

**HUNTSVILLE TOWN
TITLE 2: NUISANCE ORDINANCE**

NUISANCE AMENDMENTS¹

**AN ORDINANCE OF HUNTSVILLE TOWN, UTAH, AMENDING TITLE 2 OF
THE HUNTSVILLE MUNICIPAL CODE RELATING NUISANCES;
SEVERABILITY; PROVIDING AN EFFECTIVE DATE**

WHEREAS, Huntsville Town, Utah, (hereafter referred to as “Town”) is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* §§ 10-8-84 and 10-8-60, 1953, as amended, allows the City to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

WHEREAS, *Utah Code Annotated* §10-11-1, et seq, authorizes the Town to conduct inspection and cleaning of certain property and nuisances;

NOW, THEREFORE, be it ordained by the Town Council of the Huntsville Town, Utah, as follows:

Section 1: Amendment. Title 2 of the Huntsville Municipal Code is hereby amended to read as follows:

2.1 Purpose and Policy Statement

1. Purpose. The purpose of this Title is to provide for the declaration and elimination of declared nuisances, protect property values, neighborhood aesthetics, public health and safety, as well as to prevent the overgrowth of grass, weeds, and brush that could pose fire, safety or health hazards.
2. Policy. A nuisance is any item, thing, manner, condition whatsoever that annoys, is a danger to human life or health or renders soil, air, water, or food impure or unwholesome.

2.2 Public Nuisances Declared

- A. A public nuisance is a crime against the order and economy of the Town and consists in unlawfully doing any act or omitting to perform any duty, which act or omission either:
 1. Health and Safety. Annoys, injures, or endangers, the comfort, repose, health, or safety of the public.
 2. Obstructions. Unlawfully interferes with, obstructs, or tends to obstruct or renders dangers for passage, any lake, stream, canal, ditch, or basin, or any public park, square, street or highway.
 3. Security. In any way renders residents insecure in life or the use of their property.
 4. Garbage. Household waste, food waste, all animal and vegetable refuse from kitchens or residences, hotels, cafes, restaurants and places where food is prepared for human consumption, including all animal and vegetable refuse from such kitchens, the materials in which such food products are packaged, and also all condemned, or decayed or unsound vegetables, meats, fish, fruit and all waste an offal therefrom markets, stores and factories and any other manner of refuse, rubbish, rotting hay, or trash which in and of itself has no value.
 5. Junk. All discarded metals, scrap metals, iron, glass, paper, wood, building materials, plastics, fiberglass which may have value second hand but not in its present condition, unused or discarded

¹ Amended 6/2/2016: Entire Nuisance Ordinance was updated to meet state code.

bicycles, tricycles or other recreational vehicles or parts therefore, waste paper products, unused or discarded building materials, machinery or machinery parts, lumber, accumulations of dirt, gravel, ashes, or fire remains, or any inoperable or abandoned vehicles, parts, or any other waste materials.

