

ORDINANCE NO. 23-01

IN ORDINANCE AMENDING THE CITY OF ELK RIDGE HEALTH AND SAFETY CODE DEFINITIONS: TITLE 4, CHAPTER 2 ARTICLE A, SECTION 2, AND SPECIFIC NUISANCES: TITLE 4, CHAPTER 2 ARTICLE A, SECTION 3, AND SEVERABILITY TITLE 4, CHAPTER 2 ARTICLE A, SECTION 5, AND NUISANCE PROCESS: ENFORCEMENT TITLE 4-CHAPTER 2 ARTICLE B SECTION 4, AND FINDING OF NUISANCE TITLE 4 CHAPTER 2 ARTICLE B SECTION 5, AND ABATEMENT BY THE CITY TITLE 4 CHAPTER 2 ARTICLE B SECTION 9 CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Elk Ridge has adopted the Elk Ridge City Public Health and Safety Code Definitions: Title 4, Chapter 2, Article A, Section 2, And Specific Nuisances: Title 4, Chapter 2, Article A, Section 3, And Severability Title 4, Chapter 2 Article A, Section 5, And Nuisance Process: Enforcement Title 4, Chapter 2, Article B, Section 4, And Finding Of Nuisance Title 4, Chapter 2, Article B, Section 5, And Abatement By The City Title 4, Chapter 2, Article B, Section 9; and

WHEREAS, the Elk Ridge City held a public meeting on _____, 2023 at 7:00pm, for the purpose of the proposed amendment to Public Health and Safety Public Health and Safety Code Definitions: Title 4, Chapter 2, Article A, Section 2, And Specific Nuisances: Title 4, Chapter 2, Article A, Section 3, And Severability Title 4, Chapter 2 Article A, Section 5, And Nuisance Process: Enforcement Title 4, Chapter 2, Article B, Section 4, And Finding Of Nuisance Title 4, Chapter 2, Article B, Section 5, And Abatement By The City Title 4, Chapter 2, Article B, Section 9and

WHEREAS, the public meeting was preceded by the posting of a notice of public meeting in at least three (3) public places: city office, Utah Public Notice Website, City Website along with notification to the Payson Chronicle Newspaper, a newspaper of general circulation within the city, at least 24 hours prior to the Public Meeting; and

WHEREAS, the notice of the meeting, which was posted and published, by the City Council contains specific advance notice that the proposed ordinance amendment, as set forth herein, would be considered and that copies thereof were available for inspection in the city ' offices; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF ELK RIDGE CITY, UTAH, AS FOLLOWS: (red text is added text, ~~strikeout-text is deleted text~~)

4-2A-2: DEFINITION:

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

ABATE: To repair, replace, remove, destroy, correct or otherwise remedy a condition which constitutes a nuisance by such means, in such a manner and to such an extent as the code enforcement officer, or his designee, determines is necessary in the interest of the general health, safety and welfare of the community.

CODE ENFORCEMENT OFFICER: An enforcement officer hired or assigned by the city to enforce this chapter.

COMPLETION DATE: The date by which the responsible person must abate a nuisance. The "completion date" is originally set by the code enforcement officer in the voluntary correction agreement or in the administrative citation. The "completion date" may be modified by the hearing officer.

EMERGENCY: A situation which, in the opinion of the code enforcement officer, requires immediate action to prevent or eliminate an immediate threat to the health or safety of a person or property.

HEARING OFFICER: The person designated to hear appeals pursuant to this chapter. The hearing officer shall be the Elk Ridge City administrator or his or her designee. The designee need not be a city employee. The city administrator may also appoint a committee to function as the hearing officer.

OWNER: Any person who, alone or with others, has title or interest in any building or premises, with or without accompanying actual possession thereof. For the purpose of giving notice, the term "owner" also includes any person in physical possession.

PREMISES: A plot of ground, whether occupied or not.

PROPERTY: A building or structure, or the premises on which the building or structure is located, or undeveloped land.

PUBLIC PLACE: An area generally visible to public view and includes alleys, bridges, driveways, parking lots, parks, plazas, sidewalks, streets and buildings open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

RESPONSIBLE PERSON: The person responsible for correcting or abating a nuisance pursuant to this chapter. The responsible person includes the property owner and any person who causes or permits a nuisance to occur or remain upon property in the city, and includes, but is not limited to, the owner, lessor, lessee or other person entitled to control, use and/or occupy property where a nuisance occurs. In cases where there IS more than one responsible person, the city may proceed against one, some or all of them.

