

**CITY OF WASHINGTON TERRACE
COUNTY OF WEBER, STATE OF UTAH**

**INSPECTION AND CLEANING
ORDINANCE NO. 18-04**

**AN ORDINANCE OF THE CITY OF WASHINGTON TERRACE,
UTAH, REPEALING AND RE-ENACTING CHAPTER 8.16 OF
THE WASHINGTON TERRACE MUNICIPAL CODE RELATING
INSPECTION AND CLEANING; SEVERABILITY; PROVIDING
AN EFFECTIVE DATE**

WHEREAS, the City of Washington Terrace, Utah, (hereafter referred to as “City”) is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* §§ 10-8-84 and 10-8-60, 1953, as amended, allows the City to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

WHEREAS, *Utah Code Annotated* §10-11-1, et seq, authorizes the City to conduct inspection and cleaning of certain property and nuisances;

NOW, THEREFORE, be it ordained by the City Council of the City of Washington Terrace, Utah, as follows:

Section 1: Repealer. Chapter 8.16 of the *Washington Terrace Municipal Code* is hereby repealed in its entirety.

Section 2: Re-enactment. Chapter 8.16 of the *Washington Terrace Municipal Code* is hereby re-enacted to read as follows:

**Chapter 8.16
INSPECTION AND CLEANING**

Sections:

- 8.16.010. Authority.**
- 8.16.020. Definitions.**
- 8.16.030. Duty to maintain.**
- 8.16.040. Nuisance declared.**
- 8.16.050. Accumulation prohibited.**
- 8.16.060. Administration and enforcement.**

- 8.16.070. Appeal.**
- 8.16.080. Eradication and removal by municipality.**
- 8.16.090. Statement of expenses and demand for payment.**
- 8.16.100. Cost recovery.**
- 8.16.110. Suit and judgement for expenses.**
- 8.16.120. Assistance of sheriff.**
- 8.16.130. Non-exclusive remedy.**
- 8.16.140. Enforcement and penalty.**

8.16.010. Authority.

This chapter is known as “Inspection and Cleaning” adopted as authorized by *Utah Code Annotated* §10-11-1, et seq, 1953 as amended. In accordance with *Utah Code Annotated* §10-8-60, the city hereby exercises its broad authority to declare what shall be a nuisance, and abate the same, and impose fines upon persons who may create, continue, or suffer any nuisance to exist.

8.16.020. Definitions.

As used in this code, the following words mean:

1. “Abandoned” means a nuisance condition or nuisance object left or perceived to be left unattended, disused, discarded, discontinued for more than 10 days upon public or private property.
2. “Abate” or “abatement” means an action by the city to repair, replace, rehabilitate, remove, destroy, demolish, correct or otherwise remedy any condition that is declared a nuisance in this chapter.
3. “Enforcement official” means an building inspector, code enforcement official, sheriff, for other official designated by the city manager to enforcement of this chapter.
4. “Nuisance” means a condition or location where that the city has declared a nuisance using the broad nuisance declaration powers set forth in *Utah Code Annotated* §10-8-60. Such condition includes but is not limited to a unsightly or injurious object, structure, non-maintained conditions, unsightly conditions, noxious conditions or objects, trash, junk, refuse or garbage, anything dangerous to human life or health, or anything rendering the soil, air, water, or food to be impure or unwholesome.
5. “Nuisance vehicle” means any wrecked, obsolete, junked, inoperable, unregistered, or expired vehicle, or any portion of such vehicle in the city. It also includes any vehicle or part of a vehicle that is parked illegally on public property or the public right-of-way, in violation of land use regulations, not able to be driven legally based on any condition or status. It further includes any vehicle used for commercial purposes in a residential zone that is not actively going to or returning from a delivery in the city, or a vehicle used for commercial purposes where the owner of the vehicle does not have an approved commercial site plan and/or a business license within the city.

