

ORDINANCE NO. 07-11-2017

NUISANCE AND BEAUTIFICATION ORDINANCE. AN ORDINANCE ENACTING REGULATIONS AND ABATEMENT OF NUISANCES AS DEFINED HEREIN AND FOR THE BEAUTIFICATION OF THE CITY OF EUREKA, UTAH; ALSO PROVIDING A SAVING CLAUSE AND AN EFFECTIVE DATE FOR THE ORDINANCE.

PREAMBLE:

WHEREAS, the Eureka City Council has authority to enact ordinances that promote the health, safety, morals, convenience, order, prosperity, and general welfare of Eureka; and

WHEREAS, Title 10 Chapter 3 and Section 10-8-84 of the Utah Code Annotated authorize the City Council to pass ordinances which are reasonably and appropriately related to the objectives of that power, i.e. providing for the public health, safety, morals, convenience, order, prosperity, and general welfare of the City and its residents; and

WHEREAS, the City Council has determined that in order to promote the health, safety, morals, convenience, order, prosperity, and general welfare of the City, an ordinance should be enacted with provisions regulating the abatement of nuisances within the City and in furtherance of maintaining an attractive and beautified environment for its residents; and

WHEREAS, the City Council finds that it is in the public interest to abate nuisances and promote the beautification of the City;

NOW THEREFORE, be it ordained by the City Council of Eureka City, State of Utah, that the following ordinance be adopted:

BE IT ORDAINED BY THE CITY COUNCIL OF EUREKA, UTAH:

Title of Ordinance.

The provisions codified in this chapter shall be known and may be referred to as the NUISANCE AND BEAUTIFICATION ORDINANCE.

Purpose.

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

- (1) Protects public health and safety.
- (2) Fosters neighborhood stability.
- (3) Preserves the appearance, character, and beauty of neighborhoods.
- (4) Reflects community pride and caring.

(5) Protects the general welfare of its citizens.

Definitions.

NUISANCE: An act, omission or condition that

- (1) annoys, injures, or endangers the comfort, repose, health, or safety of others; or
- (2) offends the public decency; or
- (3) unlawfully interferes with, obstructs, or tends to obstruct or render dangerous for passage, any public place or street.

PROPERTY: Any personal or real property, whether public or private.

Prohibited Conduct.

It shall be unlawful and declared a public nuisance for any person owning, renting, leasing, occupying, or having charge or possession of any property in the City, without limitation, to allow any of the following conditions to exist on such property:

- (1) A condition that causes visual blight, is offensive to the senses, creates a harborage for rodents or pests, or detrimentally affects property in the surrounding neighborhood or community.
- (2) A condition that impairs the reasonable and lawful use of property.
- (3) A condition that unreasonably or unlawfully affects the health or safety of one or more persons.
- (4) A fire hazard as defined in the Uniform Fire Code.
- (5) Emanation of noxious or unreasonable odors, fumes, gas, smoke, soot or cinders.
- (6) Noxious weeds located on property, including vacant lots, or along public sidewalks or outer edge of any public street, or weeds in any other location which constitutes an unreasonable fire hazard or is contrary to the purpose of this Chapter.
- (7) Keeping or storing of any refuse and waste matter which interferes with the reasonable enjoyment of nearby property.
- (8) Polluted or stagnant water which constitutes an unhealthy or unsafe condition.

- (9) Accumulation of soil, litter, debris, plant trimmings, or trash, on sidewalks, in vestibules, doorways, passages, breezeways, parking areas or any public right-of-way or alley.
- (10) Accumulation of used or damaged lumber; junk; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, cabinets, or other fixtures or equipment stored so as to be visible from a public street, alley, or adjoining property. However, nothing herein shall preclude the placement of stacked firewood for personal non-commercial use on the premises.
- (11) Any attractive nuisance dangerous to children and other persons.
- (12) Dead, decayed, diseased, or hazardous trees, weeds, hedges, and overgrown or uncultivated vegetation which is in a hazardous condition, is an obstruction to pedestrian or vehicular traffic, or which is likely to harbor rats, vermin or other pests.
- (13) Improper maintenance of a sign; or signs which advertise a business that is no longer operating on the property or advertising a product that is no longer sold on the property.
- (14) Improper storage of inoperative, unregistered, abandoned, wrecked or dismantled vehicles or vehicle parts, including recreational vehicles.
- (15) Any wall, sign, fence, gate, hedge, or structure maintained in such condition of deterioration or disrepair as to constitute a hazard to persons or property.

Notice of Violation

The City will provide a written summary of the violations, either by mailing notice to the owner or leaving a correction notice on the property, giving the violator fifteen (15) days to fix the violation. If the violation is not fixed during that period, the City may take further action to obtain compliance.

Criminal Remedies.

A person may be issued a citation for any violation of this chapter. A violation of any provision in this chapter shall be subject to prosecution as a Class "B" misdemeanor, for each separate violation, with the corresponding statutory fines and penalties pursuant to Utah State Law.

Civil Remedies.

A civil action to abate or enjoin a nuisance, or for damages related to causing or maintaining a nuisance (including the cost, if any, of cleaning the subject property), may be brought by Eureka City.

- (1) In the event of failure of the owner or occupant of the property to comply with this ordinance, the City may employ necessary assistance or take appropriate action to remedy the hazard or nuisance.
- (2) The City shall prepare an itemized statement of all expenses it incurs in the removal and destruction of the nuisance and shall mail a copy thereof to the owner demanding payment within thirty (30) days of the date of mailing. Said notice shall be deemed delivered when mailed by certified mail addressed to the property owner's last known address.
- (3) In the event the owner is a resident or can be served within the county and fails to make payment of the amount set forth, the City may cause suit to be brought in an appropriate court of law.
- (4) In the event the owner is not servable or is not a resident within the county, the City shall refer the matter to the County Treasurer for inclusion in the tax notice of the property owner. The City shall make, in triplicate, an itemized statement of all expenses incurred in the removal and destruction of the same and shall deliver the three (3) copies of said statement to the County Treasurer in the manner set forth in Sections 10-11-3 and 10-11-4, Utah Code, as amended.
- (5) The City shall be entitled to its costs of court and reasonable attorney's fees and interest accrued shall constitute a civil debt owed by the defendant to the City.

Remedies Non-Exclusive.

The civil and criminal remedies provided herein are not mutually exclusive. The city may elect to deal with violators civilly, criminally, or both civilly and criminally.

Severability.

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

Effective Date.

In the opinion of the City Council of Eureka City, it is necessary for the preservation of the peace, welfare, health, and safety of the inhabitants of Eureka City that this Ordinance take effect as soon as possible. This Ordinance, therefore, shall take effect immediately upon its passage and first publication as provided by law.

PASSED BY the Eureka City Council this 11th day of July, 2017.

MAYOR:


NICK CASTLETON

ATTEST:


PATRICIA BIGLER
RECORDER