

CHAPTER 7A-06. CLEANING OF REAL PROPERTY

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7A-06-010. Purpose.

The purpose of this Chapter is to establish regulations and procedures for the cleaning of real property, including, but not limited to, the control of injurious and noxious weeds, garbage, refuse, graffiti, hazardous materials, and any unsightly or deleterious objects or structures on property located within the City. The intent of this Chapter is to provide for the public health and safety, including, but not limited to, the following:

- (a) Prevent fire hazards;
- (b) Prevent the spread of vegetation not conducive to the public health, safety or welfare;
- (c) Prevent the presence of public nuisances, eyesores and other objects, structures or refuse not conducive to the public health, safety and welfare;
- (d) Prevent the presence and breeding of rodents, insects and vermin;
- (e) Prevent the continued existence of unsightly or deleterious objects and structures upon property resulting from lack of maintenance, repair or cleaning;
- (f) Prevent the occurrence and growth of gang related activities within the City;
- (g) Prevent the unsightly effect of graffiti and discourage its continued application within the City; and
- (h) Prevent the presence of hazardous materials

7A-06-020. Authority.

The provisions of this Chapter are provided pursuant to the general police power of the City and specific statutory authorization as set forth in Utah Code Annotated Section 10-11-1 et seq., as amended,

regarding the inspection and cleaning of real property.

7A-06-030. Administration.

Except as otherwise provided herein regarding fire safety matters, the provisions of this Chapter shall be administered, interpreted and enforced by the City Manager. Fire safety matters and provisions and hazardous materials matters shall be administered, interpreted and enforced by the fire official.

7A-06-040. Inspectors.

The City Manager and their authorized designees, are hereby appointed as the City inspectors for purposes of carrying out the provisions of this Chapter ("inspectors"). It shall be the duty of such inspectors to examine and investigate potential violations of this Chapter and to pursue the enforcement of any such violations in accordance with the procedures set forth herein. It shall further be the duty of the inspectors to ascertain the names of the owners and descriptions of the premises where such weeds, refuse, garbage, graffiti, hazardous materials or violations exist. Inspectors are hereby authorized to make examinations and investigations of all real property within the City to determine whether the owners of such property are complying with the provisions of this Chapter.

7A-06-050. Definitions.

For the purpose of this Chapter, the following terms shall have the meanings set forth below:

(a) **GRAFFITI:** Any form of unauthorized painting, writing, spraying, scratching, affixing, marking or inscribing on the property of another, whether public or private, regardless of the content or nature of the material used in the commission of the act.

(b) **HAZARDOUS MATERIALS:** a substance that because of its quantity, concentration, physical characteristics, or chemical characteristics may cause or significantly contribute to an increase in mortality, an increase in serious illness, or may pose a substantial present or potential future hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise improperly managed. Hazardous materials includes any illegally manufactured controlled substance.

(c) **JUNK VEHICLE:** Any licensed or unlicensed motor vehicle of any kind or part thereof which is in a wrecked, junked, partially dismantled, inoperative or abandoned condition.

(d) **OWNER:** Any person who, alone or joint or severally with others:

(1) Has the legal title to any real property, premises, dwelling or dwelling unit, with or without actual possession thereof; or

(2) Has charge, care or control of any real property, premises, dwelling or dwelling unit, as a tenant, lessee, legal or equitable owner, or as personal representative, trustee, guardian, agent or conservator of the person holding legal title.

(e) **PERSON:** Any individual, public or private corporation, partnership, limited liability company, joint venture, association, firm trustee, executor of an estate, or other legal entity recognized by law.

(f) **PROPERTY:** Any private real property within Fruit Heights City, and the frontage area of any such property abutting or fronting upon any street, highway or alley within the City from the property line out to the edge of the road asphalt.

(g) **REFUSE:** Any garbage, trash, rubbish, weed or grass clippings, dead animals, sludge, liquid or semiliquid waste, and other discarded materials or materials stored or accumulated in an unsightly manner for the purpose of eventually discarding or salvaging them, including vehicles, or materials that

have served their intended purpose.