6. “Noxious weed” means vegetation that is determined by the state of Utah, Weber County, or Utah State University (USU) Extension Services to be environmentally invasive.
7. “Owner” means any person or entity that is the reputed or record owner of the premises, or the responsible party as provided in this chapter.
8. “Property” means any real property, lot, parcel or plot of ground, whether occupied or not, and any premise including a building or structure, or the premises on which a building or structure is located, or undeveloped land.
9. “Refuse”, “junk”, “debris” or “garbage” means useless, worthless or discarded materials, indoor household furniture or parts thereof left outdoors, used tires, parts of vehicles, unsightly machinery or equipment, unsightly appliances or parts of appliances, trash, rubbish, grass and tree trimmings, rotting material or vegetation, litter, scrap building materials, food product waste, dead animals, and any similar material.
10. “Temporary permit” means temporary permit issues by the Utah Division of Motor Vehicles for a vehicle that is being repaired or restored to pass required state and county inspections or otherwise.
11. “Vehicle” means a motorized, non-motorized, or self-propelled device intended primarily for transportation, use and operation on a road or utility or recreation, or a device used in the transportation of any item from one location to another such as a trailer.

8.16.030. Duty to maintain.

In accordance with *Utah Code Annotated* §10-11-2, all property owners, their agent(s), all occupant(s) or tenants, or other person having control of real property have a duty to maintain real property free and clear of any nuisance or nuisance activity as provided in this chapter. The duty in this section shall deemed all property owners, their agent(s), all occupant(s) or tenants, or other person having control of real property to be the responsible party for any nuisance and each shall be joint and severally liable therefore for its removal, remedy, and/or damages, including fines and penalties.

8.16.040. Nuisance declared.

The following objects, acts, or conditions along with any resulting condition, are hereby declared to be nuisances in violation of this chapter and subject to the penalties provided herein:

1. Conditions that create a possible fire hazard.
2. Unlawful pollution or environmental degradation, or anything rendering the soil, air, water, or food to be impure or unwholesome.
3. Conditions that harbor or attract rodents, insects, disease, or other forms of life deleterious to human habitation.
4. Deleterious surroundings and structures in violations of local codes.
5. Allowing or causing to keep, deposit, dump, burn, bury or allow to exist any unsightly or injurious objects, structures, junk, discarded or unused objects or

- equipment, nuisance vehicles, noxious weeds, grass over six (6) inches in growth, or neglected landscaping.
6. To allow vegetation, waste, garbage, litter, filth, refuse, feces, or manure to accumulate within or upon any property, except where it is scheduled for immediate removal.
 7. To discharge or dump liquid waste, hazardous waste, or refuse of any kind into any street, road, sidewalk, gutter, stream, drain, pipe, wash, natural water course, ditch, canal, lot, or other property.
 8. To obstruct any watercourse, storm drain, or pipeline.
 9. To permit any garbage container to remain on a premise when it has become unclean, offensively putrescent, or overflowing.
 10. To block, obstruct, or interfere with access or use of city streets, sidewalks, easements, or right-of-ways without an encroachment permit from the city.
 11. Any condition or object that may cause immediate and irreparable harm to a person or endanger public health and safety.
 12. The accumulation of animal waste products.
 13. Any unkept, offensively putrescent, or filthy stable, stall, corral, feed yard, or in any other structure or area where animals are kept.
 14. Allow to be kept or collected any putrid grease, vegetable matter, rotting substance, or other similar matter on any premises.
 15. Dumping, disposal, or handling of grease, oils, fats, or substance in any manner that may result in any pollution, clog, or damage to any sewer system, storm water system, or the environment.
 16. To have or permit upon any condition that creates unnecessary stagnant water, or unnecessarily fosters flies, mosquitos, or rodents.
 17. To pollute or render fowl water in any spring, stream, well, or other water supply. Including any action or inaction that may jeopardize or harm a public or private water system, including a drinking fountain.
 18. Create or allow a condition or object that may detrimentally affect any sanitary sewer line or system, septic system, or other waste collection system. Including any action or inaction by an owner that may result in any overflow, system failure, or other potential public or environmental hazard relating to sewer.
 19. To allow any property or project to hold any decaying material, hazardous material, explosives, or offensive substances.
 20. To plant or maintain any tree or vegetation that may enter or damage any storm drain, field or land drain, or sewer systems, or cause heaving or other damage to any sidewalks, curbs, gutters, or streets. Including overhanging trees, branches, or vegetation in violation of the Manual on Uniform Traffic Control Devices (MUTCD), American Association of State Highway and Transportation Officials (AASHTO) standard, or other applicable code.
 21. To plant or maintain trees or vegetation which obstruct the clear view of traffic, traffic signs, fire hydrants, utilities, public right-of-ways, sidewalks, curbs, and intersection corner property sight triangles specified in the land use ordinance.