This section defines nuisance by providing four (4) general definitions of what constitutes a nuisance and then providing specific examples in section 4-2A-3 of this article of situations, conduct or activities that constitute nuisances. The purpose of the general definitions is to allow the city to classify an offending situation, conduct, or activity as a nuisance, even though the situation, conduct, or activity may not be listed as a nuisance in the specific examples. The first three (3) general definitions are taken directly from Utah state law. The purpose of listing the specific examples is to identify some of the specific situations, conduct and activities that the city intends to abate as nuisances. ~~Any activity that meets any one or more of the four (4) definitions set forth below shall constitute a nuisance if it occurs within the city of Elk Ridge:~~

1. General Definitions of Nuisance: Any activity that meets any one or more of the four (4) definitions set forth below shall constitute a "nuisance" if it occurs within the city:

~~A. Anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.~~

A. "Nuisance", as defined in Utah Code Annotated Anything which is injurious to health, indecent, offensive to the senses, or an obstruction of the free use of property, so as to interfere with the comfortable enjoyment of life or property.

~~B. 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.~~

B. Section 76-10-801: "Nuisance", as defined in Utah Code Annotated section 76-10-801. 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.

~~C. Unlawfully doing any act or omitting to perform any duty, which act or omission annoys, injures, or endangers the comfort, repose, health, or safety of three (3) or more persons; or offends public decency; or unlawfully interferes with, obstructs, or tends to obstruct; or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street, or highway; or in any way renders three (3) or more persons insecure in life or the use of property. An act which affects three (3) or more persons in any of the ways specified in this subsection is still a nuisance regardless of the extent to which the annoyance or damage inflicted on individuals is unequal.~~

C. Section 4-2A-(C): "Nuisance", as defined in Utah Code Annotated section 76-10-803. Unlawfully doing any act purposely or omitting to perform any duty, which act or omission:

- a. Injurers or endangers the health or safety of any person, or annoys, injures or endangers the comfort or repose, of three (3) or more persons;
- b. Offends public decency;
- c. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake, stream, canal or basin, or any public park, square, street or highway;
- d. In any way renders a person insecure in life or the use of property.

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

~~D. A condition which wrongfully annoys, injures, or endangers the comfort, repose, health or safety of others; or unlawfully interferes with, obstructs or tends to obstruct, or render dangerous for passage, any public park, square, street or highway, or any other public place; or in any way renders other persons insecure in life, or in the use of property, and which affects the rights of an entire community or neighborhood, although the extent of the damage may be unequal. (Ord. 09-7, 10-27-2009, eff. 11-2-2009)~~

D. Nuisance Conditions: A condition which:

- a. Wrongfully annoys, injures or endangers the comfort, repose, health or safety of others; or
- b. Unlawfully interferes with, obstructs or tends to obstruct, or render dangerous for passage, any public park, square, street or highway, or any other public place; or

c. In any way renders other persons insecure in life, or in the use of property, and which affects the rights of an entire community or neighborhood, although the extent of the damage may be unequal.

4-2A-3: SPECIFIC NUISANCES:

Every situation, conduct, or activity listed in this section constitutes a nuisance and may be abated pursuant to this chapter. The listed examples are not all inclusive; a situation, conduct or activity not listed below, but coming within one of the general definitions of nuisance defined in section [4-2A-2](#) of this article, shall also constitute a nuisance.

- A. Accessory Apartments; Illegal: Any violation of the city's accessory apartment ordinance.
- B. Alcohol: Every property or premises not licensed under applicable state law or city ordinance where any intoxicating liquors or alcohol are kept for unlawful use, sale, or distribution.
- C. Animals: Any animal that is dangerous, vicious, creates excessive noise, creates odors that can be smelled from adjacent property, or is kept against the city zoning ordinance.
- D. Attractive Nuisances: Any attractive nuisance dangerous to children and other persons including, but not limited to, abandoned, broken, or neglected household appliances, equipment, and machinery, abandoned foundations or excavations, or improperly maintained or secured pools.
- E. **Dangerous Buildings:** Buildings: Illegal or Abandoned:
 - 1. Any building or structure which is an unreasonable hazard to the health of people residing in the vicinity thereof, or which presents an unreasonable fire hazard in the vicinity where it is located; or
 - 2. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of city ordinances, or any use of land, buildings or premises in violation of city ordinances; or
 - 3. Buildings which are abandoned, partially destroyed or left in an unreasonable state of partial construction for a period of six (6) months or longer. An "unreasonable state of partial construction" is defined as any unfinished building or structure where the appearance or condition of the building or structure does not meet the requirements for finished buildings or structures as required by applicable city ordinances or building codes. The building or structure shall not be considered to be a nuisance if it is under active construction.