(h) **WEEDS:** Vegetation which is uncultivated, useless, unsightly, or which has become a fire hazard or is otherwise determined by the City to be noxious, dangerous, or a nuisance. The term “weeds” shall also include, but is not limited to, poison ivy (*Rhus toxicodendron*), poison oak (*Rhus diversiloba*), poison sumac (*Rhus vernix*), and those plants named in or listed on the State of Utah Noxious Weed List as designated and published by the Commissioner of Agriculture and Food, pursuant to the Utah noxious weed act, as set forth in Utah Code Annotated Section 4-17-1 et seq., as amended.

7A-06-060. Weed Control.

(a) **Height:** No owner shall permit weeds on his or her property to exceed a height of twelve inches (12”) at any time.

(b) **Prohibited Weeds:** No owner of property shall permit poison ivy (*Rhus toxicodendron*), poison oak (*Rhus diversiloba*), poison sumac (*Rhus vernix*), or any plants designated on the State of Utah Noxious Weed List as designated and published by the Commissioner of Agriculture and Food pursuant to the Utah noxious weed act, as set forth in Utah Code Annotated Section 4-17-1 et seq., as amended, to grow at any height on his or her property at any time.

(c) **Removal, Eradication:** Weeds and noxious plants must be eradicated by chemicals, cutting or other acceptable methods, and all cuttings or dead remnants shall be promptly cleared and removed from the property. Weeds which are eradicated by chemicals must be done so before their height exceeds twelve inches (12”), or they must be cut at a level not to exceed twelve inches (12”) in accordance with Subsection (a) of this Section.

(d) **Exceptions; Exemptions:** When an inspector determines that the size, location, accessibility or other circumstances regarding certain property makes compliance within this Section impractical, the inspector may, in his or her sole discretion, issue an order permitting the owner to create firebreaks as required and approved by the fire department, or otherwise exempt the property from the requirements set forth herein as deemed permissible and nonhazardous to the public health and safety. Any such exception or exemption permitted hereunder shall be in writing and issued to the owner of the property.

(e) **Order For Removal; Noncompliance:** When an inspector determines that the weeds in a particular area pose a serious fire hazard in view of their density, dryness, proximity to possible sources of ignition, and the effects of prevailing winds and weather, the inspector may order the owner of the property on which said weeds are located to remove or clear the weeds within twenty four (24) hours. If the weeds are not removed within the twenty-four (24) hour period, the City may seek appropriate relief as set forth herein or otherwise available by law.

7A-06-070. Refuse Control.

(a) **Accumulation Prohibited:** No owner shall permit refuse, garbage or other unsightly or deleterious objects or structures, to remain upon his or her property for longer than twenty (20) days, unless located in authorized garbage collection containers scheduled for pick up.

(b) **Order For Removal; Noncompliance:** When an inspector determines that a particular deposit of refuse, garbage or other unsightly or deleterious objects or structures, poses a significant health hazard by reason of its potential for the spread of disease, the breeding of worms, insects or rodents, or the contamination of a stream or other body of water, then said inspector may order the owner of the property on which said refuse, garbage or other unsightly or deleterious objects or structures is deposited, or the person who deposited it there, or both, to remove the refuse, garbage or other unsightly or deleterious objects or structures, within twenty-four (24) hours. If the refuse, garbage or other unsightly or deleterious objects or structures is not removed within the twenty-four (24) hour period, the City may seek appropriate relief as set forth herein or otherwise available by law.

7A-06-080. Graffiti Control.

(a) Reporting: Any person spotting graffiti within the City may report the sighting to the City police department for enforcement, tracking purposes and possible criminal prosecution and/or intelligence functions.

(b) Duty Of Property Owners: In order to prevent the unsightly and dangerous effects of vandalism and graffiti, it shall be the duty of every owner of property within Fruit Heights City to keep his or her property free from graffiti and evidence of vandalism. No owner of property in the City shall permit such graffiti or evidence of vandalism to remain on his or her property.

7A-06-090. Junk Vehicle Control.

(a) Prohibitions: It shall be unlawful to park, store or leave or permit the parking, storing or leaving of any "junk vehicle", as defined in Section 7A-6-050 of this Chapter, whether attended or not, upon any private property within the City limits of Fruit Heights City for a period of time in excess of seventy-two (72) hours, except that two (2) or less such vehicles may be stored if within a building or placed behind an opaque screening fence. Vehicles located within a junkyard or automobile wrecking yard lawfully established pursuant to the provisions of the zoning ordinances of the City are exempt from the limitations set forth in this Section.

