

**ELWOOD TOWN
ORDINANCE 2007-01**

**AN ORDINANCE DEFINING A NUISANCE AND ESTABLISHING A METHOD TO
CONTROL SUCH NUSIANCES IN THE TOWN OF ELWOOD**

The Town Council of the Town of Elwood, State of Utah, ordains as follows:

SECTION I: The Town of Elwood, Municipal Code is amended by modifying the existing Nuisance Ordinance by:

1. Including the purpose of the ordinance.
2. Specific definitions of nuisances.
3. Enforcement step and penalties for violators of a nuisance.


SECTION II: The Ordinance showing such changes shall be filed in the office of the Clerk for the use and examination of the public.

SECITON III: After a public hearing was held January 10, 2006 following proper notice as required by law, and comments were received, the Town Council found that the proposed ordinance met all the conditions necessary to enforce the ordinance as indicated.


SECITON IV: This ordinance shall be come effective upon passage and proper posting.

Passed, and adopted and ordered posted by the Town Council of the Town of Elwood, Utah, the 10th day of January, 2007

SIGNED:


Lynn D. Hardy, Mayor
Elwood Town

ATTEST:


Tina Barker, Clerk
Elwood Town

POSTED:

1/30/07

- 1- Elwood Town Hall, 5235 W 8800 N, Elwood, Utah
- 2- Elwood Exxon, 5196 W 9600 N, Elwood, Utah
- 3- JC's Diner, 5200 W 10260 N, Elwood, Utah

CHAPTER 4-1: NUISANCES.

4-1-1 PURPOSE

It is the purpose of this Chapter 4 to establish a means whereby the Town 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 Annotated title 10, chapter 11, as amended, and pursuant to its general power to abate nuisances. The provisions adopted herein are intended to:

- A. Prevent fire hazards;*
- B. Prevent insect and rodent harborages;*
- C. Prevent the introduction of hazardous pollens in the air;*
- D. Prevent further spreading of vegetation that threatens the public health, safety or welfare;*
- E. Abate the existence of objects, structures or solid waste that threaten the public health, safety and welfare;*
- F. Protect and promote the public health and safety of the community by preventing or abating conditions which create or maintain public nuisances.*

4-1-2 CONDITIONS CONSTITUTING NUISANCE

Without limiting or impairing the effect of other sections of the Municipal code, the following conditions shall constitute a nuisance subject to abatement under this chapter:

- A. Vegetation on private property which, due to its proximity to any public property or public right-of-way, interferes with the public safety or lawful use of the public property or right of way.*
- B. Weeds, unmaintained grasses, or noxious vegetable growth which has grown to a height exceeding 10 inches.*
- C. Vegetable waste, litter, garbage, filth or refuse of any nature, kind or description detrimental to health allowed to accumulate upon any private property, yard or area.*
- D. 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.*
- E. 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 creates a condition deleterious to their surroundings.*

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.

4-1-8 COLLECTION OF EXPENSES

A. *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 Town Treasurer within the 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.

B. *Collection by Lawsuit.*

In the event collection of expenses of destruction and removal are pursued through the courts, the Town 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.

C. *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 and 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 cost of the work shall be pursued by the County Treasurer in accordance with the provisions of U.C.A § 4-1-5 (J), Utah Code Annotated 1953, and the recalcitrant owner shall have such rights and shall be subject to such powers as are hereby granted.

D. *Costs of Removal to be Included in Tax Notice.*

Upon receipt of the itemized statement of the cost of destroying or removing such weeds, refuse, garbage, objects, or structures, the county treasurer shall forthwith mail one copy to the owner of the land from which the same were removed, together with a notice that objection in writing may be made within 30 days to the whole or any part of the statement so filed to the county legislative body. The county treasurer shall at the same time deliver a copy of the statement of the clerk of the county legislative body. If objections to any statement are filed with the county legislative body, they shall set a date for hearing, giving notice thereof, and upon the hearing fix and determine the actual cost of removing the weeds, garbage, refuse, or unsightly or deleterious objects or structures, and report their findings to the county treasurer. If no objections to the items of the account so filed are made within 30 days of the date of mailing such itemized statement, the county treasurer shall enter the amount of such statement on the assessment rolls of the county in the column prepared for that purpose, and likewise within ten days from the date of the action of the county legislative body upon objections filed shall enter in the prepared column upon the tax rolls the amount found by the county legislative body as the cost of

removing and destroying the said weeds, refuse, garbage or unsightly and deleterious objects or structures. If current tax notices have been mailed, said taxes may be carried over on the rolls to the following year. After the entry by the county treasurer of the costs of removing weeds, garbage, refuse or unsightly and deleterious objects or structures the amount so entered shall have the force and affect of a valid judgment of the district court, and shall be a lien upon the lands from which the weeds, refuse, garbage or unsightly and deleterious objects or structures were removed and destroyed, and shall be collected by the county treasurer at the time of the payment of general taxes. Upon payment thereof receipt shall be acknowledged upon the general tax receipt issues by the treasurer.

4-1-9 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 shall be liable for the further sum of \$25.00 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.

C. 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.

by the public in the office of the Clerk of this Town, is hereby approved and adopted as the Abatement of Dangerous Buildings Code of this Town.

B. The provisions of the Abatement of Dangerous Buildings Code shall apply to all dangerous buildings as therein defined, which now exist or which may exist or hereafter be constructed in this Town.

C. All buildings or structures which are required to be repaired under the provisions of the Abatement of Dangerous Buildings code shall be subject to the provisions of subsections (A), (B), (C), (D), (E), and (I) of Section 104 of the Uniform Building Code.