~~Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of city ordinances, or any use of land, buildings or premises in violation of city ordinances or buildings which are abandoned, partially destroyed, or left in an unreasonable state of partial construction for a period of six (6) months or longer. An "unreasonable state of partial construction" is defined as any unfinished building or structure where the appearance or condition of the building or structure does not meet the requirements for finished buildings or structures as required by applicable city ordinances or building codes. Buildings or conditions that violate any building, electrical, plumbing, fire, housing, or other code adopted by the city. The building or structure shall not be considered to be a nuisance if it is under active construction.~~

F. Buildings; Maintenance And Upkeep: Maintenance of buildings and/or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair, including, but not limited to:

1. Buildings having dry rot, warping, termite infestation, decay, excessive cracking, peeling or chalking, as to render the building unsightly and/or in a state of disrepair; or
2. Buildings with missing doors and/or windows containing broken glass and/or no glass at all where the window is of a type which normally contains glass; or
3. Building exteriors, walls, fences, gates, driveways, sidewalks, walkways, signs or ornamentation, or alleys maintained in such condition as to render them unsightly and/or in a state of disrepair; or
4. Buildings or conditions that violate any building, electrical, plumbing, fire, housing or other code adopted by the city.

~~Maintenance of buildings and/or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair including which is unfit for human habitation, or which is an unreasonable hazard to the health of people residing in the vicinity thereof, or which presents an unreasonable fire hazard in the vicinity where it is located. Buildings having dry rot, warping, termite infestation, decay, excessive cracking, peeling, or chalking, as to render the building unsightly and/or in a state of disrepair. Buildings with missing doors and/or windows containing broken glass and/or no glass at all where the window is of a type which normally contains glass, building exteriors, walls, fences, gates, driveways, sidewalks, walkways, signs or ornamentation, or alleys maintained in such condition as to render them unsightly and/or in a state of disrepair.~~

G. City Code Nuisances: Any violation of a section of a city code section that expressly declares a specific situation, conduct, or activity to be a nuisance.

H. Construction Equipment: Construction equipment or machinery kept against the city zoning ordinance, except while excavation, construction or demolition operations covered by an active building permit are in progress on the subject property or an adjoining property, or where the property is zoned for the storage of construction equipment and/or machinery. Any construction equipment stored in a public right of way, overnight.

I. Dangerous Conditions: Any fence, wall, shed, deck, house, garage, building, structure or any part of the aforesaid; or any tree pole or smokestack; or any excavation, hole, pit, basement, cellar, sidewalk, subspace, dock or loading 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, inconvenience, discomfort, damage or injury to any one or more individuals in the city, in any one or more of the following particulars:

1. By reason of being a menace, threat and/or hazard to the general health and safety of the community;
2. By reason of being a fire hazard;
3. By reason of being unsafe for occupancy, or use on, in, upon, about or around the aforesaid property;

4. 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 to such an extent that it is harmful to the community in which such property is situated or such condition exists.

~~Any fence, wall, shed, deck, house, garage, building, structure or any part of any of the aforesaid; or any tree, pole, smokestack; or any excavation, hole, pit, basement, cellar, sidewalk, subspace, dock, or loading 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, inconvenience, discomfort, damage or injury to any one or more individuals in the city, in any one or more of the following particulars: by reason of being a menace, threat and/or hazard to the general health and safety of the community; or by reason of being a fire hazard; or by reason of being unsafe for occupancy, or use on, in, upon, about or around the aforesaid property; or 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 to such an extent that it is harmful to the community in which such property is situated or such condition exists.~~

J. Improper Accumulation: The harmful, injurious, noxious or unsightly accumulation of soil, litter, debris, plant trimmings, or trash, visible from the street or an adjoining property.

K. Drug Houses: Every building or premises where the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition of any controlled substance, precursor, or analog specified in the Utah Code Annotated title 57, chapter 37 (Utah controlled substance act) occurs.

L. Dust: Any premises or activity which causes excessive dust due to lack of landscaping, no maintenance or other cause. This includes dust from construction sites.

