, within not less than five or more than ten days, the governing body shall, over the signature of the mayor or such other member of the governing body as it may designate, render its written decision, a copy of which shall be mailed to or served upon the owner or other person to whom the original notice was given by the inspector.

B. In the event the decision of the governing body upholds the determination of the inspector, the notice originally given by the inspector as provided in this section shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and he shall have up to ten days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed thirty (30) days, is authorized by the inspector.

C. In the event that the decision of the governing body either overrules or modifies the determination of the inspector, the written decision of the governing body shall apprise the owner or occupant of the fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the governing body within ten days after service or mailing of a copy of the decision, and

the decision shall be deemed to be the modified decision of the inspector unless additional time is authorized by the governing body.

D. The inspector shall file an amended notice and proof of service of notice and file the same in the office of the county treasurer.

14. Failure to comply.

If any owner, occupant or other person having an interest in 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 a nuisance or eradication, destruction or removal of such weeds, garbage, refuse, objects or structures, the inspector shall employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the municipality.

15. 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 person having an interest in the property, demanding payment within twenty (20) 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 persons having an interest in the property.

16. 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 municipal treasurer within the twenty (20) 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.

17. Collection by law suit.

In the event collection of expenses of destruction and removal are pursued through the courts, the municipality shall sue for and receive judgment for all of said 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.

18. Collection through taxes.

In the event that the inspector 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 ten days after the completion of the work of destroying or removing such weeds, refuse, garbage, objects or structures. Thereupon, the costs of the work shall be pursued by the county treasurer in accordance with the applicable provisions of the Utah Code Annotated, 1953, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

19. 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 of a notice 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.

20. Penalty for failure to comply.

A. 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 C misdemeanor for each offense and further sum of up to seven hundred fifty dollars (\$750.00) for each and every day such failure to comply continues beyond the date fixed for compliance.

B. 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 brought pursuant to this section.

21. Maintaining, committing or failure to remove public nuisance - Classification of offense.

Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who wilfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a class C misdemeanor. No imprisonment shall be imposed for nuisance ordinance violations.

22. Carcass or offal - Prohibitions relating to disposal - Classification of offense.

Every person who puts the carcass of any dead animal, or the offal from any slaughter pen, corral or butcher shop into any river, creek, pond, street, alley or public highway, or road in common use or who attempts to destroy it by fire, within one-fourth of a mile of this municipality is guilty of a class B misdemeanor.

23. Chapter not to affect other provisions of municipal ordinances.

Nothing contained in this chapter shall affect any other provisions of this municipality's ordinances, rules or regulations which regulate, prohibit or effect nuisances or public nuisances.

24. Action for abatement of public nuisances.

The municipal attorney is empowered to institute an action in the name of this municipality to abate a public nuisance.

THIS ORDINANCE does not affect prosecutions for Ordinance violations committed prior to the effective date of this Ordinance, does not waive any fee or penalty due and unpaid on the effective date of this Ordinance, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any Ordinance.

THIS ORDINANCE shall become effective upon posting as required by law.

ADOPTED AND PASSED by the Mantua Town Council this ____ day of December, 1995.

MANTUA TOWN

APPROVED /

Mayor

Attest:

City Recorder

Posted: _____