

**AN AMENDMENT TO CASTLE DALE CITY DEVELOPMENT CODE
ORDINANCE NO. 11-13-85
AMENDMENT 8-13-09B**

**AMENDMENTS AND ADDITIONS TO CHAPTER III - ZONING - GENERAL
REQUIREMENTS OF THE
PLANNING & ZONING DEVELOPMENT CODE OF CASTLE DALE CITY**

WHEREAS, the Castle Dale City Council has determined that it is necessary to make additions to Chapter III of the Planning & Zoning Development Code of Castle Dale City, and,

WHEREAS, the Castle Dale City Council has received recommendations from the Castle Dale City Planning & Zoning Commission;

NOW THEREFORE, be it ordained by the Castle Dale City Council that the following be added to the Castle Dale City Development Code:

3-8 Property Maintenance

3-8-1 Intent

The city council declares the city's intent to regulate the abatement of injurious and noxious weeds, garbage, refuse or any unsightly or deleterious objects or structures within Castle Dale City, under the authority provided to the City in Section 10-11-1 et seq. of the Utah Code as amended.

Definitions:

Varmint, any of various small animals or insects that are pests, destructive animals or insects that harm people, livestock, property, or crops and are difficult to control, e.g. rats, weasels, fleas, or cockroaches

Deleterious, harmful to health or well-being often in a subtle or unexpected way

ABANDONED VEHICLE OR VEHICLES

Licensed motor vehicles of any kind or part(s) thereof which is in a wrecked, junked, partially dismantled inoperative, or abandoned condition, or vehicles not currently licensed and insured to the minimum levels established by state law.

3-8-2 Property Maintenance Requirements – Abatement of Weeds and Deleterious Objects

A. Real Property to be Kept Clean. No person owning, renting, leasing, occupying or having charge or possession of any premises within Castle Dale City shall maintain such premises in such a way as to allow weeds to grow higher on such property than is permitted by this chapter or not to remove from such property any

cuttings of such weeds or any garbage, refuse, unsightly or deleterious objects or nuisances after having been given notice from the city inspector as provided in this chapter.

B. Weeds Defined. “Weeds” means and includes any vegetation commonly referred to as a weed, or which shall have been designated as noxious weeds by the Utah Commissioner of Agriculture.

C. Standards of Weed Control. It is declared that the above-stated weeds constituted a nuisance when they reach a height of more than eighteen (18) inches from the grounds, create a fire hazard, become a source of contamination or pollution of the water, air or property, become a danger to health, provide areas for accumulation of dangerous or damaging insects or varmints, or are unsightly or deleterious to their surroundings.

D. Nuisances on Property

1. Definition of Nuisance. The existence of any of the following conditions on any property within the City is declared to be unsightly and constitutes a public nuisance posing a threat to the public health, safety and welfare of the community for purposes of this section.

A. Buildings or structures which have been abandoned, partially destroyed, improperly maintained causing safety issues, buildings with broken windows, missing doors or doors not secured and locked.

B. Dead, decayed or diseased vegetation; other than home garden compost piles maintained behind the front line of the house.

C. Abandoned, inoperative or other dilapidated motor vehicles, trailers, campers, boats, RV’s or other mobile equipment stored so as to be visible from the public streets, or stored upon public streets; it shall be unlawful to park, store, leave or permit the parking, storing, or leaving of any license or unlicensed motor vehicles of any kind or part(s) thereof which is in a wrecked, junked, partially dismantled, inoperative, or abandoned condition, whether attended or not upon any private property within the city limits of Castle Dale City for a period of time in excess of one week, except that two (2) or fewer such vehicles or parts thereof may be stored if placed behind an opaque screening fence or four (4) vehicles if stored within a building.

