

TITLE 30 - CHAPTER 2 NUISANCE

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30.02.01 **SHORT TITLE**

This Ordinance shall be known and may be cited as the "Genola Town Nuisance Ordinance."

30.02.02 **DEFINITIONS**

Author: The land owner, landlord or his agent, the tenant or his agent, and all other persons having control of the property on which a Nuisance exists shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any Nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such Nuisance shall be deemed the authors.

City Manager: The City Manager shall be the City Manager appointed by the Town Council or shall be the Mayor or anyone appointed by the Town Council to function in the capacity set forth for the City Manager in this Chapter.

Nuisances: Whatever is dangerous to human life or health and whatever renders soil, air, water or food impure or unwholesome is declared to be a Nuisance and unlawful. Nuisances include, but are not limited to:

1. Befouling Culinary Water: Befouling water in any spring, stream, well or water source supplying water for culinary purposes.
2. Any privy vault or cesspool or other private wastewater disposal system that is a menace to health or cause contamination to air or water.
3. Garbage, litter, filth or refuse of any nature that has accumulated within or upon any yard or area except when it is temporarily deposited for immediate removal.

4. Any slaughterhouse, market, meat shop, stable, feed yard, or other place or building wherein any animals are slaughtered, kept, fed or sold, that remains in any state or condition detrimental to health.
5. Any offensive water, chemical, liquid waste, or refuse of any kind that is discharged into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal, or any vacant lot or which, as the result of continued discharge, will render the place of discharge offensive or likely to become so.
6. Any obstruction or intention to obstruct or interfere with or render dangerous for passage any street or sidewalks, lake, stream, drainage, canal or basin, or any public park without first obtaining the written permission of an authorized city official.
7. Permitting of any drainage system, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, to become so obstructed as to cause the water to back up and overflow therefrom, or to become unsanitary.
8. All restroom or sewer facilities that are not constructed and maintained in accordance with Utah law and ordinances of the Town.
9. Allowance of weeds to grow so as to create: a fire hazard; a source of contamination, or pollution of the water, air or property; a danger to health; a breeding place or habitation for insects or rodents or other forms of life deleterious to humans; or are unsightly or deleterious to their surroundings.
10. Any condition or use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly to public view, which includes, but is not limited to, keeping or depositing on, or scattering over the premises any of the following:
 - A. Lumber, junk, trash or debris
 - B. Abandoned, discarded or unused objects or equipment such as furniture, automobiles, stoves, refrigerators, freezers, cans, containers, machinery, implements or other discarded items no in use.

Weeds: Any vegetation commonly referred to as a weed, or which shall have been designated a noxious weed by the Utah commissioner of agriculture.

Disturbing the Peace

- A. It shall be unlawful for any person to maliciously or willfully disturb the peace or quiet of another by loud or unusual noise or by tumultuous conduct or by threatening or yelling in a manner likely to incite another to violence.

B. It shall be unlawful for any person to cause noise that constitutes a public disturbance after once being requested to stop making the noise. It shall also be unlawful for any person in possession of real property to allow to originate from the property noise that constitutes a public disturbance after once being requested to stop permitting the noise. For purposes of this section, 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:

1. Music, stereo or sound systems.
2. Loud arguing or boisterous conduct.
3. Construction work in or adjacent to an agricultural or residential zone between the hours of 10:00 p.m. and 6:00 a.m.
4. Sports or other entertainment activities in or adjacent to an agricultural or residential zone between the hours of 10:00 p.m. and 6:00a.m.
5. The use of machinery or motorized or power tools and equipment in or adjacent to an agricultural or residential zone between the hours of 10:00 p.m. and 6:00a.m. except for specialized equipment used for seasonal, periodic snow removal and farming.
6. The repetitive or continuous starting, testing or operation of a motor vehicle, including a motorcycle, in an agricultural or residential zone.

C. Except the following: snow removal, farm equipment, town celebration and other town sponsored events.

D. Disturbing the peace is a class C misdemeanor if the offense continues after a request by a person to desist. Otherwise it is an infraction. Class C misdemeanors and infractions shall be punishable as set forth in Section 76-3-301, Utah Code Annotated (1953, amended.)

