

## ORDINANCE NO. 2009-03

### AN ORDINANCE ADOPTING CHAPTER 2 OF THE CITY OF WENDOVER, UTAH ADMINISTRATIVE CODE ENFORCEMENT ORDINANCE, ENTITLED "MAINTENANCE AND CLEANING OF REAL PROPERTY AND STRUCTURES, WEED CONTROL AND REMOVAL OF GRAFFITI"

#### RECITALS

A. The City has previously enacted an Administrative Code Enforcement Ordinance, City Ordinance No. 2007-02; and

B. The City has determined it is appropriate to adopt additional requirements and regulations under its Administrative Code Enforcement Ordinance, relating specifically to maintenance and cleaning of real property and structures, weed control and removal of graffiti;

C. The City Council had deliberated on the adoption of these new rules and regulations; and

D. The City Council finds that the adoption of these new requirements, rules and regulations will enhance health, safety, welfare and appearance of the community.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF WENDOVER, COUNCIL OF THE CITY OF WENDOVER, TOOELE COUNTY, UTAH THAT:**

1. Adoption of Ordinance. Attached hereto as Exhibit "A" is an Ordinance entitled: "CHAPTER 2 – MAINTENANCE AND CLEANING OF REAL PROPERTY AND STRUCTURES, WEED CONTROL AND REMOVAL OF GRAFFITI." Said Ordinance, is hereby approved by the City Council and adopted by this reference.

2. Codification. The ordinance adopted herein shall be made part of, incorporated within and codified as Chapter 2 of the City's Administrative Code Enforcement Ordinance.

3. Enforcement Forms. The City may adopt and use such forms for the enforcement of its Administrative Code Ordinance as are deemed appropriate and approved by Resolution of the City council.

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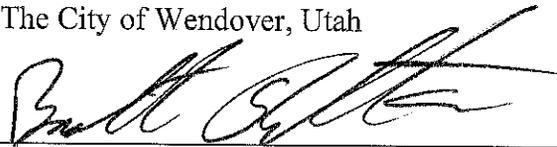
4. Repeal. Any ordinance, rule or regulation of the City in conflict with the provisions hereof is repealed.

5. Severability. The provisions of the ordinance adopted herein are severable. If any provision thereof is found unenforceable, for any reason, the remainder shall remain in full force and effect.

6. Effective Date. This Ordinance shall become effective 20 days after publication or posting, or 30 days after final passage by the Governing Body, whichever is sooner.

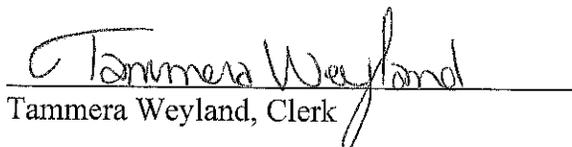
PASSED and ADOPTED this 4 day of March, 2009.

The City of Wendover, Utah



By: Brett Shelton  
Its: Mayor

ATTEST:



Tammera Weyland, Clerk

Seal:

# **EXHIBIT "A"**

## **CHAPTER 2**

### **CITY OF WENDOVER, UTAH ADMINISTRATIVE CODE ENFORCEMENT ORDINANCE**

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#### **MAINTENANCE AND CLEANING OF REAL PROPERTY AND STRUCTURES, WEED CONTROL AND REMOVAL OF GRAFFITI**

# CHAPTER 2

## MAINTENANCE AND CLEANING OF REAL PROPERTY AND STRUCTURES, WEED CONTROL AND REMOVAL OF GRAFFITI

Sections:

- 2-101 Definitions.
- 2-102 Purpose.
- 2-103 Jurisdiction
- 2-104 Scope – Violation a Misdemeanor
- 2-105 Real Property Maintenance & Maintenance Of Structures
- 2-106 Standards for Weed Control
- 2-107 Notice
- 2-108 Enforcement
- 2-109 Failure to Properly Maintain Property or Structures -- Remedies
- 2-110 Itemized Statement of Costs
- 2-111 Alternate Methods of Compelling Payment
- 2-112 Collection by Lawsuit
- 2-113 Collection Through Taxes
- 2-114 Examination and Investigation
- 2-115 Right to Appeal
- 2-116 Penalty

