

ORDINANCE NO. 323

AN ORDINANCE OF CARBON COUNTY, UTAH, REPEALING PREVIOUS ORDINANCES GOVERNING PUBLIC NUISANCES AND ENACTING A NEW ORDINANCE DEFINING A PUBLIC NUISANCE, PROHIBITING PUBLIC NUISANCES AND PROVIDING FOR ABATEMENT OF PUBLIC NUISANCES.

WHEREAS, The CARBON COUNTY COMMISSION has previously enacted an Ordinance defining public nuisances and providing for methods of abatement of public nuisances; and

WHEREAS, the CARBON COUNTY COMMISSION has reviewed the previous ordinance and has determined that it is in the best interests of the citizens of CARBON COUNTY to repeal the previous ordinances and enact a new ordinance defining public nuisances and providing for the abatement of those nuisances;

NOW, THEREFORE, the BOARD OF COUNTY COMMISSIONERS OF Carbon County, Utah ordains as follows:

Section 1. Repeal of Prior Ordinance.

Carbon County Ordinances No. 159 and 159-A, 241, and 241a. are hereby repealed in their entirety.

Section 2. The Ordinance

1. **Purpose.** This ordinance is for the purpose of:

a. Regulating the maintenance of yards, parcels and lots, and the outside storage of scrap, waste, debris, discarded or salvaged materials, wood, steel, paper, hazardous materials, machinery, machinery parts, appliances, tires and inoperable, un-licensed, wrecked, or junk motor vehicles upon any yard, lot, or parcel of property within the unincorporated area of Carbon County.

b. Preventing situations and circumstances that could endanger life, devalue property, or adversely affect the health, safety or welfare of the public;

c. Protecting and providing for the health, safety, welfare and convenience of the inhabitants of Carbon County.

2. Definitions.

For the purpose of this Ordinance, certain terms, phrases, words and their derivatives shall be construed as specified in this Article. Terms, phrases and words used in the singular include the plural and the plural the singular. Terms phrases and words used in the masculine gender include the feminine and the feminine the masculine. Where terms phrases and words are not defined, they shall have their ordinary accepted meanings within the context with which they are used. *Webster's Third New International Dictionary of the English Language, Unabridged*, shall be considered as providing ordinarily accepted meanings.

2.1 Nuisance: Any person, firm, corporation, or entity which performs an unlawful act as defined herein, or fails to perform a duty, or suffers or permits any condition or thing to be or exist, which act, omission, condition or thing;

a. Injures or endangers the comfort, repose, health, safety or welfare of others;

- b. Is offensive or unsightly to the senses; such as barking dogs, noises, bright lights, burning garbage, excessive animal odors;
- c. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
- d. In any way renders other persons insecure in life or the use of property;
- e. Is threatening or injurious to domestic pets, poultry or livestock, such as a pack of dogs or feral cats roaming at large.
- f. Tends to interfere with the comfortable enjoyment of life and property, or depreciates the value of the property of others or in any manner depreciates the perceived value or quality of life in Carbon County, Utah.

2.2 Junk Vehicle: Any truck, automobile, bus, motorized or recreational vehicle, which is not currently registered, licensed, or safety inspected, or is wrecked, dismantled or inoperable. This includes such vehicles kept for parts.

2.3. Junk Equipment: Any discarded or inoperable farm, industrial, commercial or yard equipment, trailer, or other machinery which is not currently either registered and licensed or is inoperable or dismantled. This includes such equipment kept for parts.

2.4. Hobby Car: Any trucks, automobiles, motorcycles, or other motorized vehicles, not exceeding two (2), in the process of being restored by the owner(s) of the vehicles on the premises of their private residence, and which is stored outside. The hobby car(s) shall not be located within Seventy-Five (75) feet of a public way or Forty (40) feet of a main residential structure. Hobby cars shall not be stored on commercial, industrial or rental properties, but only at the primary residence of the owner(s) of the hobby car(s). Hobby cars may be kept only for the express purpose of their restoration, inspection, registration and licensing. Hobby cars do not include vehicles stored inside a garage: provided, however, that one un-licensed but operative motor vehicle may be kept for yard use or maintenance.

2.5. Farm and Ranch Equipment and Machinery: Carbon County recognizes the value of farming and ranching. Farm and ranch equipment, including but not limited to, tractors, trucks, trailers, harvesting equipment, livestock handling and feeding equipment along with other items for the raising and care of livestock may be stored or used on parcels of land which are currently taxed as Farmland Assessment or "greenbelt" property. Farm and ranch activities, including, but not limited to raising and harvesting of crops, and the care and keeping of livestock shall not be considered a public nuisance. Accumulations of discarded or inoperable farm equipment, not a part of regular farm harvest operations, and constituting a salvage yard for metal vehicles, equipment, wood or scrap, shall comply with the provisions of the Development Code of Carbon County. Displays of antique or used farm equipment that are maintained in a clean and orderly manner in compliance with this Ordinance and the Development Code of Carbon County, shall not be considered a nuisance.

3. Acts Prohibited; Illustrative Enumeration.

3.1 Acts Prohibited.

It shall be unlawful for any person, firm, cooperation or entity to cause, permit, maintain or allow the creation or maintenance of a nuisance as specified in this Ordinance.