6. Inoperable or Abandoned Vehicle. Includes any trailer, semi-trailer or motor vehicle not currently registered and licensed in this state or another state, that cannot be operated in its existing condition because the parts necessary for operation such as, but not limited to, tires, windshield, engine, drive train, driver's seat, steering wheel or column, gas or brake pedals are removed, destroyed, damaged, deteriorated, or nonconforming.
7. Public nuisance animal. Any animal which violates the provisions of this Title as defined or the title on Nuisance Generally and:
 - a. Causes damage to the property of anyone other than its owner;
 - b. Causes unreasonable odors;
 - c. Causes unsanitary conditions, either for the animal(s) or person(s) living nearby;
 - d. Is a potentially dangerous or vicious animal as defined in the Animal Control Title;
 - e. Every dog or animal which by barking, howling or making other noises disturbs or disrupts the peace and quiet of more than three persons, or in the case of disturbing one or more persons is documented by an Animal Control or Huntsville Town Law Enforcement Officer on at least three separate occasions or for an extended period of time;
 - f. Regularly chases vehicles;
 - g. Regularly chases other animals.
8. Noxious Weeds. Any plant the Utah Commissioner of Agriculture determines to be especially injurious to public health, crops, livestock, land or other property.
9. Noise. To make, continue or cause to be made or continued any loud, continuous or excessive noise or any noise which endangers the health, safety or welfare of the community, or which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within Huntsville Town. Permits shall be available for special events that specify the dates and hours of the permitted activities, which shall not be allowed between the hours of 10:00 P.M. and 8:00 A.M., unless the responsible Town official determines that it is in the best interest of the community that the activities take place, wholly or partially, during such hours. Commercial establishments that hold regularly scheduled entertainment may obtain a yearly permit. This title does not apply to bells or chimes at places of worship; to the playing of bands or orchestras in a hall or building in a manner that will not annoy the peace, comfort and quiet of the neighboring inhabitants; to municipal, county, state or federal government agencies in connection with any emergency; to normal working activities of or activities sponsored by the governing body; to warning devices on authorized emergency vehicles; or to horns or other warning devices on other vehicles used only for traffic safety purposes. The following acts, among others, are declared to be loud, disturbing, excessive or continuous noises, and a danger to the health, safety and welfare of the community, in violation of this ordinance, but the enumeration shall not be deemed to be exclusive:
 - a. Continual use of horns, whistles, bells and signaling devices, except as a danger warning.
 - b. Radios, televisions, musical instruments and other machines, players or devices of any type or technology, using any type of media, used for the creation of any music or sound. The use or operation of any of the foregoing devices, with or without amplification, in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, chamber or premises in or at which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, machine, device or player between the hours of 10:00 p.m. and 8:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which or land on which it is located, shall be prima facie evidence of a violation of this section.

- c. Commercial loudspeakers, amplifiers, etc. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, loudspeaker, sound amplifier, or any other machine, player or device of any type or technology for the producing or reproducing of sound which is audible upon the public streets for the purpose of commercial advertising, except as permitted by Huntsville Town.
- d. People noises. Yelling, shouting, whistling, singing or conducting unnecessarily loud or annoying vocal utterances at any time or place, so as unreasonably to annoy or disturb the quiet, comfort or repose of any person in any hospital, residential medical facility, school, place of worship, place of business or dwelling, hotel or other type of residence, or of any person in the vicinity.
- e. Animals, including but not limited to birds and dogs. The keeping of any animal, including but not limited to any bird or dog, which, by causing frequent or long continued noise, shall disturb the comfort or repose of any persons in the vicinity. For purposes of this subsection, a dog barking continually for ten (10) minutes or intermittently for thirty (30) minutes, unless provoked, and plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which or land on which it is located, shall be prima facie evidence of a violation of this section.
- f. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary jet or internal combustion engine or motor vehicle, except through a properly functioning muffler or other device which will effectively prevent loud or explosive noises therefrom.
- g. Overloaded, improperly operated vehicles. The use of any automobile, motorcycle, truck or vehicle so out of repair, or so loaded or operated in such a manner as to create loud and unnecessary grating, grinding, rattling or other loud or disturbing noise.
- h. Construction work. The excavation, grading, paving, erection, demolition, alteration or repair of any premises, street, building or structure at any time other than between the hours of 8:00 A.M. and 6:00 P.M. on Sundays, or between the hours of 7:00 A.M. and 9:00 P.M. on all other days, except in case of urgent necessity in the interest of public health and safety. Notwithstanding the foregoing, if the Mayor or his/her designated official shall determine that the public health and safety will not be impaired by such work within the prohibited hours, and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the prohibited hours, upon application being made at the time the permit for the work is issued or during the progress of the work. The provisions of this subsection shall not apply to interior or exterior repairs or to interior alterations, the work for which is actually performed personally by a homeowner or other occupant or tenant between the hours of 8:00 A.M. and 10:00 P.M., provided, that the work shall be done without undue noise or disturbance of the peace and quiet of the nearby residences or of the neighborhood.
- i. Blowers, fans or engines. The operation of any noise-creating blower (including but not limited to leaf blowers) or power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower, fan or combustion engine is adequately muffled and such engine is equipped with a muffler device sufficient to deaden such noises. In addition, the operation or use of any of such equipment between the hours of 10:00 P.M. and 8:00 A.M., shall not be permitted; except that the use of any snow blower shall not be prohibited during these times when used to clear sidewalks, walkways or driveways following a snow storm, nor shall the use of any portable generator be prohibited during these times when used during a power outage caused by a storm or other natural disaster.
- j. Lawnmowers or chain saws. The operation or use of any power lawnmower or chain saw between the hours of 10:00 P.M. and 8:00 A.M.