### 2-101 DEFINITIONS

For the purpose of these regulations, the following terms, phrases and words shall have the meaning herein expressed:

- (1) Abate means to put an end to any condition considered a violation of this Chapter.
- (2) Administrator: means the Wendover City Administrator or designee.
- (3) City: means Wendover City, Utah.
- (4) Deleterious means anything injurious to the health, safety or welfare of other persons.
- (5) Eradicate or Eradication: means the complete elimination or destruction of all ordinance violations relating to landscape, property or buildings. With respect to weeds this shall include complete destruction of weeds by chemicals, root removal or any other method approved by the City

(6) Graffiti: means the unauthorized spraying of paint or marking of ink, chalk, dye or other similar substances on public and private structures. For purposes of this ordinance, and pursuant to Section 10-12-1, et seq., Utah Code Annotated, graffiti is deleterious and unsightly.

(7) Maintain or Maintenance: means when an object, structure, or other ordinance requirement is kept in working order or generally acceptable appearance by conducting necessary or ordinary repairs from time to time to keep such object, structure or ordinance requirement in working order.

(8) Owner: Any person, who alone or jointly or severally with others:

(a) Has legal title to any premises, dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(b) Has charge, care or control of any premises, dwelling or dwelling unit, as legal equitable owner, agent of the owner, lessee, or is an executor, administrator, trustee or guardian of the estate of the owner.

(9) Person: Any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the state or its Departments, institution, bureau, agency, municipal corporation, county, city, political subdivision, or any legal entity recognized by law.

(10) Property: means any form of real property, including a habitable structure or any structure that is appurtenant thereto, object, or anything that is visible or tangible. Specifically including, but not limited to, sheds, hedges, automobile, etc.

(11) Solid Waste:

(a) Garbage, refuse, trash, rubbish, hazardous waste, dead animals, sludge, liquid or semiliquid waste, and other spent, useless, worthless or discarded materials;

(b) Materials stored or accumulated for the purpose of discarding;

(c) Materials that have served their original intended purpose; or

(d) Waste material resulting from industrial manufacturing, mining, commercial, agricultural, residential, institutional, recreational or community activities.

(e) Materials resulting from unmaintained landscaping or buildings whether in a residential, commercial or other zone.

(f) Except it does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under Chapter 11, Title 26, Utah Code Annotated 1953, as amended, or under the Federal Water Pollution Control Act, 33 U.S.C., Section 1251, et seq. (1.6)

(12) Structure means anything constructed or erected which requires location on or below the ground, specifically including, but not limited to, fences, wells, poles, buildings or sheds.

(13) Unsightly means offensive to the visual senses as reasonably determined by the City.

(14) Weeds:

(a) Vegetation that has become a fire hazard;

(b) Vegetation that is noxious, a nuisance or dangerous, as determined by the Administrator;

(c) Grasses, stubble, brush, tumbleweeds, clippings and cuttings that endanger the public health and safety by creating a fire hazard; insect, rodent or other vermin harborage, or other nuisance;

(d) Poison ivy; and

(e) Plants specified as weeds in the Utah Noxious Weed Act, Title 4, Chapter 187, Utah Code Annotated, and its subsequent regulations.

## 2-102 PURPOSE

It is the purpose of these regulations to provide for the cleaning of real property, securing, maintenance or removal of structures, control of weeds and maintenance, removal or eradication of unmaintained landscaping, property or structures in City, in a way that will:

(1) Prevent fire hazards;

(2) Prevent insect, rodent and other vermin harborage;

(3) Prevent induction of hazardous pollens into the air;

(4) Prevent spreading of vegetation that threatens the public health, safety or welfare;

(5) Abate the existence or condition of property, objects, structures, solid waste or weeds that threaten the public health, safety, or welfare or that create a public nuisance; or negatively affects the City's image, property values or neighborhood success.

(6) Prevent the continued existence or unsightly or deleterious objects and structures upon property resulting from lack of maintenance, repair or cleaning.

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(7) Enhance the appearance of property, increase property values and encourage neighborhood creation and maintenance within the City.

(8) Protect property values and improve the health and safety and appearance of the City by requiring that all landscaping and areas required to be landscaped be maintained in an appropriate and effective manner.

(9) Protect property values and improve the health and safety and appearance of the City by requiring that all Property to include all physical structures be maintained in an appropriate and effective manner.