3.2 Illustrative Enumeration:

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- a. Noxious weeds and other rank vegetation over six (6) inches in height; provided, however, that naturally occurring native species of brush, grass, trees and forage shall not be deemed a nuisance;
- b. Accumulations of rubbish, paper, trash, garbage, refuse, junk, debris, junk vehicles, tires, bicycles, junk equipment, and other abandoned household furniture and appliances, materials, metal, tires, bicycles or other solid or hazardous waste. Stacked firewood and useable lumber or metal shall not be considered a nuisance. Outside storage areas in commercial and industrial zones shall comply with the Development Code;
- c. Any conditions, as determined by the Health Department or Environmental Director, which provides harborage for cats, rats, mice, skunks, snakes or other rodents, insects and vermin which may transmit disease to wild or domestic animals or to humans;
- d. Any building or other structure which has been damaged by fire or is in such a dilapidated condition that it is unfit for human habitation as defined in The Building code(s) adopted by the State or Carbon County, or is kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located;
- e. All disagreeable or obnoxious odors, stench and noises as well as the conditions, substances, or other causes which give rise to same;
- f. The carcasses of animals or fowl not disposed of within twenty-four (24) hours after death;
- g. The pollution of any public or private well or cistern, stream, lake, canal or body of water by sewage, dead animals, chemicals, industrial wastes or other unsafe substances;
- h. Any building, structure or other place or location where any activity is conducted which is in violation of local, state or federal law. This may include, but is not limited to, homes and buildings where illegal drugs are manufactured, stored, distributed or sold or homes and buildings where animal fights are held;
- i. Any accumulation of stagnant water which has no practical agricultural purpose or which is a substantial breeding ground for mosquitos or other insects as determined by county or state abatement or health authorities;
- j. Dense smoke, dust, noxious fumes, soot, or cinders, in quantities determined to violate Federal, State or local air quality laws;
- k. Tires on roofs of mobile or manufactured homes. Such homes with loose or failed roofs shall be repaired;
- l. Bright lights flashing or steadily shining on a residence.
- m. No kennel, corral, pen, paddock, barn, stable, coop, hutch or similar building used for housing animals or fowl may be located within Seventy Five (75) feet of a dwelling or

other occupied structure. No building for housing animals or fowl shall be located in the front yard setback.

4. Enforcement.

Enforcement of a violation of this Ordinance may be commenced following:

- a. Complaint of citizen(s).
- b. Routine discovery by County personnel or Peace Officers.
- c. Pre-planned enforcement in a specified geographic area.

4.1 Citation to Justice Court.

4.1.1 Any Utah Peace Officer or other designated agent of Carbon County may issue a citation to any person or entity alleged to have violated this Ordinance, requiring the offender to appear in the Carbon County Justice Court

4.1.2 The officer or agent issuing the citation may, at his or her discretion, designate on the citation form a "FIX-IT" provision, which provision shall give the recipient of the citation fourteen (14) days in which to abate the nuisance. If the recipient abates the nuisance and the officer or agent who issued the citation verifies the same to the Justice Court, the citation may be dismissed without further prosecution.

4.2 Notice to Abate Nuisance.

4.2.1 In lieu of a citation, a notice to abate a nuisance violation may be delivered to an owner or occupant of a non-complying property. The notice shall be signed by any Utah Peace Officer, agent, or Zoning or Ordinance Enforcement Officer of Carbon County and shall contain the following:

- a. A requirement that the nuisance be abated within fourteen (14) days of receipt of the notice or immediately if the peace officer, agent or enforcement officer deems the nuisance to pose an imminent danger to the health or safety of any person, animal or property.
- b. The location of the nuisance.
- c. A description of the nuisance.
- d. A statement that if the nuisance is not abated as directed, that Carbon County may abate the nuisance and assess or attach the cost thereof against the property taxes of the parcel of land where the nuisance is located, or against the person(s), firm, corporation, or entity causing the nuisance.
- e. A statement that any person, firm, corporation, or entity violating the provisions of this Article by failing to abate the nuisance within the time provided shall be in violation of this Ordinance, and deemed guilty of a Class C Misdemeanor, and that each day such nuisance is permitted after the time designated for abatement shall constitute a separate offense and shall be punishable as such.

4.3 Abatement by County.

Upon the failure of the person, firm or corporation upon whom notice to abate nuisance was served pursuant to the provisions of this Article to timely comply with the notice, Carbon

County may obtain an order from a Court having jurisdiction to enter onto the property where the nuisance exists to abate such nuisance.

4.4 Costs Declared Lien.

Any and all costs incurred by the County in the abatement of a nuisance under the provisions of this Article shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided for by law. Such lien shall be notice to all persons from the time of its recording, and shall bear interest at the highest legal rate thereafter until satisfied.

4.5 Penalty.

Any person, firm, corporation or entity so violating the provisions of this Ordinance after having received notice, and failing to comply with this Ordinance within the time specified shall be deemed guilty of a Class "C" misdemeanor and upon conviction thereof may be sentenced to pay a fine not to exceed \$750.00 and to imprisonment in the Carbon County Jail not exceeding 90 days or by both fine and imprisonment. Each day such violation is committed shall constitute a separate offense and shall be punishable as such.

5. Miscellaneous.

Nothing in this Ordinance shall affect the provisions of any law, ordinance, regulation, or rule, which is more restrictive than the provisions of this Ordinance.

Section 3. Effective Date: The County Clerk/Auditor is directed to publish this ordinance once in the Sun Advocate Newspaper in compliance with the provisions of Section 17-15-1, Utah Code Annotated, 1953, as amended. This ordinance shall become effective immediately upon publication.

Passed and signed this 15th day of May, 2002, by the Board of County Commissioners of Carbon County, Utah.


Michael S. Milovich, Chairman

ATTEST:

Robert P. Pero, Carbon County Clerk/Auditor

Commissioner Milovich voted for
Commissioner Krompel voted for
Commissioner Matthews voted for