M. Family: Keeping or allowing people at a premises in violation of the city's single-family residence requirements. A single family residence as defined by the IBC is a building of which the primary purpose is residential in nature and does not cross into requirements for multi-family residences. There are exceptions for approved basement and accessory apartments.

N. Fire Hazard: A fire hazard.

O. Gambling: Every building or premises where gambling is permitted to be played, conducted, or dealt upon **as prohibited in Utah Code Annotated (gambling), which creates the conditions of a "nuisance"**.

P. Gangs: Every building or premises wherein criminal activity is committed in concert with two (2) or more persons, as provided in Utah Annotated. ~~section 76-3-203.1.~~

Q. Garbage Can: The leaving of any garbage can, refuse, or recycle container in the street, other than on collection day, for more than twenty-four (24) hours before or after the collection day.

R. Graffiti: Graffiti which remains on the exterior of any building, fence, sign, or other structure and is visible from a public street. Graffiti is here defined as any unauthorized writing, painting, inscription, scratch or other marking on private property.

S. Hazardous Conditions: Any wall, sign, fence, gate, hedge, or structure maintained in such condition of deterioration or disrepair as to constitute a hazard to persons or property.

T. Disorderly House or Premises: Every property or premises where there exists an environment which causes, encourages or allows individuals or groups of individuals to commit one or more of the following acts on the property, premises or adjacent public place, including, but not limited to:

- a. Illegally consuming intoxicating liquor or alcohol;
- b. Publicly urinating or defecating;
- c. By physical action, intentionally causing or attempting to cause another person to reasonably fear imminent bodily injury or the commission of a criminal act upon their person or upon property in their immediate possession;
- d. Engaging in acts of violence, including fighting amongst themselves;
- e. Discharging a firearm or explosive in violation of city ordinance or state law;
- f. Creating unreasonable noise which disturbs others;
- g. Intentionally obstructing pedestrian or vehicular traffic; or
- h. Soliciting acts of prostitution.

~~Inappropriate Conduct: Every property or premises where there exists an environment which causes, encourages or allows individuals or groups of individuals to commit one or more of the following acts on the property, premises or adjacent public place:~~

~~These acts include, but are not limited to, illegally using or possessing any controlled substance, precursor, analog or possessing any item of drug paraphernalia; or illegally consuming intoxicating liquor or alcohol; or publicly urinating or defecating; or by physical action, intentionally causing or attempting to cause another person to reasonably fear imminent bodily injury or the commission of a criminal act upon their person or upon property in their immediate possession; or engaging in acts of violence, including fighting amongst themselves; or discharging a firearm or explosive in violation of city ordinance or state law; or creating unreasonable noise which disturbs others; or intentionally obstructing pedestrian or vehicular traffic; or soliciting acts of prostitution.~~

U. Junk Accumulation: The harmful, injurious, noxious or unsightly accumulation of used or damaged lumber; junk; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, cabinets, or other fixtures or equipment kept against the city zoning ordinance. However, nothing herein shall preclude the placement of stacked firewood for personal noncommercial use on the premises.

V. Parking: ~~Long term~~ **Parking** or storage of any recreational vehicle boat or trailer on a public the street, within **a regularly maintained public** the city right-of-way, or in any clear view area is prohibited. ~~Long term is defined as more than three (3) days.~~ Recreational vehicles and trailers may be parked on the street for **attended** loading and unloading purposes only, and if towed must remain attached to the tow vehicle. ~~A reasonable amount of time, generally up to two (2) weeks, to load/unload, clean, or maintain these vehicles.~~ The unsafe parking of any of the above-mentioned vehicles is prohibited and may be cited or removed by law enforcement

personnel or the city administrator. All vehicles parked, at any time, on the street or within city right-of-way must be registered and legal.

W. Landscaping; Required: Failure to install or maintain landscaping required by city ordinance.

X. Noise; Public Disturbance: Noise that constitutes a public disturbance after once being requested to stop making the noise. A public disturbance shall be any sound which unreasonably disturbs or interferes with the peace, comfort or repose of owners or possessors of real property and which emanates from any of the following sound sources: music, stereo, or sound systems; loud arguing, threatening, or yelling in a manner likely to incite violence, boisterous conduct, animals.

Y. Noise; Construction Work/Machinery: Construction work and the use of machinery or motorized power tools and equipment in or adjacent to a residential area between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. Specialized equipment used for seasonal and periodic snow removal, agricultural uses, commercially zoned business, and all emergency equipment shall not be considered a nuisance.

