

LEEDS, UTAH
ORDINANCE NO.

AN ORDINANCE REGULATING NUISANCES WITHIN THE TOWN OF LEEDS

WHEREAS, the Town of Leeds, Utah (“Town”) is a political subdivision of the state of Utah, authorized and organized under the provisions of Utah law;

WHEREAS, the Town has legal authority, pursuant to Title 10, Chapter 8, Section 60, Utah Code Annotated, as amended, to declare what is a nuisance, provide for the abatement of the same, and to provide for criminal and civil action to be taken against persons who create, continue or suffer nuisances to exist; and

WHEREAS, the Town has found it to be in the best interest of the public to regulate nuisances.

NOW THEREFORE, the Town Council hereby ordains as follows.

0-2-1. **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 or public 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, 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 thirty (30) days; or portions of junk cars, such as hoods, fenders, radiators, rims, motors, hubcaps, etc., 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.

OCCUPANT: Any person who has, or has a right to, the physical occupancy or use of property.

OWNER: The person, firm or corporation in whose name property is listed in the records of the county recorder's office for Washington County, Utah.

PERSON: An individual, trust, firm, estate, company, corporation, partnership, association, state,

state or federal agency or entity, municipality, commission, or political subdivision of a state.

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

PUBLIC NUISANCE:

A. An offense against the order and economy of the Town and consists in unlawfully doing an act or omitting to perform any duty, which act or omission:

1. Annoys, injures or endangers the comfort, repose, health or safety of three (3) or more persons;

2. Offends public decency;

3. Unlawfully interferes with, obstructs or renders dangerous for passage any lake, stream, canal, public street, park, square or highway; or

4. In any way renders three (3) or more persons insecure in life or the use of property.

B. An act which affects three (3) or more persons in any of the ways specified in this section is still a public nuisance regardless of the extent to which the annoyance or damage inflicted on individuals is unequal.

C. If any condition designated herein as an offense against the order and economy of the Town is determined by the fire authority to constitute a fire hazard, or is determined by the law enforcement authority to constitute a safety hazard, or is determined by the state division of health to be a health hazard, there shall be a rebuttable presumption that such act or omission is within the designations of subsection A of this section.

RUBBISH: Means and includes 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.

0-2-2. **VIOLATION.** Any person, whether as owner, agent, or occupant who creates, maintains, allows or aids in creating, maintaining or allowing, or contributes to a nuisance or public nuisance, or who supports, continues, or retains a nuisance or a public nuisance, is guilty of a class B misdemeanor. Each day that any violation occurs shall constitute a separate offense for each successive day the nuisance or public nuisance is continued.

0-2-3. **REFUSE IN PUBLIC STREETS AND OTHER PUBLIC AREAS.** It shall be unlawful for any person intentionally or carelessly to throw, cast, put into, drop or leave in any street, gutter, sidewalk or public place any stones, gravel, sand, dirt, debris, garbage, leaves, lawn or tree clippings, paper material, handbills, ashes, rubbish of any kind, or any other item, material, or substance which shall either constitute a nuisance as designated herein, which shall

interfere with the free and unobstructed use and movement of either traffic or water on a public street or right-of-way in the opinion of a police officer, or which shall constitute a fire hazard in the opinion of the Fire District.

0-2-4. **OFFENSIVE CONDITION OR REFUSE ON PRIVATE PROPERTY.** Whenever there shall be found on or about any lot or parcel of property, whether vacant or occupied, any garbage, refuse, junk, used materials and merchandise, effluvia, kitchen waste, trash, inoperable motor vehicles, broken machinery, or other unsightly or deleterious objects or conditions, such as old tin, aluminum and iron cans and containers, old wood and paper boxes, scrap iron, wire, rope, cordage, bottles, bags and bagging, rubber and rubber tires, scrap vehicle bodies, engines, and parts thereof, paper, wood shavings, and all used and castoff articles or material, including scrap lumber, plaster, concrete, brick, cement, glass, other building materials, branches, leaves, yard trimmings, or conditions that are offensive to the order and economy of the Town, they shall be deemed a nuisance.

