Town of Deweyville Ordinance #2020-06

Town of Deweyville Ordinance on the Regulation and Abatement of Nuisances

WHEREAS, Utah Code Ann. § 10-11-1 authorizes a municipality to designate and regulate the abatement of the growth and spread of noxious weeds; garbage and refuse; a public nuisance; and

WHEREAS, Utah Code Ann. § 10-11-1 allows a municipality appoint an inspector for the purposes of carrying out and enforcing the abatement of nuisance within the Town of Deweyville; and

WHEREAS, the Town of Deweyville has identified and recognizes a need for a comprehensive approach to the regulation and abatement of nuisances within the town of Deweyville; and

WHEREAS, it is expedient for the health, safety and welfare of the citizens of the Town of Deweyville to establish a means whereby the Town of Deweyville may regulate, abate or remove or cause the removal of garbage, refuse or unsightly or deleterious objects or structures in accordance with Utah Code Ann. § 10-11-1 and the Town of Deweyville's general power to regulate and abate nuisance.

THEREFORE, the Town of Deweyville hereby enacts Ordinance #2020-03 which will repeal and supersede ordinance #2008-04 to designate and regulate the abatement of injurious and noxious weeds, garbage, refuse and any unsightly or deleterious objects or structures and for the appointment a municipal inspector for the purpose of carrying out the provisions of this Ordinance.

Section 1: DEFINITIONS

Abate: To repair, replace, remove, destroy, correct, or otherwise remedy a condition which constitutes a nuisance.

Emergency: A situation which, in the opinion of the Municipal Inspector or applicable City Official, or Fire Chief, requires immediate action to prevent or eliminate an immediate threat to the health or safety or a person or property.

Municipal Inspector: Any Municipal Inspector hired by the city or appointed by the city to enforce city ordinances.

Responsible Person(s): The owner(s), lessor(s), lessee(s), landlord(s), tenant(s), or other person(s) entitled to control, use, and/or occupy property upon which a nuisance is found; and any person, whether owner, agent or occupant, who creates, aids in creating, or contributes to a

nuisance or who supports, continues or retains a nuisance. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then all persons contributing to such nuisance shall be deemed Responsible Person(s).

Section 2: ENUMERATION OF A NUISANCE

The following when they exist within the limits of the Town of Deweyville, are specifically declared to be public nuisances:

A. Nuisances as Defined by State Code. Nuisances as defined within Utah State Code Ann. § 78B-6-1107, 76-10-801 through 76-10-803, or as amended, and all other sections meeting the definition of nuisance.

B. Fire and Health Hazard. A fire or other health hazard as determined by the Fire Chief, Fire Marshal, Sheriff, or by the State Division of Health.

C. Improper Accumulation of Storage, Junk, or Other Debris. This includes any condition of use of premises or of building exteriors which are deleterious or injurious or noxious or unsightly which include but is not limited to keeping, accumulating, storing or depositing on, or scattering over the premises any of the following: lumber; metal, steel, junk, trash, debris, salvage materials, abandoned, discarded, or unused furniture; stoves, sinks, toilets, cabinets, other fixtures, equipment or other items deemed to be deleterious, injurious, or noxious so as to be visible from a public street or adjoining property, or which is likely to harbor rats, vermin, or other pests. However, nothing herein shall preclude the placement of stacked firewood for personal non-commercial use on the premises.

E. 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.

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

G. Dust. Any premises or property from which dust escapes due to human disturbance of the landscape such as removal of or lack of landscaping, non-maintenance, manufacturing or other business activity, construction activity, or other cause.

H. Construction Equipment or Business Inventory. Construction equipment or machinery or business inventory of any type or description parked or stored on property, without a business license specifically regulating the parking or storage of such equipment, machinery, or inventory, when it is readily visible from a public street or

adjoining property, 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. This section shall not apply to the keeping or storage of equipment, machinery, implements, or tools normally kept for the maintenance of property.

I. Improper Maintenance. Maintenance of buildings, structures, walls, signs, fences, gates, hedges or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair including, but not limited to:

1. Any building or structure which is unfit for human habitation or which is an unreasonable hazard to the health of people residing in the vicinity thereof, and which is not reasonably secured against entry; or

2. Any building or structure that presents an unreasonable fire hazard in the vicinity where it is located.

3. Any building, structure or condition that violates any building, electrical, plumbing, fire, housing or other code adopted by the Town of Deweyville.