22. To fail to properly keep adjoining public sidewalks clear of snow and any other obstruction.
23. To put or cause to have put snow, ice, leaves, litter, dirt, debris, or other refuse into the public right-of-way.
24. To operate a business within the city without obtaining the appropriate city business license, along with any required state license and tax identification numbers.
25. Failure to control and prevent back-flow and eliminate all cross connections between any auxiliary water source and the city's culinary water systems.
26. Failure to install, maintain, control, back-flow devices for any sewer and/or water system.
27. Failure to immediately stop and repair any culinary water, secondary water, or sewer line break.
28. Leaving fuel, flammable material, or similar material open and accessible to children or creating an attractive nuisance condition.
29. Failure to park any vehicles, motor home, fifth-wheel, trailer, water craft, recreational vehicle, and axle driven devices on a solid surface type material such as asphalt or concrete. The solid surface area must also cover the full size of the vehicle where such vehicle is parked. Nuisance under this part are exempt where granted a winter parking exemption in the municipal code under Section 10.16.030 so long as the required spring restoration of the soft surface is completed as provided in the municipal code. Failure to make spring restoration of soft surface under this part is a nuisance under this chapter.
30. Failure to park or place any vehicle, trailer, or equipment at least three feet behind the sidewalk and nine feet behind curb where no sidewalk exists.
31. Failure to install or maintain any toilet, sink, plumbing, or sewer facility in accordance the applicable international building codes, or regulations of the Weber-Morgan Health Department.
32. Failure to comply with the property maintenance code, which regulates the conditions and maintenance of all property, buildings and structures, such as fences, roofs, siding, and otherwise.
33. Any construction activities on any property without the proper permits.
34. Allowing or keeping any abandoned appliances, furniture, furnishings, or containers outside on any property.
35. Keeping any appliance or device accessible to children that may be airtight and contain a lid, lock, or door device which may not be released from the inside.
36. Failure to keep or maintain landscaping or storm water basin required on an approved site plan.
37. Parking any motor home, fifth-wheel, trailer, water craft, or recreational vehicle property used for residential purposes for more than forty-eight (48) hours. Allow any such vehicle described in this part of park on the public right-of-way or within 3 feet of the sidewalk.
38. To allow any basketball standard, other recreation device, or equipment of any kind to obstruct or interfere with any street, sidewalk, curb, or gutter.

39. To hold, park, keep, operate, maintain, or keep any nuisance vehicle or abandoned vehicle where there is no valid temporary permit.
40. Burning of any kind without a valid burn permit.
41. To permit or cause to keep, deposit, dump, bury, or allow to exist any unsightly or injurious objects, structure, junk, discarded or unused objects or equipment, equipment, noxious weeds, grass over six (6) inches in height.
42. Parking or keeping any commercial vehicle or commercial activity in a residential zone or without a valid site plan in a commercial zone.
43. Operating a business without a valid business license.
44. Overnight parking of any commercial vehicle over 10,000 gross vehicle weight on any city street, sidewalk or municipal property.
45. Keeping or harboring excessive animals, stray animals, or any animals in violation of the municipal code.
46. Failure to keep or maintain landscaping in accordance with Section 17.44.200.6.