(10) Enhance the appearance of property and reduce communication between criminal elements by elimination of graffiti on structures within the City.

## 2-103 JURISDICTION

All cleaning, maintenance or removal of property, weed control, nuisance abatement and graffiti removal or obliteration enumerated in this Chapter shall be subject to the direction and control of the City.

## 2-104 SCOPE – VIOLATION A MISDEMEANOR

It shall be unlawful for any person not to comply with any rule or regulation promulgated by the City, unless expressly waived by these rules and regulations. The violation of any requirement of this ordinance shall be a Class “B” misdemeanor as defined by the laws of the State of Utah

## 2-105 REAL PROPERTY MAINTENANCE & MAINTENANCE OF STRUCTURES

It shall be unlawful for any person owning or occupying real property within the City, to fail:

(1) To properly maintain real property including but not limited to lighting, non-attached structure items, retaining walls or sheds.

(2) To maintain, repair or replace fencing and to clear any weeds or other noxious plant material that is growing through around, under or up into fences.

(3) To maintain any fencing that is falling down, hazardous, being used as a retaining wall or is unsightly.

(4) To park any motorized or non-motorized vehicle, camper, trailer or boat in a location or in a manner that is in violation of the Wendover City Municipal Code.

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(5) to maintain all buildings and other structures to the minimum standards required by the International Property Maintenance Code, the Uniform Housing Code, and the Uniform Code for Abatement of Dangerous Buildings.

(6) to maintain each exterior window of a building with an intact and unbroken windowpane with an appropriate screen that shall remain in place at all times.

(7) to provide each exterior doorway with an appropriate door as required by the International Property Maintenance Code, the Uniform Housing Code, and the Uniform Code for Abatement of Dangerous Buildings.

(8) to provide and maintain weatherproofing on all exterior surfaces that protect the building such as paint, masonry, siding, stucco, roof coverings, rain gutters, garage doors, and carports as required by the International Property Maintenance Code, the Uniform Housing Code, and the Uniform Code for Abatement of Dangerous Buildings.

(9) To maintain the height of weeds on the property, including adjacent parking strip(s) alley(s) and street edge(s) as required in Section 2-106.

(10) To remove from the property and lawfully dispose of all cuttings from weeds or solid waste.

(11) To effectively secure any vacant structure.

(12) To maintain or repair any unsightly or deleterious objects or structures, as defined in this Chapter.

## 2-106 STANDARDS FOR WEED CONTROL

Weeds shall be maintained at a height of not more than six inches (15.2 cm) at all times, and the cuttings shall be promptly cleared and removed from the premises.

(1) Weeds must be eradicated by chemicals, cutting, or other acceptable method so they do not exceed six inches (15.2cm) in height.

(2) Weeds that are rototilled, disked, or removed by the root must be buried under the soil, removed from the property, or composted as allowed by law.

(3) If the City determines that the large size of the property makes the cutting of all weeds impractical, the City may issue an order limiting the required removal of weeds as described in subsection (2) to create a firebreak of not less than 25 feet in width around any structures and around the complete perimeter of the property.

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(4) Except that real property not in close proximity to buildings or not creating a serious nuisance or fire hazard may be exempted by the City from the weed control requirements.

## 2-107 NOTICE

(1) City to notify owner(s) or other(s) of violations. If the City has inspected any premises and has found and determined that the property is in violation of these regulations or has reasonable grounds to believe that there has been a violation of any part of these regulations, or has determined that graffiti exists on a structure which is visible from the street or other public or private property, he shall give notice of the violation(s) to the owner(s) or other responsible person(s) thereof.

(2) City to issue written notice of violation(s). Prior to initiating a court complaint for the violation of these rules and regulations, the City shall issue a notice pursuant to Wendover City Ordinance Number 2007-02 and shall:

- (a) Describe the property;
- (b) Give a statement of the cause for its issuance;
- (c) Set forth an outline of the remedial action that complies with the provisions of these regulations; and
- (d) Set a reasonable time for the performance of any required remedial act. However, in the case of graffiti removal or obliteration, the time shall not exceed 10 days from the date of the notice.