0.2.5. **RANK AND NOXIOUS WEEDS.** Whenever there shall be found on or about any property, whether vacant or occupied, any rank or noxious weeds, grass or other growth which constitute an existing or potential fire hazard, such growth shall be deemed a nuisance. Any weed listed on the Washington County Weed Abatement list as a noxious weed shall be deemed a nuisance when such is growing on property. Abatement shall be accomplished by discing or plowing the property or by County authorized spraying, or by cutting the weeds to within four (4) inches of the ground, or as otherwise directed by employees of the Washington County Weed Abatement Department. Follow-up weed removal shall be conducted as necessary.

0.2.6. **DEAD ANIMALS.** It is the responsibility of the owner, agent or occupant of property, or other person responsible for any domestic animal which dies, to bury or otherwise dispose of it within two (2) days after death. If the person shall fail to do so within the time herein provided, such omission shall be deemed a nuisance. If the owner or other person responsible for such an animal cannot be found, it is the duty of the animal control officer to bury the dead animal. In such event, the Town shall be entitled to reimbursement from the owner, agent or occupant of the property or the owner of the dead animal.

0.2.7. **INFESTATION.** It shall be unlawful for any person to maintain a condition within the Town which unreasonably promotes or encourages the breeding of flies, mosquitos, rats or other form of animal life which may be disease carriers , and the same shall constitute a nuisance.

0.2.8. **NOISES.** It shall be unlawful and constitute a nuisance, for any person to make, continue, or cause to be made or continued, any loud, unnecessary or unusual noise, or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the Town. The following acts when prolonged, unusual and unnatural in their time, place and use, are deemed a detriment to the public health, comfort, convenience, safety, welfare and prosperity: horns, radios, stereos, loudspeakers, yelling or shouting, exhausts, motor vehicles, drums or musical instruments, construction equipment, airplanes or blasting.

0.2.9. **BARKING DOGS.** It shall be unlawful for any person to keep any dog which by

barking, howling or yelping, or by any other action, constitutes a nuisance.

0.2.10. GARBAGE; IMPROPER PLACEMENT. Placement of garbage at curbside or in other than a protected area shall be considered a nuisance within the meaning of this chapter, except during the period of twenty four (24) hours preceding scheduled collection of such garbage. On garbage collection days, garbage and waste placed at curbside must be contained within bags, cans or other receptacles, unless the trash material is of such size and nature that it would not be practical to fully enclose it.

0.2.11. TRASH, JUNK, INOPERABLE VEHICLES, VESSELS, AND SIMILAR MATERIALS. No trash, rubbish, weeds or other combustible material shall be allowed to remain on any lot outside of approved containers in any residential zone. No junk, debris, abandoned, inoperable, junk or dismantled vehicles or vessels or vehicle or vessel parts or similar materials shall be stored or allowed to remain on any lot in any residential zone. Failure to abide by this section constitutes a nuisance.

0.2.12. DUTY TO LOCATE; RIGHT OF ENTRY. The Mayor shall designate the person or persons to be charged or entrusted with the duty of enforcing this ordinance. Such person(s) shall locate and discover all nuisances and public nuisances which may offend the order and economy of the Town, and they shall have authority, by themselves or by their agents, in the daytime, to enter upon any lot or other premises, or any building or structure, in order to inspect and examine the same for the purpose of determining whether or not any conditions, nuisances, or public nuisances exist which are prohibited by this chapter.

0.2.13. ABATEMENT PROCEDURES. The following procedure shall be followed by the Town in seeking to abate a nuisance or public nuisance.

A. Notice To Abate: The Town may notify in writing the owner, agent or occupant of any property within the Town upon which a nuisance or public nuisance may be found, or it may notify such other person who causes or permits a nuisance or public nuisance to exist, advising that there is a nuisance or public nuisance, describing the same, and requiring the nuisance or public nuisance to be abated in a manner described in the notification within ten (10) days after receipt thereof, unless some other time is specified in the notice. Notice shall be given by personal delivery or by certified mail to the last known address of the owner, agent or occupant of the property. Failure to give notice as provided herein shall not relieve the author of a nuisance or public nuisance from the obligation to abate such nuisance or public nuisance, or from the penalty provided herein for the maintenance of that nuisance or public nuisance.

B. Publication: If service of such notice is unable to be perfected by any of the methods described in subsection A of this section, a copy of the aforesaid notice shall be published in a newspaper of general circulation in the county, once a week for three (3) consecutive weeks, and a copy of the aforesaid notice shall be left with the individual, if any, in possession of such property on which it is alleged such nuisance or public nuisance exists, or if there is no individual in possession thereof, a copy of the notice shall be posted at such property, structure, location or premises.