Z. Noise; Motor Vehicles: The repetitive or continuous starting, testing or operation of a motor vehicle, including motorcycles, all-terrain vehicles, and recreational vehicles.

AA. Noise; Sports/Outdoor Activities: Sports and other outdoor entertainment activities in or adjacent to a residential area between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M.

BB. Noxious Emanations: Emanation of noxious or unreasonable odors, fumes, gas, smoke, soot, or cinders. These include odors from animals, animal housing, and animal food As defined in the City animal code.

CC. Noxious Weeds: Weeds include, but are not limited, to vegetation growth that has become a fire hazard, capable of being ignited and which would contribute to fire growth; or any vegetation that is noxious, a nuisance, or dangerous as determined by the enforcement officer or other city staff that is assigned. Also included is any vegetation which has been designated a noxious weed by the Utah Commissioner of Agriculture. (Utah Administrative Code R68-9 Utah Noxious Weed Act.) For weeds on developed lots refer to 10-12-36-G of this code.

1. Weeds located on vacant lots, vacant land, along public sidewalks, public streets, or weeds in any other location which constitute a fire hazard must be cut to a height of four inches (4") or less in areas thirty feet (30') from any public sidewalk, public street, or structure and cut to a height of twelve inches (12") or less in areas fifty feet (50') from any public sidewalk, public street, or structure.
2. All noxious weeds must be cut to a height of twelve inches (12') or less on vacant lots, vacant land, along public sidewalks, public streets, or noxious weeds in any location, and not allowed to reseed. Also, noxious weeds must be cut a height of four (4") or less in areas thirty (30') from any public sidewalk, public street, or structure.
3. Should the city fire marshal determine the cut back of weeds on a vacant lot, vacant land, along public sidewalks, public street, or weeds in any other location is insufficient to protect persons or property he may order through the code enforcement officer that the cut back distance be increased to a distance the fire marshal determines would mitigate the fire hazard.

~~Weeds located on vacant lots, vacant land, along public sidewalks, public streets, or weeds in any other location which constitute a fire hazard must be cut to a height of four inches (4") or less in areas thirty feet (30') from any public sidewalk, public street, or structure and cut to a height of twelve inches (12") or less in areas fifty feet (50') from any public sidewalk, public street, or structure. All noxious weeds must be cut to a height of twelve inches (12") or less on vacant lots, vacant land, along public sidewalks, public streets, or noxious weeds in any location, and not allowed to reseed. Also, noxious weeds must be cut a height of four (4") or less in areas thirty (30') from any public sidewalk, public street, or structure. Should the city fire marshal determine the cut back of weeds on a vacant lot, vacant land, along public sidewalks, public street, or weeds in any other location is insufficient to protect persons or property he may order through the code enforcement officer that the cut back distance be increased to a distance the fire marshal determines would mitigate the fire hazard.~~

DD. Parking Or Storage; Distressed Vehicles: Parking or storage of inoperative, unregistered, abandoned, wrecked, or dismantled vehicles, or vehicle parts, in the public right of way, on any public street, or against the city zoning ordinance is prohibited.

EE. Parking Or Storage; Trailers, Boats, Recreation: The parking of vehicles and trailers may only be done by permission of the property owner. Parking or storage of inoperable, unregistered and junk vehicles against the city zoning ordinance is prohibited. Parking of inoperable or junk vehicles on any city street is prohibited. Any vehicle deemed a nuisance by law enforcement, or the city administrator may be cited or may be removed by the city administrator or law enforcement personnel.

FF. Party Houses: Every building or premises where parties occur frequently which create the conditions of a nuisance. Some of the factors the city may examine in determining whether a party house exists include: an increase in the number of emergency response calls due to parties being held; any pattern of activity that suggests that parties creating a nuisance are taking place; any pattern of activity which diminishes the quiet enjoyment of those buildings and premises around the alleged party house or which cause the immediate neighbors to fear for their safety or the safety of their family members due to the party activity.

GG. Prostitution: Every building or premises where prostitution or the promotion of prostitution is carried on by one or more person.

HH. Refuse: Keeping or storing of any refuse or waste matter which interferes with the reasonable enjoyment of nearby property.

II. Signs: Improper maintenance of a sign; or signs which advertise a business that is no longer extant on the property. Keeping or allowing banner signs in violation of city ordinance.

JJ. Stagnant Water: Polluted or stagnant water which constitutes an unhealthy or unsafe condition.