(3) Methods of Service. The City shall serve notice upon the owner(s) of the property or other responsible person(s) pursuant to these rules and regulations. Service shall be deemed complete if the notice is served in one of the following ways:

- (a) Served in person;
- (b) Sent by mail, postage prepaid, to the last known address of the owner(s) or other responsible person(s); or
- (c) Published in a newspaper of general circulation.

(4) One written notice sufficient for each calendar year. Only one notice need be served upon the person(s) during any calendar year directing the cutting and removal of weeds.

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## 2-108 ENFORCEMENT

(1) City to ensure compliance. It shall be the duty of the City, upon the presentation of proper credentials to make inspections of any property as is necessary to ensure compliance with these regulations.

(2) Inspection made with consent. City inspections may be made with consent of the owner(s) or other responsible person(s). If consent is not granted, a search may be made pursuant to an administrative search warrant issued by the City Council or by a court of competent jurisdiction.

(3) Owner(s) may request a factual report of inspections. If requested, the owner(s) or other responsible person(s) of any property shall receive a report setting forth all facts found that relate to his compliance status.

## 2-109 FAILURE TO PROPERLY MAINTAIN PROPERTY OR STRUCTURES -- REMEDIES

If the responsible person(s) fail to comply with this Ordinance, the City may, in addition to other legal action:

- (1) undertake or cause the required maintenance, repair, cleaning of property;
- (2) undertake the obliteration or removal of graffiti;
- (3) undertake eradication of weeds;
- (4) secure, maintain or remove any structure in violation of this ordinance; or
- (5) any other action as deemed necessary and appropriate by the City to accomplish the purposes of this Ordinance

## 2-110 ITEMIZED STATEMENT OF COSTS

The City, upon approved completion of the work, shall:

(1) Prepare an itemized statement of all costs, including administrative expenses of the work conducted under section 2-109; and

(2) Mail a copy of the itemized statement of costs to the responsible person(s) demanding payment to the City or to the City Treasurer within 20 days of the date of mailing. Notice to the owner shall also be deemed served if accomplished pursuant to Section 2-104(3).

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## 2-111 ALTERNATE METHODS OF COMPELLING PAYMENT

If the owner fails to make payment with twenty days of the date of mailing, of the amount set forth in the itemized statement of costs, payable to the City Treasurer, the City may either cause suit to be brought in an appropriate court of law or refer the matter to the City Treasurer, as provided by Section 3-112.

## 2-112 COLLECTION BY LAWSUIT

If collection of expenses is pursued through the court, the City shall file suit and receive a judgment for all expenses, together with reasonable attorney's fees, interest and court costs. The City may execute on such judgment in the manner provided by law.

## 2-113 COLLECTION THROUGH TAXES

If the City elects to refer the collection of expenses to the City Treasurer for inclusion in the tax notice of the property owner, the City shall make an itemized statement of all expenses incurred and shall deliver four copies of the statement to the city treasurer, who shall deliver three copies of said statement to the county treasurer within ten days after the completion of the work for collection by the county treasurer pursuant to state law.

## 2-114 EXAMINATION AND INVESTIGATION

The City is hereby authorized to make examination and investigations of all real property within the City, to determine whether owners of such property are complying with these rules and regulations, and to enforce their provisions. The City is authorized to obtain an administrative warrant to allow entry onto private property for the purpose of enforcement of this Chapter or carrying out its duties under this Chapter.

## 2-115 RIGHT TO APPEAL

Within 10 calendar days after the City has given a notice of violation(s) any person(s) aggrieved by the notice may request in writing a hearing before the City. The hearing shall take place within 10 calendar days after the request. A written notice of the City's final determination shall be given within 10 calendar days after adjournment of the hearing. The City may sustain, modify or reverse the action or order.

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2-116 PENALTY

(1) Any person who is found guilty of violating any of the provisions of these rules and regulations, either by failing to do those acts required herein or by doing any prohibited act, is guilty of a class "B" misdemeanor.

(2) Each day such violation is committed or permitted to continue shall constitute a separate violation.

(3) The city attorney may initiate legal action, civil or criminal, requested by the City to abate any condition that exists in violation of these rules and regulations.

(4) In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating any of these rules and regulations shall be liable for all expenses incurred by the City in removing or abating any nuisance, source of filth, cause of sickness or infection, health hazard, sanitation violation or graffiti.

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