8.16.050. Accumulation prohibited.

It is unlawful and a violation of this Chapter for the owner or occupant of real property or estate, or its agent, to cause or permit upon such property, or right-of-way adjacent thereto, the accumulation of, or, after notice as provided in this chapter, to fail to eradicate or remove garbage; refuse; abandoned vehicles or inoperable vehicles, boats, or trailers; or any unsightly or deleterious objects or structures.

8.16.060. Administration and enforcement.

1. Administration. The enforcement official administers this chapter.
2. Powers and duties. The enforcement official is authorized to:
 - a. Inspect real property within the city to determine whether such constitute a nuisance as provided in this chapter.
 - b. Follow the procedure in *Utah Code Annotated* §10-11-1, et seq, for inspection, cleaning, nuisance abatement, and cost recovery.
 - c. Ascertain the names of the owner(s) or occupant(s) of property where a nuisance exists.
 - d. Serve notice, in writing, upon the ascertained owner(s) or occupant(s) or other responsible persons, etc, either:
 - i. In person or posted on site or by mail (certified mail if required by state law) to the property owner of record as described in *Utah Code Annotated* §10-11-2(2)(a)(i), if mailed to the last-known address of the owner according to the records of the county recorder; or
 - ii. In person or posted on site or by mail (certified mail if required by state law) to a non-owner occupant or another person responsible for the property who is not the owner of record as described in *Utah Code Annotated* §10-11-2(2)(a)(ii), if mailed to the property address.

- iii. In the written notice described in *Utah Code Annotated* §10-11-2(2)(a), the municipal inspector shall:
 - (1) Identify the property owner of record according to the records of the county recorder.
 - (2) Describe the property and the nature and results of the examination and investigation conducted in accordance with *Utah Code Annotated* 10-11-2(1)(a); and
 - (3) Require the property owner, occupant, or, if applicable, another person responsible for the property to:
 - (a) Eradicate or destroy and remove any identified item examined and investigated under *Utah Code Annotated* §10-11-2(1)(a); and
 - (b) Comply with *Utah Code Annotated* 10-11-2(2)(c)(iii)(A) in a time period designated by the municipal inspector but no less than 10 days after the day on which notice is delivered in person or post-marked.
 - (4) For a notice of injurious and noxious weeds described in *Utah Code Annotated* §10-11-2(2)(a), the enforcement official is not required to make more than one (1) notice for each annual season of weed growth for weeds growing on a property.
 - (5) The municipal inspector shall serve the notice required under *Utah Code Annotated* §10-11-2(2)(a)(i) under penalty of perjury.
- iv. Notice should indicate a statement informing the party of their right to appeal and any civil fines or criminal penalties that may be imposed.
- v. Notice may state alternative remedies as appropriate.
- vi. Proof of service may be required for cost recovery from the county treasurer, any court, or otherwise.
- e. Eradicate and remove objects in violation of this chapter, impose fines, initiate suit, or seek other remedies allowed by law, and/or assess costs in accordance with *Utah Code Annotated* §§10-11-3 and 10-11-4.

8.16.070. Appeal.

The owner(s) or occupant(s) who receives a notice under this chapter may file a written appeal with the city recorder within ten (10) days from being serviced by mail or other wise, or within ten (10) day of any written final decision or fine of an enforcement official. All appeals are held before the appeal authority and governed in accordance with the procedure set forth in the municipal code. Failure to make timely appeal forfeits rights associated with the same and serves as cause for dismissal of any adverse action against the city by an aggrieved party or any party with standing.

8.16.080. Eradication and removal by municipality.

If the owner(s) or occupant(s) of the property described in the written notice given in accordance with this Chapter, including any decision from an appeal related to the same, fail or neglect to conform to the requirements relating to the eradication and removal of any objects determined to be in violation of this chapter, the city manager, or his designee, may employ all necessary assistance to cause such materials or conditions to be eradicated and removed from the property at the initial expense of the municipality.