KK. Storage Of Materials; General: The keeping, storing, depositing, accumulating, or maintenance of dirt, sand, gravel, sod, concrete, or other similar materials on any setback area abutting a street or public right-of-way, or readily visible from an adjacent lot or parcel for an unreasonable period of time, generally over one week. The unsafe placement of dirt, sand, gravel, sod, concrete or any similar material on a public the streets or within the public right of way or in violation if the clear view area is prohibited. The unsafe placement of any object on the a public street or within the public right of way or in violation of the clear view area is prohibited. Any violations of this section may result in a citation. If the condition is an immediate safety concern, corrective action may

be taken by law enforcement or the city administrator, at the expense of those responsible for the violation.

LL. Storage Of Materials; New Construction: The keeping, storing, depositing, or accumulating on a site construction materials, dirt, sand, gravel, concrete, debris or other similar materials prior to a grading permit, construction bond, or building permit is approved. The keeping, storing, depositing, or accumulating on a site construction materials, dirt, sand, gravel, concrete, debris, or other similar materials outside of trash bins or located outside the designated storage area identified on an approved site plan. Material stored in the public rights of way for an unreasonable period of time. Any construction debris or items allowed to be blown from the construction site. Any debris or construction materials left after construction is complete. **The keeping, storing, depositing, or accumulating construction materials, dirt, sand, gravel, concrete, debris, or other similar materials on a public street.**

MM. Tobacco Smoke: Tobacco smoke, vape and other substance of controlled classification that drifts on to a neighboring property is prohibited .

NN. Unsafe Condition: A condition that unreasonably or unlawfully affects the health or safety of one or more persons.

OO. Vandalism: Any action involving deliberate destruction of or damage to public or private property.

PP. Vegetation: Dead, decayed, diseased, or hazardous trees, weeds, hedges, and overgrown or uncultivated vegetation which is in a hazardous condition, is an obstruction to pedestrian or vehicular traffic, or which is likely to harbor rats, vermin, or other pests.

QQ Weapons: Every building or premises where a violation of Utah Code Annotated title 76, chapter 10, part 5 (weapons), occur on the premises.

RR. Commercial Activities: Operational activities commonly associated with a particular commercial business, regardless of the licensing status or licensing entity of the business, must adhere to the regulations of the zone. Operational activities include but are not limited to the operating of vehicles, equipment, or machinery or the storing, or accumulation of equipment, machinery and/or supplies. This section does not apply to the incidental operation of commercial vehicles, equipment or machinery provided the use is not germane to the operational activities of a business and is in harmony with the zone where the property is located.

SS. Outdoor Lighting: Any lighting violation defined as such in the city zoning ordinance and other city code. Light trespass, as defined by city code is prohibited.

TT. Harassment of Wildlife: The feeding of deer, elk, moose, and turkeys are prohibited within Elk Ridge City Boundaries. Touching, teasing, or the intentional disruption of wildlife is considered harassment and is prohibited. Hunting of wildlife is prohibited in Elk Ridge City. Wildlife mitigation by law enforcement, authorized animal control, and state wildlife personnel is allowed. Wildlife mitigation must be conducted in accordance with City and State code by those given authority. The trapping and removal of rodents, skunks, raccoons are allowed.

4-2A-4: EXCEPTIONS:

No act which is done or maintained under the express authority of an authoritative statute, ordinance, or court ruling shall be declared a nuisance.

4-2A-5: SEVERABILITY

If any clause, section, or provision of these nuisance definitions and specific examples is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

ARTICLE B. NUISANCE PROCESS

4-2B-4: ENFORCEMENT OFFICER:

This chapter shall be administered and enforced by the enforcement officer, **law enforcement, fire marshal or authorized** city staff . In case of nuisances involving dangerous buildings, this chapter may be administered and enforced by the building inspector, fire marshal or authorized city staff.

(Ord. 09-7, 10-27-2009, eff. 11-2-2009; amd. Ord. 19-5, 9-10-2019)

4-2B-5: FINDING OF NUISANCE:

If the enforcement officer finds that a nuisance exists, the officer shall attempt to have the responsible person abate the nuisance. Although the officer's first step in correcting or abating the nuisance will always be to obtain voluntary compliance, the officer may pursue any remedy or combination of remedies available pursuant to this chapter, state law, or common law in order to abate the nuisance. Nothing in this section shall be interpreted to prohibit the city from engaging in its standard prosecution practices. Therefore, the city may prosecute violators of city ordinances or state laws without first having to comply with the provisions of this chapter, even though the activity or conduct prosecuted may also constitute a nuisance under this chapter. Nothing in this chapter shall be interpreted to prevent the city from enforcing applicable city ordinances, building codes, or the abatement of dangerous buildings code without first treating the offending conduct, situation, or activity as a nuisance pursuant to this chapter.