10. Yards and Landscaping. Results in the accumulation of excessive vegetation or yard waste on property, including but not limited to, vegetation or landscaping to be un-watered or unmaintained so that it becomes dry or combustible. The failure to properly mow or cut of any lawn with grass and/or weeds growing in excess of six (6) inches in height. This chapter does not apply to bona fide agricultural uses, roadways, or federal or state lands.”

B. An act which affects the public in any of the ways specified in this section is still a nuisance regardless if the extent of annoyance or damage inflicted on individuals is unequal.

2.3 Inspection and Cleaning Procedure

Utah Code Annotated Section 10-11-1, et seq is hereby adopted and shall serve as the procedure for this Title.

2.4 Inspector and Notice

The municipal inspector has the authority to inspect as set forth in Utah Code Annotated 10-11-2, including the authority to examine and investigate real property for the growth and spread of injurious and noxious weeds, garbage, refuse, a public nuisance, or an illegal object or structure. Any required notice shall be served in accordance with Utah Code Annotated 10-11-2(2).

2.5 Other Remedies Preserved

Nothing in this Title shall be construed to limit other remedies at law or equity.

Appeals, Enforcement, and Penalties

1. Appeals. Any appeal of a violation of this chapter shall be filed in writing within ten (10) days of service and administered by the town’ appeal authority in accordance with Utah Code Annotated §10-9a-701, et. seq. No person may challenge in district court a violation under this Title until that person has exhausted all administrative remedies under this part.

2. Penalties. In accordance with *Utah Code Annotated* §10-3-703, 1953 as amended, the following penalties apply to any violation of this Title:

- A. Civil Penalty. In addition to other remedies as authorized by law, any person, firm, or corporation weather as principal, agent employee or otherwise, violating or permitting the violation of any land use provision established by law shall pay a \$1,000.00 penalty, per violation, per day, in addition to reasonable attorney’s fees and costs incurred by the municipality.
- B. Misdemeanor. Any person, firm, or corporation weather as principal, agent employee or otherwise, violating or permitting the violation of the provisions of any land use provision established by law shall be guilty of a misdemeanor and punishable as provided by law. Such person, form or corporation who intentionally violates this Zoning Ordinance shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this Zoning Ordinance is committed, continued, or permitted by such person, firm or corporation, shall be punishable as herein provided.

Section 2: Severability. If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of this Ordinance, shall be severed from the remainder, which shall continue in full force and effect.

Section 3: Effective date. This Ordinance takes effect immediately upon mayoral approval and posting.

PASSED AND ADOPTED by the Town Council on this 2nd day of June, 2016.

JIM TRUETT, Mayor

ATTEST:

GAIL ALSTROM, Town Recorder

RECORDED this 2nd day of June, 2016.
POSTED this 9th day of June, 2016.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

In accordance with Utah Code Annotated §10-3-713, 1953 as amended, I, the Town Clerk of Huntsville Town, hereby certify that foregoing Ordinance was duly passed and posted at: 1) Town Hall, 2) Huntsville Post Office, and 3) online at www.huntsvilletown.com, on the above referenced dates.

GAIL ALSTROM, Town Recorder

DATE: _____

Vote of the Town Council	yea	nay
Council Member White	Excused	
Council Member Wangsgard	X__	___
Council Member Engstrom	X__	___
Council Member Allen	X__	___
Mayor James A. Truett	X__	___