D. Attractive nuisances dangerous to children;

E. Maintenance of premises in such condition as to be detrimental to public health, safety or general welfare or in such a manner as to constitute a public nuisance;

F. Weeds as defined herein;

G. Property, building or exteriors or equipment unsightly or in such condition of deterioration or disrepair that the same causes diminution of property values of neighboring properties.

H. For the purposes of this section the term “nuisance” also means any condition of use of premises or of building exteriors which are

deleterious of injurious, noxious or unsightly which includes, but is not limited to keeping or depositing on, or scattering over the premises visible from the public street any of the following:

- I. Junk, trash or debris,; materials remaining after construction or demolition on the street side of the front line of the house.
 - ii. Abandoned, discarded or unused objects or equipment such as furniture intended for inside use, stoves, refrigerators, freezers, mattresses, barrels, cans, or containers.
 - iii. Solid waste or unsightly or deleterious objects or flammable material of any kind.
- I. Garbage cans left on city property more than 12 hours prior or 12 hours after the designated garbage collection day.

E. 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.

3-8-3 Appointment and Duties of Inspector

The City planning and zoning official or other person appointed by the City Council is hereby appointed to carry out the provisions of this chapter and shall be referred to hereafter as city inspector. It shall be the duty of the city inspector to make careful examination, and investigation of the growth and spread of such injurious and noxious weeds, and of garbage, refuse or unsightly or deleterious objects or structures or other nuisances and to ascertain the names of the owners and descriptions of the premises where such weeds, garbage, refuse, objects or structures or other nuisances exist as listed in 3-8-2.

3-8-4 Notice of Violation and Right to a Hearing

- A. Owners or occupants of property who do not comply with this chapter shall be served a written notice setting forth the violation, location, and date of notice.
- B. Owners or occupants of property who do not comply with this chapter shall be served a second written notice setting forth the violation, location of violation, date of notice, corrective measures to be taken to eradicate or destroy and remove the violation, a reasonable time period to comply, which shall not be less than 14 days from the date of the service of the notice, and the city's power to cause, at the owners expense, removal of weeds, garbage, refuse or unsightly of deleterious

objects or structures or other nuisances as identified in accordance with this chapter.

- C. Such written notice shall be deemed sufficient and complete when served upon the owner or occupant:
 - 1. Personally by the inspector or his or her representative; or
 - 2. Mailing, postage paid, addressed to the owner or occupant at the last known post office address appearing upon the records of the county assessor. Service by regular mail in the manner set forth above shall be deemed served on the fifth day after the date of mailing.
- D. The inspector shall make proof of service of such notice under oath, and file the same in the office of the county treasurer.
- E. In cases when delay and enforcement will seriously threaten the effective enforcement of this chapter, or pose a danger to the public health, safety or welfare, the city inspector may seek enforcement without prior written notice by invoking any of the penalties authorized in this chapter.
- F. Following the issuance of notice described in this section, a person so notified shall have the right to request a hearing before the City Council for a re-evaluation of the alleged violation. Such request for re-evaluation shall be made in writing and delivered to the city offices within twenty-eight (28) days from the date of the notice.

3-8-5 Penalty

- A. Any person, firm or corporation (as principal, agent, employee or otherwise) violating or permitting violation of the provisions of this title thirty days after service of the "Notice of Violation" shall be guilty of a class B misdemeanor, and punishable as provided by law.
- B. Each day that any violation continues after notification by the city inspector that such violation exists shall be considered a separate offense for the purposes of the penalties and remedies available.
- C. This chapter may also be enforced by injunction, mandamus, abatement, civil penalties as described in this chapter or any other appropriate action in law or equity.
- D. Accumulation of penalties for violations, but not the obligation for payment of penalties already accrued shall stop at the time of the correction of the violation.
- E. Anyone, all, or any combination of the forgoing penalties and remedies may be used to enforce this chapter, and the use of one remedy shall not preclude the city from the use of other remedies as to the same condition or property owner.