A. Finding Of Nuisance Form: The officer shall fill out the finding of nuisance form and shall clearly site what portion of the code has been violated. Photos, citizen accounts, and other evidence of the nuisance may be collected to document the nuisance. Citizen accounts can be anonymous. The form may also state a time frame for abatement of the nuisance, penalties for noncompliance, and the availability of a voluntary correction agreement as set forth in section 4-2B-6 of this article.

Before taking other steps to abate the nuisance, the enforcement officer smay make a reasonable attempt to secure voluntary correction or abatement of the nuisance by contacting the responsible person, where possible; explaining the nuisance; requesting the responsible person to abate the nuisance; and agreeing to terms with the responsible person to abate the nuisance.

(Ord. 09-7, 10-27-2009, eff. 11-2-2009; amd. Ord. 19-5, 9-10-2019)

4-2B-9: ABATEMENT BY THE CITY:

The city may abate a nuisance when the terms of a voluntary correction agreement have not been met, or the requirements of an administrative citation have not been complied with, or, if the administrative citation is appealed to a hearing officer and the terms of the administrative citation are amended by the hearing officer, the terms of the hearing officer's order have not been complied with. Whenever a nuisance is occurring which constitutes an immediate and emergent threat to the public health, safety, or welfare or to the environment, the city may summarily and without prior notice abate the condition. Notice of such abatement, including the

reason for it, shall be given to the responsible person as soon as reasonably possible after the abatement.

A. **City Removal of Nuisance:** Using any lawful means, the city may enter upon the subject property and may remove or correct the condition which is subject to abatement. The city may seek, but is not required to seek, such judicial process as it deems necessary to affect the removal or correction of such condition.

B. **Property Confiscation:** During an abatement proceeding, any personal property constituting a nuisance, as defined by this chapter, may be confiscated as part of the abatement process. Any property that has been confiscated by the city as part of an abatement will be held pending the resolution of the nuisance. The owner of the abated property may recover the property upon showing that the nuisance has been corrected or that substantial efforts, as determined by the enforcement officer, have been made to correct the nuisance. The property owner shall pay the cost of storage of the property. If, after ninety (90) days of the property being confiscated, the property owner fails to claim the confiscated property, the city shall notice the responsible person noting the item(s) to be disposed. The city may dispose of the property, to include sale at auction, etc., and seek to collect the cost of storage from the property owner and any other remedies as provided by law.

C. **Abatement Costs:** The costs, including incidental expenses, of correcting or abating the violation shall be billed to the responsible person and/or the owner, lessor, tenant or other person entitled to control, use and/or occupy the property and shall become due and payable to the city within ten (10) days of actual receipt of the bill (within 15 days of the mailing date if the bill is mailed). The term incidental expenses include, but are not limited to:

1. Personnel costs, both direct and indirect, including attorney fees and costs;
2. Costs and fees incurred in documenting the violation;
3. Hauling, storage and disposal expenses;
4. Actual expenses and costs for the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and
5. The costs of any required printing and mailing.

D. **Monetary Fine:** The responsible person shall pay the city a monetary fine for each day the nuisance continues after the required completion date listed on an administrative citation. The nuisance shall be considered to continue until the enforcement officer approves the responsible person's actions to correct or abate the nuisance. The amount of the monetary fine shall be adopted by resolution of the city council and be listed on the city fee schedule. The fine will be charged for each day that the nuisance remains uncorrected or unabated after the required completion date.

E. **Monetary Fine Cumulative:** The monetary fine shall be cumulative and may not be waived by the enforcement officer. Payment of a monetary fine pursuant to this section does not relieve the responsible person from the duty to abate the nuisance as required by the voluntary consent agreement or the administrative citation. The monetary fine constitutes a personal obligation of the responsible person. Any monetary fine assessed must be paid to the city within ten (10) days of actual receipt of the bill (within 15 days of the mailing date if the bill is mailed).

