

ORDINANCE NO. 2012-3-1

AN ORDINANCE ESTABLISHING A PROCEDURE TO IDENTIFY
AND ELIMINATE NUISANCES IN SEVIER COUNTY

WHEREAS, it has become necessary to enact legislation to deal with nuisances which affect the health, safety and welfare of the citizens of Sevier County; and

WHEREAS, a procedure is required to identify and eliminate nuisances;

BE IT HEREBY ORDAINED BY THE BOARD OF SEVIER COUNTY COMMISSIONERS that:

SECTION 1: DEFINITIONS

The following words and phrases used in this chapter shall have the following meanings unless a different meaning clearly appears from the context:

ABATEMENT: The removal, stoppage, prostration or destruction of that which causes or constitutes a nuisance, whether by breaking or pulling it down, or otherwise destroying or effacing it.

JUNK: Any or all worn out, cast off, destroyed or discarded article or material which is ready for destruction or has been collected and stored for salvage or conversion to some other use. Any article or material which unaltered, unchanged and without further reconditioning, can be used for its original purpose as readily as when new shall not be considered "junk".

JUNK CARS: Any used car or motor vehicle not in the process of reconditioning within the last 180 days, which has been abandoned for use as a motor vehicle on a public highway, and which is in unsafe operating condition and shall have remained in such condition for a period in excess of three hundred sixty-five days (365) days; or portions of junk cars, such as hoods, fenders, radiators, rims, motors, hubcaps, ect., not being immediately utilized in the repair of a motor vehicle.

NUISANCE: Any item, thing, manner or condition whatsoever that is dangerous to human life or health, or renders soil, air, water or food impure or unwholesome, including but not limited to "junk," "junk cars," "rubbish" and "public nuisance."

OWNER: The person, firm or corporation in whose name said premises are listed in the records of the county recorders office for Sevier County, Utah.

PROPERTY: Any real property, premises, structure or location on which a nuisance or public nuisance is alleged to exist.

PUBLIC NUISANCE: Any fence, wall, shed, deck, trailer, house, garage, building, structure or any part of any of the aforesaid; or any tree, pole or smokestack; or any excavation, hole, pit, basement, cellar,

sidewalk, subspace, dock, wharf or landing dock; or any lot, land, yard, premises or location which, in its entirety, or in any part thereof, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property, or cause any hurt, harm, damage or injury to any one or more individuals in the county, in any one or more of the following particulars:

- A. By reason of being a menace, threat and/or hazard to the general health and safety of the community.
- B. By reason of being a fire hazard.
- C. By reason of being unsafe for occupancy or use on, in, upon, about or around the aforesaid property.
- D. By reason of lack of sufficient or adequate maintenance of the property, and/or being vacant, any of which depreciates the enjoyment and use of the property in the immediate vicinity in which such property is situated or such condition exists.

RUBBISH: Including but not limited to: wire, chips, shavings, boxes, barrels, rags, bottles, broken glass, crockery, tin, cast or wooden ware, iron, stumps, tree trunks, paper circulars, handbills, boots, shoes, ashes, trash or any similar waste material.

SECTION 2: REGULATIONS

- A. **Storage Of Rubbish Prohibited:** No person, firm or corporation shall deposit, store, maintain, collect or permit the storage, deposit, maintenance or collection of any junk, junk cars, or rubbish on his own premises or any premises it or they own or use under his or their control, or in any other place within the county, except as is expressly provided by law.
- B. **Maintaining A Public Nuisance:** No person, firm or corporation shall maintain or commit any nuisance or public nuisance.

SECTION 3: EXAMINATION AND INVESTIGATION

The zoning administrator is authorized to make examination and investigation of all real property in the county to determine whether owners of such property are complying with the provisions of this chapter.

SECTION 4: DUTY OF THE ZONING ADMINISTRATOR

Upon determination that a violation of the provisions of this chapter exists, the zoning administrator shall ascertain the name of the owner and a description of the premises where the violation exists, and shall serve notice in writing upon the owner or occupant of such property, either personally or by mailing notice, postage prepaid, addressed to the owner or occupant at the last known post office address as disclosed by the records of the county treasurer, requiring such owner or occupant, as the case may be, to eradicate, destroy or remove the junk, junk cars, rubbish, nuisance or structures causing the violation within such time

as the zoning administrator may designate, which shall not be more than sixty (60) days from the date of service of such notice.

