

TOQUERVILLE CITY

NUISANCE ORDINANCE #03-09-06

WHEREAS, The Toquerville City Council has identified a need in the City for a comprehensive approach to address the condition of nuisance offenses in the City; and

WHEREAS, The following conditions designated under Section A. of this Ordinance, consisting of unlawful acts or omitting to perform and maintain, as cause for the offense as determined by this Ordinance;

THEREFORE, BE IT HEREBY ORDAINED that the City Council has voted to adopt the following Ordinance as provided in the Toquerville City Books as Ordinance number 03-09-06, to be known as the Toquerville City Nuisance Ordinance.

DEFINITIONS:

- A. A nuisance is an offense against the order and economy of the city and consists in unlawfully doing an act or omitting to perform and maintain, which act or omission either:
1. Annoys, injures or endangers the comfort, repose, health or safety of three (3) or more persons; or
 2. Offends public decency; or
 3. Unlawfully interferes with, obstructs or renders dangerous for passage any stream, public street, park, square or highway; or
 4. In any way renders three (3) or more persons insecure in life or the use of property.
- B. An act which affects three (3) or more persons in any of the ways specified in this section is still a nuisance regardless of the extent of annoyance or whether damage inflicted on individuals is unequal.
- C. If any condition designated herein as an offense against the order and economy of the city is determined by a fire chief to constitute a fire or hazard, or is determined by a chief of police to constitute a safety hazard, or is by the State Division of Health to be a health hazard, or is determined by a City Ordinance Official or Code Enforcer of unlawful Nuisance Ordination violations, there shall be a rebuttal presumption that such act or omission is within the designations of subsection A of this section.

MAINTENANCE OF NUISANCE PROHIBITED:

It shall be unlawful for any person to maintain or permit to remain or be maintained upon his premises any nuisance as in this chapter designated.

ENUMERATION OF NUISANCES:

- A. Dead Animals: It is the responsibility of the owner or other person responsible for any domestic animal which dies to bury or otherwise dispose of it within two (2) days after death. If the person shall fail to do so within the time herein provided, such omission shall be deemed a nuisance. If the owner or other person responsible for such an animal cannot be found, it is the duty of an animal control officer to bury the dead animal. In such event, the City shall be entitled to reimbursement of said burial from the owner of the dead animal.
- B. Refuse In Public Streets: It shall be unlawful for any person intentionally or carelessly to throw, cast, put into, drop or leave in any street, gutter, sidewalk or public place any stones, gravel, sand, dirt, debris, garbage, leaves, lawn or tree clippings, paper material, handbills, ashes, rubbish of any kind, or any other item, material or substance which shall either constitute a nuisance, as designated herein, shall interfere with the free and unobstructed use and movement of either traffic or water on a public street or right of way, in the opinion of a Police Officer or City Enforcement Officer, or shall constitute a fire hazard in the opinion of a fire chief.
- C. Offensive Condition Or Refuse On Private Property: Whenever there shall be found uncovered, stored openly or un-contained on or about any lot or parcel of property, whether vacant or occupied, any garbage, refuse, junk, business related equipment, materials, supplies and merchandise, effluvia, kitchen waste, trash, inoperable motor vehicles, broken machinery, rank and noxious weeds, or other unsightly or deleterious objects or conditions that are offensive to the order and economy of the city, as designated in this chapter, they shall be deemed a nuisance.
- D. Slaughterhouses: If the owner of any State regulated slaughterhouse or other place wherein any swine, cattle, sheep or other animals are slaughtered, shall permit the same to remain unclean to the unnecessary annoyance of the citizens of the city, or in any state or condition detrimental to the public health, the same shall be deemed a nuisance and enforceable by the City Ordinance Abatement Procedures.
- E. Water Pollution: Any pollution of the waters of this city, as defined in Utah Code Annotated section 19-5-102, shall constitute a nuisance within the meaning of this chapter.
- F. Breeding Places for Flies: It shall be unlawful for any person, upon notification from the City, to maintain a condition within the city which unreasonably promotes through lack of care and cleanliness, or encourages the breeding of flies, mosquitoes, rats or other form of animal life which may be disease carriers or which otherwise constitutes a nuisance to adjoining property owners, as designated in this chapter. Reference City Animal Ordinance 02-09-06, Section 13.203, Care and Keeping of Animals. The City encourages use of fly bait and traps for aid and containment of flies.