30.02.03 **DECLARATION OF NUISANCE**

It shall be unlawful for any person either as an owner, agent, or occupant to create, or aid in creating or contributing to or maintaining a Nuisance. Every act or condition made, permitted, allowed or continued in violation of this section may be abated and punished as hereinafter provided.

30.02.04 **DUTY OF MAINTENANCE OF PRIVATE PROPERTY**

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any Nuisance thereon.

30.02.05 **AGRICULTURE EXEMPTION**

Standard, common or typical agricultural practices and activities shall not be a Nuisance unless it can be clearly shown that such practices and activities can be shown to be dangerous, detrimental to health or damaging to another's property.

30.02.06 **NON-VISIBLE STORAGE EXEMPTION**

Items stored out of view behind privacy fences or inside of buildings shall not be deemed a Nuisance unless such storage creates a fire hazard or health risk.

30.02.07 **ABATEMENT PROCEDURE**

1. APPOINTMENT AND DUTIES OF INSPECTOR:

A. Appointment: The chief of police, or his designee, shall enforce the provisions of this chapter. More than one person may be appointed to act as Inspector ("Inspector") under this section.

B. Duties: The Inspector is authorized to:

1. Perform all functions necessary to enforce the provisions of this chapter.

2. Subject to all statutory and constitutional requirements: inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this chapter.

2. EXISTENCE OF NUISANCE: Reacting to specific complaint from a citizen of the city or other person, or by his own investigation, the Inspector may conclude there exists a Nuisance. If such a determination is made, the Inspector shall:

A. Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions exist.

B. Serve notice in writing upon the owner and occupant of such premises, either personally or by mailing notice, certified mail, return receipt requested, addressed to the owner and occupant at their last known post office addresses as disclosed by the records of the county assessor, or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the same within such time as the Inspector may designate; provided, that any person notified pursuant to this subsection shall be given at least thirty (30), but not more than ninety (90) days, as determined by the Inspector following the date of service of such notice, to correct the objectionable condition. The notice shall contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.

C. If the owner and/or occupant of the premises in Section 2 above to which a notice has been provided does not comply with such notice within the designated period of time, the Inspector shall submit the case to the municipal court for prosecution.

30.02.08 **FAILURE TO COMPLY**

If a person convicted of creating or continuing a Nuisance shall not have abated the Nuisance in accordance with the requirements set forth by the court, then the Inspector shall, as appropriate, do one of the following:

A. Request of the court an order allowing the city to enter the property and abate the Nuisance; or

B. Take the matter to the next city council meeting for council direction

30.02.09 **REIMBURSEMENT FOR ABATEMENT BY TOWN**

1. Inspector to Itemize Expenses: In the event the Town performs the abatement of the Nuisance, the Inspector shall prepare an itemized statement of all expenses incurred in the removal and destruction of Nuisances, and shall provide the court with such itemized statements.

2. Court to Demand Payment: The court shall provide the owner or occupant with the itemized statement demanding payment within twenty (20) days of the date of such notice. In the event the owner, occupant or person having an interest in the property fails to make payment of the amount set forth in the statement to the court within the twenty (20) days, the court shall issue a summons and order to show cause which will be served by the Inspector or his designee.

3. Collection by Lawsuit: In the event collection of expenses of abatement of a Nuisance is pursued through the courts, the Town shall sue and receive judgment for all abatement expenses, together with reasonable attorney fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

4. Collection Through Taxes: In the event that the Inspector elects to refer the expenses of destruction or removal to the county treasurer for inclusion in the tax notice of the property owner, he shall make in triplicate an itemized statement of all expenses incurred in the abatement, and shall deliver three (3) copies of the statement to the county treasurer within ten (10) days after the completion of the abatement work. Thereupon, the costs of the work shall be pursued by the county treasurer in accordance with the provisions of section 10- 11-4, Utah Code Annotated, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

30.02.10 **PENALTY FOR FAILURE TO COMPLY**

1. Class C Misdemeanor: Any owner, occupant or person having an interest in property subject to this chapter who shall fail to comply with the notice or order given pursuant to this chapter shall be guilty of a class C misdemeanor, subject to penalty as established by the court.

2. Criminal Proceedings: Compliance by any owner, occupant or person to whom a notice has been given as provided in this chapter shall not be admissible in any criminal proceeding brought pursuant to this section.

¹ Previous Versions and Ordinances