3-8-6 City to Clean or Secure Property When-Costs

- A. Upon the owner's or occupant's failure to comply with the notice issued, the city inspector or other person directed by the city council shall have the authority at the expense of the city to employ necessary assistance and cause the removal or destruction of all weeds, garbage, refuse or unsightly or deleterious objects or structures or other nuisances and bring the property into compliance with the

provisions of the Castle Dale City Code, including the power to enter on the property for such specific purpose or to authorize others to enter on such property.

- B. The city inspector, prior to the start of cleanup will send a rough estimate of the costs of cleanup to the owner or occupant, and upon approval of the work, shall prepare an itemized statement of all costs, including administrative expenses incurred in the removal and destruction of weeds, garbage, refuse or unsightly or deleterious objects or structures or other nuisances. The city inspector shall mail a copy of such statement to the owner or occupant demanding reimbursement to the department of such costs by payment to the city treasurer within thirty days of the date of service. Such notice shall be deemed delivered when mailed by registered/certified mail addressed to the last known address of the property owner according to the records on the county assessor.

3-8-7 Costs-Collection Methods Authorized

If within thirty days of the date of mailing the itemized statement, the owner fails to make payment of the amount set forth in such statement to the city treasurer, the City 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.

3-8-8 Costs-Collection by Lawsuit

In the event collection of expenses of abating a nuisance on a premise within the city is pursued through the court, the city may sue for and receive judgment for all expenses, including removal and destruction costs and administrative costs, of abating the violation together with reasonable attorney's fees, interest and court costs, and may execute upon such judgment in the manner provided by law.

3-8-9 Costs-Collection Through Taxes

In the event the inspector elects to refer the expenses of removing weeds, garbage, refuse or unsightly or deleterious objects or structures or other nuisances to the county treasurer for inclusion in the tax notice of the property owner, the city inspector shall make, in triplicate, an itemized statement of all expenses, including administrative expenses incurred in the removal and destruction or weeds, garage, refuse of unsightly or deleterious or structures or other nuisances, and shall deliver three copies of the statement to the county treasures within ten days after the expiration of the thirty day period provided in the statement 3-8-6 (B) herein.

3-8-10 Cost of Removal to be Included in Tax Notice

Upon receipt of the itemized statement of the costs of destroying or removing such weeds, garbage, refuse of unsightly or deleterious objects or structures or other nuisance, 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

thirty days to the whole or any part of the statement so filed to the Emery County Commission. The county treasurer shall at the same time deliver a copy of the statement to the clerk of the Emery County commission. If objections to any statement are filed with the Emery County Commission, they shall set a date for hearing, giving notice thereof, and upon the hearing fix and determine the actual costs of removing the weeds, garbage, refuse or unsightly or deleterious objects or structures of other nuisances, and report their findings to the county treasurer. If no objections to the items to the account so filed are made within thirty days of the date of mailing such itemized statement, the county treasurer shall enter the amount of such statement on the assessment of the county in the column prepared for that purpose and likewise within ten days from the date of the action of the Emery County Commission upon objections filed shall enter in the prepared column upon the tax rolls the amount found by the Emery County Commission as the costs of removing and destroying said weeds, garbage, refuse or unsightly and deleterious objects or structures or other nuisances. If current notices have been mailed, said taxes may be carried over on the rolls to the following year. After the entry of the county treasurer of the costs of removing weeds, garbage, refuse or unsightly or deleterious objects or structures or other nuisances the amount so entered shall have the force and effect of valid judgment of the district court, and shall be a lien upon the lands from which the weeds, garbage, refuse or unsightly or deleterious objects or structures or other nuisances 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 acknowledged upon the general tax receipt issued by the treasurer.

PASSED AND ORDERED POSTED by unanimous vote of the Castle Dale City Council at the regularly scheduled meeting of the Council on the _____ day of August, 2009

CASTLE DALE CITY COUNCIL

Neal L. Peacock, Mayor

ATTEST:

Linda Turner, Recorder