C. 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 ten (10) days, may, within seven (7) calendar days after receipt of such notice, make a written demand to the Town Recorder for a hearing on the question of whether a nuisance or public nuisance in fact exists. The hearing shall be held as soon as practicable following receipt by the Town Recorder 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 hearing.

D. Conduct Of Hearing: The Town Council shall conduct the hearing. The Town Council may amend or modify the notice and/or extend the time for compliance with the notice by the owner by such date as the majority of the Town Council may determine.

E. 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 Town Council in the course of the hearing.

F. Refusal To Abate: Upon the failure, neglect or refusal of any person to abate a nuisance or public nuisance after notice in writing has been given, the Town is hereby authorized and empowered to order the disposal of the nuisance or public nuisance, or to pay for the disposing of the same. When the Town effects removal of a nuisance or public nuisance, or pays for such removal, the actual cost thereof, plus accrued interest at the rate of twelve percent (12%) per annum from the date of the completion of the work, shall be charged to the owner of the property on which the nuisance or public nuisance existed. The Town may cause a sworn statement to be recorded in the office of the county recorder showing the cost and expense incurred for the work, the date the work was done, and the location of the property on which the work was done. Such recordation of the sworn statement shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest, plus collection costs, if any, until final payment has been made. A sworn statement recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law.

G. Record Owner Responsible: Any person who is the record owner of the property, premises, location or structure at the time a notice is issued pursuant to this chapter, shall be responsible for complying with that notice and liable for any costs incurred by the Town, notwithstanding the fact that he conveys his interests in the property to another after such notice was issued and served.

H. Collection by Suit: In the event the owner, agent or occupant fails to make payment of the amount set forth in such statement to the county treasurer within twenty (20) days of the date of mailing of the statement to the owner, agent or occupant, the Town may cause suit to be brought in an appropriate court of competent jurisdiction. In the event collection of expenses for the abatement of any nuisance or public nuisance are pursued through the court, the Town shall sue for and be entitled to receive judgment for all expenses for destruction and removal of the

nuisance or public nuisance, together with reasonable attorney fees, interest and court costs. The Town may execute upon such judgment in the manner provided by law.

I. Town Not Civilly Liable: Neither the Town, nor its officers, agents, employees or attorneys, 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.

0.2.14. **LEGAL ACTION TO ABATE NUISANCES.** The Town attorney, upon direction of the Town Council, or by his own volition, may institute an action in the name of the Town to abate a nuisance or public nuisance. The action shall be brought in the Fifth District Court of the State of Utah, Washington County and shall be in the form prescribed by the Rules of Civil Procedure of the State of Utah for injunctions. No bond is required to be posted with respect to the action. A person who knowingly violates any judgment or order abating or otherwise enjoining a nuisance or public nuisance is guilty of a class B misdemeanor.

0.2.15. **REMEDIES CUMULATIVE.** In seeking to abate nuisances or public nuisances, the Town may commence a criminal action against the owner, agent or occupant of the property, may give notice to abate as set forth above and thereafter abate the nuisance or public nuisance upon the owner's, agent's or occupant's failure to do so, or may commence a civil action for abatement as set forth above. These remedies are cumulative and the Town may pursue any or all of such remedies simultaneously.

EFFECTIVE DATE. An emergency is hereby declared, the preservation of peace, health and safety of Leeds and the inhabitants thereof so requiring . Immediately after its adoption, this ordinance shall be signed by the Mayor and Town Recorder and shall be recorded in the ordinance book kept for that purpose, This ordinance shall take effect immediately upon its passage and approval.

This Ordinance shall be effective _____, 2017.

TOWN OF LEEDS

ATTEST:

Wayne D. Peterson
Mayor

Kristi Barker
Town Clerk

Council Member Elliott Sheltman voted	Aye _____	Nay _____
Council Member Nate Blake voted	Aye _____	Nay _____
Council Member Angela Rohr voted	Aye _____	Nay _____
Council Member Ron Cundick voted	Aye _____	Nay _____
Mayor Wayne D. Peterson voted	Aye _____	Nay _____