D. All buildings or portions thereof which are determined after inspection by the building official to be dangerous, as defined in the Abatement of Dangerous Buildings Code, are hereby declared to be public nuisances and shall be abated by repair, rehabilitations, demolition, or removal in accordance with procedures specified in Section 401 of the Abatement of Dangerous Buildings Code.

E. In order to interpret provisions of the Abatement of Dangerous Buildings Code and to hear appeals provided for thereunder, there is hereby established an Abatement of Dangerous Building Board of Appeals consisting of five members who shall not be employees of the municipality. The Building Official shall be an ex-officio member of and shall act as Secretary to the Board. The Board may adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the applicant with a copy to the Building Official. Appeals to the Board shall be processed in accordance with the provisions contained in the adopted codes. Copies of all rules and regulations adopted by the Board shall be delivered to the Building Official who shall make them accessible to the public without cost.

4-1-6-NUISANCE HEARING

A. In order to interpret provisions of this Nuisance Ordinance and to hear appeals provided for thereunder, there is hereby established an Nuisance Abatement Board of Appeals ("NABA") consisting of five members who shall not be employees of the municipality. The Nuisance Inspector shall be an ex-officio member of and shall act as Secretary to the Board. The NABA may adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the applicant with a copy to the Nuisance Inspector. Copies of all rules and regulations adopted by the NABA shall be delivered to the Nuisance Inspector who shall make them accessible to the public without cost.

B. A written application for a hearing to the NABA shall state the time within which the person must conform to the provisions of the nuisance notice. A written application for a hearing must be mailed to the NABA within 10 working days of the service of the notice issued by the Nuisance Inspector.

C. In the event the owner or occupant makes such request for a hearing, the NABA shall set the time and place for hearing objections and the 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 working days from the date of service or mailing of the notice of hearing.

D. Upon a proper application for hearing from an owner, occupant or other person having an interest in property which is the subject of notice to remove or abate weeds, objectionable conditions, or objects from the property, the NABA shall conduct an informal hearing (which need not be reported) wherein such persons 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 property within the purview of this chapter. The NABA shall also permit the presentation of evidence and argument by the Inspector and other interested parties. Thereafter within not less than five nor more than ten days, the NABA as it may designate, render its written decision, a copy of which shall be mailed or served upon the owner or other person to whom original notice was given by the Inspector.

E. In the event the decision of the NABA upholds the determination of the Inspector, the notice originally given by the Inspector as above provided 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 30 days, is authorized by the Inspector.

F. In the event that the decision of the NABA either overrules or modifies the determination of the Inspector, the written decision of the NABA either overrules or modifies the determination of the Inspector, the written decision of the NABA shall apprise the owner or occupant of that 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 NABA 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 NABA .

G. The Inspector shall file an Amended Notice and Proof of Service of Notice and file the same in the office of County Treasurer.

4-1-7 FAILURE TO COMPLY

A Abatement: 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 the 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 condition to be removed or destroyed at the expense of the Town.

B. 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 twenty days of the date of mailing, the notice shall be deemed

F. *The presence of noxious weeds, as designated by the Utah Commissioner of Agriculture.*

G. *Vegetation or structures obstructing the view of drivers of motor vehicles on public streets, highways, or byways.*

H. *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 Town's zoning ordinances:*

i. Uncontained garbage, refuse, litter or other solid waste;

ii. Auto parts, tires, scrap metal, machinery or parts thereof;

iii. Junk, abandoned items, or salvage material, including but not limited to construction supplies or household goods; or

iv. Any inoperable, unlicensed, or unregistered vehicles.

I. *Any toilet or sewage facility not constructed or maintained in accordance with the Town ordinances*

J. *The blockage of any water drainage system, where such blockage is inconsistent with the design or intent of the drainage system, so as to cause the water to back up and overflow from the drainage system or to become unsanitary.*

K. *Any condition which unlawfully interferes with, obstructs, or tends to obstruct any public park, street, or highway.*

L. *Any graffiti or signage consisting of vulgar or indecent words or images, which is clearly visible from a public street or highway.*

M. *Any act or omission outlined in Utah Code Annotated §§ 76-10-801 through 76-10-803 and § 78-38-1.*

4-1-3 RESPONSIBILITY FOR NUISANCES

Property owners shall be responsible for any of the above conditions existing on their property or the area between their property line and the curb or edge of the public roadway.

4-1-4 APPOINTMENT AND DUTIES OF NUISANCE INSPECTOR

A. *There is hereby established the position of Nuisance Inspector whose duties it shall be to enforce the provisions of this chapter. Until another person is designated, the Town Council shall enforce the provisions of this chapter. More than one person may be appointed to act as Nuisance Inspector under this section.*

- B. *The Nuisance Inspector is authorized to:*
- i. *Perform all functions necessary to enforce the provisions of this chapter.*
 - ii. *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 the Nuisance Inspector concludes that there exists an objectionable condition in violation of this chapter, the Inspector shall:*
- i. *Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions exist.*
 - ii. *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 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 wish 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 Nuisance Abatement Board of Appeals ("NABA") at a time and place to be set by the NABA.*
 - c. *Inform the person that in the event he fails or neglects to correct the objectionable conditions, the Town will correct 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.*

4-1-5 DANGEROUS BUILDINGS

- A. *The most recent edition of the Uniform Code for the Abatement of Dangerous Buildings printed as a code in book form by the International Conference of Building Officials (providing for a just, equitable and practicable method whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated, or demolished), three copies of which have been filed for use and examination*