

DAGGETT COUNTY ORDINANCE # 96-12

NUISANCES

AN ORDINANCE DEFINING AND PROVIDING FOR ABATEMENT OF CERTAIN NUISANCES IN DAGGETT COUNTY, UTAH

WHEREAS the Daggett County Commission is authorized to adopt ordinances to promote the general health, welfare, and safety of the residents of Daggett County, and;

WHEREAS nuisances as defined herein detract from the quality of life, injure the aesthetic beauty of the county, and threaten the health, safety, and welfare of the residents of Daggett County;

NOW THEREFORE:

The County Legislative Body of the County of Daggett, State of Utah ordains as follows:

Nuisances as defined in this ordinance are prohibited and shall be abated.

Section I. DEFINITION

For the purpose of this chapter the word nuisance is defined as any person doing an unlawful act or omitting to perform a duty, or suffering or permitting a condition or thing to be or exist, which act, omission, condition, or thing either:

- (a) injures or endangers the comfort, repose, health or safety of others; or
- (b) offends decency; or
- (c) is offensive to the senses; or
- (d) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or
- (e) in any way renders other persons insecure in life or the use of property.

Section II. Illustrative enumeration

The maintaining, using, placing, depositing, leaving, or permitting to be or remain on any public or private property of any of the following items, conditions, or actions are hereby declared to be and constitute a nuisance; provided, however, that this enumeration shall not be deemed or construed to be conclusive, limiting, or restrictive:

- (a) Noxious weeds and other rank vegetation.

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(b) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber, or other things.

(c) 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, or which presents an unreasonable fire hazard in the vicinity where it is located.

(d) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.

(e) All loud unnecessary or unauthorized noises or annoying vibrations.

(f) All disagreeable or obnoxious odors and stenches, as well as the condition, substances or other causes which give rise to the emission or generation of such odors and stenches, other than reasonable and natural odors arising from agriculture or animal husbandry, provided that said practices are generally accepted and reasonable within the industry and reasonable efforts are made to minimize the escape of odors from the owner's premises.

(g) The carcasses of animals or fowl not disposed of within a reasonable time after death.

(h) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.

(i) Any building, structure or other place or location where any activity which is in violation of local, state, or federal law is conducted, performed, or maintained.

(j) Dense smoke, noxious fumes, gas or cinders, in unreasonable quantities.

(k) Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of the Daggett County Planning and Zoning Ordinance, the Daggett County Subdivision Ordinance, the applicable Daggett County Building Codes, or the Code of Rules and Regulations of the Health Department of the State of Utah, or any use of land, building, or premises in violation of said ordinances or statutes.

### Section III. Prohibited.

It shall be unlawful for any person to cause, permit, maintain, or allow the creation or maintenance of a nuisance.

#### Section IV. Notice to abate.

Whenever a nuisance is found to exist within the county, the County Clerk or some other duly designated officer of the county shall give written notice to the owner and occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance.

#### Section V. Contents of a notice.

The notice to abate a nuisance issued under the provisions of this ordinance shall contain:

(a) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances.

(b) The location of the nuisance, if the same is stationary.

(c) A description of what constitutes the nuisance.

(d) A statement of acts necessary to abate the nuisance.

(e) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the county will abate such nuisance and assess the cost thereof against such person.

#### Section VI. Service of Notice.

Notice shall be sufficiently given when personally served or when mailed by certified mail, return receipt requested, to the address shown for the property owner on the current tax roles of Daggett County.

#### Section VII. Procedure.

The notice shall direct that the nuisance must be abated within not more than 60 days after date of mailing of notice except in cases where there is an immediate threat to the public health, safety or welfare. In that event, the County Commission may direct a shorter time for abatement of the nuisance upon finding that a delay would endanger the public health, safety, or welfare.

#### Section VIII. Hearings.

The person receiving notice to abate shall have 30 days in which to file a written request with the County Clerk for a hearing. The hearing shall be scheduled within 30 days of receipt of the notice for hearing by the County Clerk or such longer period as shall be mutually agreed upon between the County Commission and the party.

The County Commission shall determine if a nuisance exists as defined by ordinance. The procedures and burden of proof shall be that generally applicable to administrative hearings.

If the person requesting the hearing fails to appear or present evidence, the Commission may enter its ruling by default.

At the hearing, if the Commission determines that a nuisance as defined by this ordinance does exist, the Commission shall order an abatement of the nuisance and establish a time period for the accomplishment of the abatement.

#### Section IX. Abatement by county.

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this ordinance to abate the same, the County Clerk or other duly designated officer of the county shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof.

#### Section X. Costs declared lien.

Any and all costs incurred by the county in the abatement of a nuisance under the provisions of this ordinance shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided for by law. Such lien shall be notice to all persons from the time of its recording, and shall bear interest at the legal rate thereafter until satisfied. The County may also collect the expenses of abatement in the same manner established for the collection of judgments.

#### Section XI. Collection of lawsuit.

In the event collection of expenses of abatement are pursued through the court, the county shall sue for and receive judgment for all of said expenses of fees, interest, and court costs and shall execute upon such judgment in the manner provided by law.

#### Section XII. Criminal actions.

It is unlawful and a misdemeanor violation for any person to maintain or assist in maintaining a nuisance after receiving a notice to abate the same. Notice to abate a nuisance shall be given as a prerequisite to prosecution by delivering a copy of the notice to abate to the offender by personal service in the manner prescribed by the Utah Rules of Civil Procedure or by mailing a copy of the notice to abate to the offending party at the address shown on the property tax rolls of Daggett County, by certified U.S. Mail (return receipt requested). The notice to abate should reasonably describe the subject nuisance and the steps necessary to abate the same and shall require abatement to be completed within the time period set forth herein.

Failure to abate the nuisance shall constitute a Class B Misdemeanor. Each day the nuisance remains unabated shall constitute a new and separate offense.

Passed by the County Legislative Body, Daggett County, State of Utah this 4th day of December, 1996.

Attest:

*Debbie McKee*  
COUNTY CLERK

*Sharon P. Walters*  
DAGGETT COUNTY COMMISSION  
CHAIRMAN

Commissioner Briggs

X  
YES

NO

Commissioner Reed

X  
YES

NO

Commissioner Walters

X  
YES

NO

12-31-96  
Date of First Posting