SECTION 5: NOTICE

- A. Letter; Content: The notice herein provided for shall be in the form of a letter, approved by the county commission, stating the manner in which this chapter is being violated, the description and/or location of the premises, the name of the owner and tenant (if known) of said premises and the period of time within which said premises shall be cleared from the violation of this chapter. The zoning administrator shall sign such letter.
- B. Publication: If service of such notice is unable to be perfected by any of the methods described in this section, the zoning administrator shall cause a copy of the aforesaid notice to be published in a newspaper of general circulation in the county, once a week for three (3) consecutive weeks, and shall further cause a copy of the aforesaid notice to be left with the individual, if any, in possession of such property on which it is alleged such a nuisance or public nuisance exists, or if there is no individual in possession thereof, the zoning administrator shall cause a copy of the notice to be posted at such structure, location or premises.
- C. Statement Of Findings: Failure To Comply: The aforesaid notice to the owner of the property shall state clearly and concisely the findings of the zoning administrator with respect to the existence of a nuisance or public nuisance. The notice shall further state that unless the owner thereof shall cause the abatement of the nuisance or public nuisance, pursuant to the orders contained in the zoning administrators notice, the nuisance or public nuisance shall be abated by the county at the expense of the owner.
- D. Record Owner Responsible: Any person who is the record owner of the premises, location or structure at the time an order pursuant to this chapter is issued and served upon him, shall be responsible for complying with that order and liable for any costs incurred by the county therewith, notwithstanding the fact that he conveys his interests in the property to another after such order was issued and served.

SECTION 6: APPEAL PROCEDURES; HEARING

- A. Demand For Hearing: The owner or occupant of the property who has been served with a notice pursuant to this chapter that a nuisance or public nuisance exists and that it must be abated within thirty (30) days, may, within seven (7) calendar days after receipt of such notice, make written demand to the zoning administrator for a hearing on the question of whether a nuisance or public nuisance in fact exists. The hearing shall be held within seven (7) calendar days following receipt by the zoning administrator of the written demand, and at least two (2) days notice of the hearing shall be given to the individual who made the written demand for the hearing.

- B. Conduct OF Hearing: The county commission shall conduct the hearing. The county commission may amend or modify the notice and/or order to extend the time for compliance with the zoning administrators' order.
- C. Evidence: The owner, agent of the owner, and occupant if any, of the subject property shall be given the opportunity to present evidence to the county commission in the course of the hearing.

SECTION 7: ABATEMENT BY COUNTY

Should any nuisance or public nuisance not be abated at the expiration of the time stated in the notice/order, or within such additional time as the zoning administrator or county commission may grant, the zoning administrator shall have the authority to enter upon the property and abate the nuisance or public nuisance found thereon. In abating such a nuisance, the zoning administrator may go to whatever extent may be necessary to complete the abatement of the nuisance or public nuisance. In abating a nuisance or public nuisance, the zoning administrator may call upon any of the county departments or agencies for whatever assistance shall be deemed necessary or may by private contract cause the abatement of the nuisance or public nuisance. The zoning administrator shall prepare an itemized statement of all expenses incurred in the removal and destruction of the same and shall mail a copy thereof to the owner demanding payment within thirty (30) days of the date of mailing. Such notice shall be deemed delivered when mailed by registered mail and addressed to the last known address of the property owner on the records of the Sevier County Assessor.

SECTION 8: COLLECTION BY LAWSUIT

In the event the owner fails to make payment of the amount set forth in such statement to the county treasurer within thirty (30) days of the date of mailing, the zoning administrator may cause suit to be brought in the appropriate court of competent jurisdiction. In the event collection for expenses for destruction and removal are pursued through the court, the county shall sue for and receive judgment for all expenses for destruction and removal, together with reasonable attorney fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

SECTION 9: COUNTY NOT CIVILLY LIABLE

Neither the county, nor its officers or agents or employees, shall be civilly liable to any owner or occupant or person having an interest in real property for the removal of a nuisance or public nuisance under the provisions of this chapter.

SECTION 10: ENFORCEMENT

The planning commission, county commission, zoning administrator, building official, county attorney, sheriff's office and such other departments or agencies of county government as may be designated are hereby authorized as the agencies charged with the enforcement of this chapter and shall enter such actions in court as are necessary. Failure

of such departments to pursue appropriate legal remedies shall not legalize any violation of such provisions.

SECTION 11: PENALTY

Whoever violates any provision of this chapter shall be guilty of a class B misdemeanor and, upon conviction, subject to penalty as provided in section 1-08-010 of the Sevier County Code. Any violation shall constitute a separate offense on each successive day continued.


SECTION 12: REPEALER

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.


SECTION 13: EFFECTIVE DATE

This ordinance shall take effect and be enforced from and after its passage and publication according to law.

PASSED BY THE Sevier County Board of Commissioners on the 12th day of March, 2012.


CHAIRMAN
Sevier County Board of
County Commissioners

ATTEST:


SEVIER COUNTY CLERK

Voting History:

Commissioner Mason Aye
Commissioner Ogden Aye
Commissioner Topham Aye

APPROVED AS TO FORM:


SEVIER COUNTY ATTORNEY