(b) Removal Required: The accumulation and storage of more than two (2) "junk vehicles", as defined in Section 7A-6-050 of this Chapter, on private property, except as set forth above, shall constitute a nuisance, detrimental to the health, safety and welfare of the inhabitants of Fruit Heights City. It shall be the duty of the owner of such "junk vehicles" or the lessee or other person in possession of private property upon which such "junk vehicles" are located, to remove the same from such property.

7A-06-090. Construction Materials Control.

It shall be the responsibility of each owner of real property and any contractor or builder constructing improvements on real property located within the City to secure all construction materials present on site during construction periods to ensure that such materials do not blow away, fall upon or litter adjacent properties in the area. The owner and/or contractor and builder shall be liable for any damages incurred by reason of unsecured construction materials. The storage and/or use of construction materials shall also be subject to the stormwater regulations set forth in Title 8A of this code.

7A-05-100. Hazardous Materials.

In the event that any person undertakes, either voluntarily or upon order of a City official, to clean up or abate any hazardous substance or waste unlawfully released, discharged or deposited upon or into any property or facilities within the City, Fruit Heights City may take such action as it deems necessary to supervise or verify the adequacy of such cleanup or abatement. The owner or occupant shall use the abatement services of a certified decontamination specialist to abate hazardous materials.

7A-06-110. Inspections.

An inspector may from time to time enter and inspect real property for violations of this Chapter; provided, that no entry upon real property shall be made for purposes of inspection unless the inspector first obtains any warrant required by law. Inspections of solely the interior of a structure are not permitted unless the demolition or removal of the structure is required or to eliminate or remove hazardous materials within a structure that has been closed to occupancy or entry by a local health department or fire department. The city may issue an order limiting or restricting access to a structure and the real property appurtenant to the structure while the municipal inspector or a certified decontamination specialist destroys, removes, or abates hazardous materials within the structure.

7A-06-120. Notice Of Violation.

When an inspector determines there has been a violation of this Chapter, the inspector shall serve notice in writing upon the owner or occupant of the property, either personally or by mailing notice via registered mail, postage prepaid, addressed to the owner or occupant at the last known post office address as disclosed by the records of the Davis County assessor, requiring such owner or occupant to eradicate, destroy or remove the weeds, refuse, objects, graffiti, hazardous material or junk vehicles causing the violation within such time as the inspector may designate, which shall not be less than ten (10) days from the date of service of such notice ("notice of violation"). The notice of violation shall be signed by the inspector issuing it, under the penalty of perjury, and shall include the following information:

- (a) Identification of the property owner of record according to the records of the county recorder.
- (b) Description of the property, the results of the inspection, and the condition which must be eradicated, destroyed and/or removed;
- (c) A reasonable time to comply (not less than 10 days from date of services) (for a notice related to hazardous materials, no less than 180 days after the day on which notice is delivered in person or post-marked);
- (d) Identification of the relevant regulation or ordinance and description of the violation thereof;
- (e) The consequences for failure to remedy the condition within the required time frame; and
- (f) The person or office from which the owner or occupant may obtain further information, including contact information.
- (g) For a structure or any real property closed to occupancy or entry by a local health department because of hazardous materials, explain the right of a property owner, occupant, or, if applicable, another person responsible for the property to abate the hazardous materials or appeal the notice within 180 days after the day on which notice is delivered in person or the date the notice is post-marked.

7A-06-130. Proof Of Service.

The inspector shall provide, under oath, proof of service of any notice of violation issued in accordance with Section 7A-6-110 of this Chapter and file the same in the office of the Davis County treasurer if collection of costs are to be pursued through tax notice as more particularly provided herein.

7A-06-140. One Notice Per Year.

One notice of violation for injurious and noxious weeds issued in accordance with Section 7A-6-110 of this Chapter shall be deemed sufficient on any lot or parcel of property for the entire season of weed growth during any calendar year, or for the entire calendar year for other violations, such as garbage, refuse, graffiti or junk vehicles.

7A-06-150. Appeal.