- G. Barking Dogs: It shall be unlawful for any person to keep any dog which by barking, howling or yelping, or by any other action, constitutes a nuisance within the designation of section this chapter.
- H. Noises: It shall be unlawful for any person to make, continue, or cause to be made or continued, any loud, unnecessary or unusual noise, or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city. The following acts when prolonged, unusual and unnatural in their time, place and use, may be a detriment to the public health, comfort, convenience, safety, welfare and prosperity: horns, radios, stereos, loudspeakers, yelling or shouting, exhausts, motor vehicles, drums or musical instruments, construction equipment, commercial vehicles, large diesel vehicles with refrigeration units, airplanes or blasting.
- I. Garbage, Improper Placement: Placement of garbage at curbside or in other than a protected area shall be considered a nuisance within the meaning of this chapter, except during the period of twenty four (24) hours preceding scheduled collection of such garbage. On garbage collection days, garbage and waste placed at curbside must be contained within bags, cans or other receptacles, unless the trash material is of such size and nature that it would not be practical to fully enclose it.

RIGHT OF DEPARTMENT DUTY:

It shall be the duty of a chief of police, a fire chief, an animal control officer, and any other City Officer charged or entrusted with the duty of enforcing those laws intended to protect the public health, safety and well-being. The City Department shall have authority within those areas, by themselves or by their agents, in the daytime, to enter upon any lot or other premises, or any building or structure, in order to inspect and examine the same for the purpose of determining whether or not any conditions or nuisances exist which are prohibited by this chapter.

ABATEMENT PROCEDURES:

- A. Notice To Abate: The city may notify in writing the owner or occupant of any property within the city upon which a nuisance may be found, or it may notify such other person who causes or permits a nuisance to exist, advising that there is a nuisance, describing the same, and requiring the nuisance to be abated in a manner described in the notification within ten (10) days after receipt thereof, unless some other time is specified therein. However, failure to give notice as provided herein shall not relieve the author of a nuisance from the obligation to abate such nuisance, or from the penalty provided herein for the maintenance of that nuisance.
- B. Refusal To Abate: Upon the failure, neglect or refusal of any person to abate a nuisance after notice in writing has been given, the city is hereby authorized and empowered to order the disposal of the nuisance or to pay for the disposing of the same. When the city effects removal of a nuisance or pays for such removal, the actual cost thereof, plus accrued interest at the rate of ten percent (10%) per annum from the date of the completion of the work, shall be charged to the owner of the property on which the

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(Abatement – B. Cont.) nuisance existed. The city may cause a sworn statement to be recorded in the office of the county recorder showing the cost and expense incurred for the work, the date the work was done, and the location of the property on which the work was done. Such recordation of sworn statement shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest, plus collection costs, if any, until final payment has been made. A sworn statement recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law.


PENALTY:

Every nuisance shall be removed or abated as herein provided, and unless otherwise provided, any person who shall be the author or keeper of a nuisance or otherwise guilty of a violation of any of the provisions of this chapter shall be guilty of a class B misdemeanor and, upon conviction, subject to penalty.

TOQUERVILLE CITY ORDINANCE NUMBER 03-09-06 WAS ADOPTED BY THE CITY COUNCIL MEMBERS ON THE FOLLOWING VOTE:

Wayne Olsen	Aye <input checked="" type="checkbox"/>	Nae <input type="checkbox"/>
Randy Scott	Aye <input checked="" type="checkbox"/>	Nae <input type="checkbox"/>
Lynn Olds	Aye <input checked="" type="checkbox"/>	Nae <input type="checkbox"/>
Lynn Chamberlain	Aye <input checked="" type="checkbox"/>	Nae <input type="checkbox"/>
Darrin LeFevre (Excused)	Aye <input type="checkbox"/>	Nae <input type="checkbox"/>

DATED THIS 9th DAY OF MARCH, 2006

By: 
Ken Powell, Toquerville City Mayor

Attest: 
Carol Pogue, City Recorder