F. **Payment Of Fines:** The city attorney or authorized city staff is authorized to take appropriate action to negotiate the amount of the monetary fine, collect the monetary fine, determine the time period in which the fine shall be paid and take any other action necessary to resolve the fine. In determining the time period in which to pay, the city attorney or designee may take into consideration the number of days between the required completion date and the

actual completion date, enforcement officer input, the responsible person's cooperation, etc. The city may also seek to collect reasonable attorney fees and costs incurred in collecting the monetary fine where allowed by law.

G. Civil Action: Either the city or any private person directly affected by a nuisance may bring a civil action to abate or enjoin the nuisance, or for damages for causing or maintaining the nuisance (including the cost, if any, of cleaning the subject property). The civil action may be brought pursuant to this chapter or pursuant to state law.

H. Criminal Action: Criminal actions may be initiated by criminal citation from the enforcement officer or by long form information. Any person who maintains or assists in maintaining a nuisance is guilty of a class C misdemeanor. No person shall be prosecuted under this subsection unless the enforcement officer first attempted to obtain voluntary correction. If the alleged nuisance is also a violation of a provision of this code (other than this nuisance chapter) or state law, the responsible person may be charged under the specific provision of this code or state law, even if the enforcement officer did not first attempt to obtain voluntary correction. Any person who knowingly obstructs, impedes, or interferes with the city or its agents, or with the responsible person, in the performance of duties imposed by this chapter, or a decision and order issued by the hearing officer, or a voluntary correction agreement, is guilty of a class B misdemeanor.

I. Abatement By Eviction: Whenever there is reason to believe that a nuisance is kept, maintained, or exists in the city, the city attorney or any citizen(s) residing in the city, or any person or entity doing business in the city, in his or their own names, may maintain an action in a court of competent jurisdiction to abate the nuisance and obtain an order for the automatic eviction of the tenant of the property harboring the nuisance. The eviction shall take place as specified in Utah law.

J. Nonexclusive Remedies: The city may take any or all of the above mentioned remedies (administrative, civil, or criminal) to abate a nuisance and/or to punish any person or entity that creates, causes or allows a nuisance to exist. The abatement of a nuisance does not prejudice the right of the city or any person to recover damages or penalties for its past existence.

K. Collection Through Taxes: In the event that the enforcement officer or other city staff that is assigned elects to refer the expenses of destruction or removal to the county treasurer for inclusion in the tax notice of the property owner, they shall make an ~~in triplicate~~ itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver the ~~required three (3)~~ copies of the statement to the county treasurer within ten (10) days after the completion of ~~destroying or removing such weeds, refuse, garbage, objects or structures~~ the ~~work to abate~~. Thereupon, the costs of the work shall be pursued by the county treasurer in accordance with the provisions ~~section 10-11-4~~ as stated in the Utah Code Annotated, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

(Ord. 09-7, 10-27-2009, eff. 11-2-2009; amd. Ord. 19-5, 9-10-2019)

Passed and duly adopted this ____ day of _____, 2023.

Robert Haddock, MAYOR

Councilmember Nelson Abbott	Voted _____
Councilmember Tricia Thomas	Voted _____
Councilmember Jared Peterson	Voted _____
Councilmember Cory Thompson	Voted _____
Councilmember Tanya Willis	Voted _____

ATTEST:

ROYCE SWENSEN
Elk Ridge City Recorder

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

I, ROYCE SWENSEN, City Recorder of the City of Elk Ridge, Utah, do hereby certify and declare that the above and foregoing is a true, full, and correct copy of

Ordinance #_____, passed by the City Council of the City of Elk Ridge, Utah, on the
___ day of _____, 2023, entitled

“AN ORDINANCE OF THE ELK RIDGE CITY COUNCIL AMENDING NUISANCES”

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Elk Ridge City Utah this ____ day of _____, 2023

ROYCE SWENSEN
Elk Ridge City Recorder

AFFIDAVIT OF POSTING

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

I, ROYCE SWENSEN, City Recorder of the City of Elk Ridge, Utah, do hereby certify and declare that I posted in three (3) public places Ordinance #_____, which is attached hereto on the ____ day of _____ 2023.

The three places are as follows:

1. The Elk Ridge City Office, 80 E Park Drive
2. The Utah Public Notice Website
3. The Elk Ridge City Website

I further certify that copies of the ordinance so posted were true and correct copies of said ordinance.

ROYCE SWENSEN
Elk Ridge City Recorder

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by ROYCE SWENSEN.

My Commission Expires:

Notary Public

Residing at: Utah County