Any person aggrieved by the issuance of a notice of violation may request an appeal hearing by filing a written appeal with the City Manager within ten (10) days from the date of the notice of violation. For hazardous materials the owner or occupant may appeal within 180 days from the date of the notice. The City Manager shall hold an appeal hearing on the matter within a reasonable time from receipt of the appeal. The City Manager may sustain, modify or reverse the notice of violation and shall issue a written decision regarding the matter.

7A-06-160. Failure To Comply.

If any owner or occupant of land to whom a notice of violation has been served fails or neglects to eradicate, destroy and/or remove the weeds or condition causing the violation within the time specified in the notice of violation, the City Manager may, at the expense of the City, employ necessary assistance and cause such weeds, garbage, refuse, graffiti, hazardous material, junk vehicles or condition to be cut, removed and/or destroyed, and to authorize others to enter onto such property to cut, remove and/or destroy such weeds, garbage, refuse, graffiti, hazardous material, junk vehicles or condition.

7A-06-170. Itemized Statement Of Costs.

If the City Manager elects to cause such weeds, garbage, refuse, graffiti, hazardous material, junk vehicles or condition to be cut, removed and/or destroyed, the City Manager shall prepare an itemized statement of all expenses, including administrative expenses, incurred in the cutting, removal and/or destruction of the weeds, garbage, refuse, graffiti, hazardous material, junk vehicles or condition, and mail a copy of the statement to the owner demanding payment to the City treasurer within thirty (30) days of the date of mailing ("statement of costs"). The statement shall include the address of the property and instructions on making payment to the city treasurer, including a mailing address. The itemized statement shall also state that failure to pay the expenses may result in a lien on the property in accordance with UCA 10-11-4; that the owner may file a written objection to all or part of the statement within 20 days after the day of the statement post-mark; and where the owner may file the objection including the city office and address. Such statement of costs and demand for payment shall be considered delivered when mailed by certified mail addressed to the property owner's last known address according to the records of the county recorder. If a timely objection is made, the City shall hold a hearing in accordance with the provision and procedures as set forth in Utah Code Annotated 10-11-3 (3) as amended.

7A-06-180. Determination Of Collection Procedures.

If the owner fails to make a timely objection or full payment of the amount set forth in the statement of costs to the City treasurer within the required thirty (30) days, the City may file a lien on the property in accordance with the provision and procedures as set forth in Utah Code Annotated 10-11-3 (1)(d) as amended, and as more particularly provided herein: a) cause suit to be brought in an appropriate court of law; or b) refer the matter to the Davis County treasurer for inclusion in the tax notice for the subject property.

7A-06-190. Collection Through Courts.

If the City pursues collection of the costs through the courts, the City may: a) sue for and receive judgment upon all of the costs of removal and destruction, including administrative costs, together with reasonable attorney fees, interest and court costs; and b) execute on the judgment in the manner provided by law.

7A-06-200. Collection Through Tax Notice.

If the City elects to refer the matter to the Davis County treasurer for inclusion in the tax notice of the property owner, the City shall: a) make, in triplicate, an itemized statement of all expenses, including administrative expenses, incurred in the removal and destruction of the weeds, garbage, refuse, graffiti, junk vehicles or condition; and b) deliver the three (3) copies of the statement to the Davis County treasurer within ten (10) days after the expiration of the thirty (30) day period provided in the statement of costs under Section 7A-6-160 of this Chapter. The Davis County treasurer shall send notice to the owner of the statement of costs, including right to hearing for objections, and collect such costs as a tax lien upon the property in accordance with the provisions and procedures set forth in Utah Code Annotated Section 10-11-4, as amended.

7A-06-210. Violations.

It shall be unlawful for any person owning or occupying real property within the City to violate any of the provisions and restrictions of this Chapter regarding weeds, garbage, refuse, graffiti, junk vehicles or deleterious object or structures, or to fail to comply with any lawful order or notice of the City Manager, fire official or inspector regarding the abatement of any such violation. In addition to the abatement and collection of cost procedures set forth herein, any violation of this Chapter shall be deemed a class B misdemeanor, punishable by fine, imprisonment or both, as permitted by applicable laws of the state of Utah, or enforced through the civil enforcement procedures set forth in Title 1A, Chapter 6 of this code. The City may pursue all other remedies available by law or in equity. Except as otherwise prohibited by law, all remedies shall be cumulative.