This section shall not be construed to require the removal of buildings which have a legitimate and demonstrable historic significance to the community; however, such buildings shall be maintained in a condition that does not create a health or safety hazard to persons working or residing in the vicinity, or to the general public.

J. Slaughterhouse. Permitting any slaughterhouse, market, meat shop, stable, feed yard, or other place or building wherein animals are slaughtered, kept, fed, or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or a state or condition in which flies or rodents breed.

K. Other Conditions. Anything which is injurious to the health or morals or which is indecent or offensive to the senses or whatever is dangerous to human life or health or whatever renders soil, air, water or food impure or unwholesome or whatever is an obstruction to the free use of property so as to interfere with the enjoyment of life or property is a nuisance.

Section 3: RESPONSIBILITY FOR NUISANCES

Every Responsible Person(s) is responsible for abating any nuisances found on the Responsible Person's property pursuant to this ordinance, and every Responsible Person(s) is liable, both civilly and criminally, for any and all costs, fees, damages or penalties associated with such nuisance. Every successive owner or tenant of a property or premises who fails to

abate a continuing nuisance upon or in the use of such property or premises caused by a former owner or tenant is responsible therefore in the same manner as the one who first created it.

Section 4: VOLUNTARY NUISANCE ABATEMENT AND ADMINISTRATION

A. Procedure. If the Municipal Inspector finds that a nuisance exists, they shall make reasonable attempts to have the Responsible Person(s) abate the nuisance through voluntary compliance and correction. Such attempts should include and not be limited to: contacting the Responsible Person(s), where possible, and explaining the nuisance. However, nothing in this section shall be interpreted to prohibit the Town of Deweyville from commencing prosecution. Therefore, the Town of Deweyville may prosecute violators of City ordinances or state laws without first having to comply with the provisions of this ordinance, even though the activity or conduct prosecuted may also constitute a nuisance under this ordinance.

Section 5: FAILURE TO COMPLY

A. Enforcement. If the Responsible Person(s) fails to correct or abate the nuisance, the Municipal Inspector may abate the nuisance using one or more of the procedures set forth in this ordinance, state law, or common law.

B. Criminal Actions. Criminal actions may be initiated by criminal citation by the Municipal Inspector, or by long form criminal information. Any Responsible Person(s) who maintain or assist in maintaining a nuisance is guilty of a Class C Misdemeanor.

1. Any person who knowingly obstructs, impedes or interferes with the City, its agents, the Municipal Inspector or with the Responsible Person(s), in the performance of the duties imposed by this ordinance is guilty of a Class B Misdemeanor.

C. Civil Actions. Either the City or any private person directly affected by a nuisance may bring a civil action as allowed by law 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 Town of Deweyville shall also be entitled to its costs and expenses in maintaining the suit including its reasonable attorney's fees.

D. Lien for Costs. If a Responsible Person(s) fails to pay any fines or costs related to nuisance abatement when due, the City may record a lien on the property or premises of the full amount of the unpaid fines and costs.

E. Non-Exclusive Remedies. The Town of Deweyville 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 existence.

Section 6: SEVERABILITY

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

Section 7: REPEALER

City Ordinance #2008-04 is hereby repealed and superseded by the enactment of this ordinance.

Section 8: EFFECTIVE DATE

This Ordinance takes effect immediately upon approval and posting.

AD# 12716AD#

NOTICE OF PUBLIC HEARING

Notice is hereby given that Deweyville Town Corporation will hold a public hearing on June 11, 2020 at 7:00 PM in the Deweyville Town Hall at 108701 N Hwy 38, Deweyville, Utah 84309 for the following items:

· Discuss and adopt the Budget (General Fund, Capital Fund, and Enterprise Fund) for the period commencing July 1, 2020 and ending June 30, 2021. The proposed budget will be on file for public inspection at the Deweyville Town Office.

· Discuss and review changes to the Deweyville Nuisance Ordinance #2008-03.

Published June 3 & 10, 2020 Ref. No. 12716

NUISANCE ORDINANCE #2020-06

TOWN OF DEWEYVILLE ORDINANCE ON THE REGULATION AND ABATEMENT OF NUISANCE

City Ordinance #2008-04 is hereby repealed and superseded by the enactment of Nuisance Ordinance #2020-06.

APPROVED AND ADOPTED, this 11th day of June 2020.

Lesley Kendrick, Mayor

ATTEST:

Nancy Page, Clerk/Recorder