8.16.090. Statement of expenses and demand for payment.

Upon completion of the eradication and removal, the enforcement official, or his designee, shall cause to be prepared an itemized statement of expenses incurred by the municipality for the eradication and removal of the nuisance in violation of this chapter, along with a demand for payment of the same to be made within thirty (30) days from the date of mailing. Said a copy of statement and demand shall be mailed (certified mail if required by state law) to the owner(s) or occupant(s) of the property described in the written notice.

8.16.100. Cost recovery.

In the event that the owner(s) or occupant(s) of the property described in the written demand for payment fail to make payment timely or as set forth in the demanded, the enforcement official, or his designee, may seek cost recovery at set forth in *Utah Code Annotated* §10-11-1, et seq, including referral to the county treasurer to be included in tax notice as provided by law.

8.16.110. Suit and judgement for expenses.

In the event that the collection of expenses for violations of this chapter, and eradication and removal of the same, are pursued in court, the municipality shall be entitled to sue for all expenses related to the violation including administration, eradication, removal, attorney's fees, court costs, and interest on the same. Judgment shall be executed in the manner provided by law.

8.16.120. Assistance of sheriff.

The enforcement official, or his designee, may request assistance from the sheriff in any abatement or enforcement action under this chapter.

8.16.130. Non-exclusive remedy.

Any enforcement, action, or penalty under this chapter shall not be construed to exclude the city from seeking any other remedy provided by law or the municipal code.

8.16.140. Enforcement and penalty.

A owner, person, firm, corporation, occupant, tenant, or other party responsible for a nuisance or nuisance condition under this chapter is subject to the following:

1. Initial. On-sight of any nuisance violation under this chapter, the enforcement official may issue a written on-sight \$10 fine to be paid to the city within fourteen (14) days.
2. Civil fines. Civil fines may be imposed for nuisance violations of this chapter in addition to any abatement or removal costs. Compounding civil fines accrue as follows:
 - a. \$25 per day a violation or nuisance continues uncorrected or unabated after the ten (10) day notice period expires for first thirty (30) days after the notice period expires.
 - b. \$100 for the next thirty (30) days a violation continues.
 - c. \$500 for the next thirty (30) days a violation continues.
 - d. \$1000 per day after that where a violation continues.
3. Criminal. Any person who allows a nuisance to continue after receiving notice under this chapter is guilty of a class B misdemeanor and subject to a fine in the amount of \$750.00 and/or six (6) months in jail.
4. Alternative remedies. The following alternative remedies apply:
 - a. Corrective action plan. The enforcement official, at his discretion, may enter a written agreement with the owner or occupant for a corrective action plan to remedy the nuisance violation and provide a plan and time frame for the same.
 - b. Court imposed. In addition to other remedies provided by law, the court may also assign the responsible party or owner, occupant or person having a interest in or control over the property to probation or to an alternative program to designed to aid the owner or occupant deal with mental or psychological issues that resulted in the nuisance condition. This alternative remedy is specifically designed for hoarders.

Section 3: Severability. If a court of competent jurisdiction determines that any part of this ordinance is unconstitutional or invalid, then such portion of the ordinance, or specific application of the ordinance, shall be severed from the remainder, which remainder shall continue in full force and effect.

Section 5: Effective date. This ordinance take effect immediately after approval and posting.

PASSED AND APPROVED by the City Council this ___ day of _____, 20___.

MARK C. ALLEN, Mayor,
City of Washington Terrace

ATTEST:

WTC Ord. 18-04

AMY RODRIGUEZ, City Recorder

RECORDED this ____ day of _____, 2018.

PUBLISHED OR POSTED this ____ day of _____, 2018.

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the municipal recorder of Washington Terrace City, hereby certify that foregoing Ordinance was duly passed and published, or posted at 1) _____ 2) _____ and 3) _____ on the above referenced dates.

AMY RODRIGUEZ, City Recorder