

## ORDINANCE NO. 225

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT; PROVIDING PENALTIES; AND REPEALING ORDINANCES NO. 35, NO. 50, AND NO. 51.

The Town of Canyon City ordains as follows:

Section 1. Definitions.

Person. A natural person, firm, partnership, association or corporation.

Person in charge of property. An agent, occupant, lessee, contract purchaser or other person having possession or control of property or supervision of a construction project.

Person responsible. The person responsible for abating a nuisance includes:

- (1) The owner.
- (2) The person in charge of property, as defined in this section.
- (3) The person who caused a nuisance, as defined in this ordinance or another ordinance of the city, to come into or continue in existence.

Public place. A building, way, place or accommodation, publicly or privately owned, open and available to the general public.

Animals

Section 2. Removal of Carcasses. No person shall permit an animal carcass owned or controlled by him to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of the carcass.

(Sections 3 to 10 reserved for expansion)

Nuisances Affecting Public Health

Section 11. Nuisances Affecting Public Health. No person shall cause or permit a nuisance affecting public health on property owned or controlled by him. The following are nuisances affecting public health and may be abated as provided in this ordinance.

(1) Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with State Health Division regulations.

(2) Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the city.

(3) Stagnant water that affords a breeding place for mosquitoes and other insect pests.

(4) Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.

(5) Decayed or unwholesome food offered for human consumption.

(6) Premises that are in such a state or condition as to cause an offensive odor or that are in an unsanitary condition.

(7) Drainage of liquid wastes from private premises.

(8) Cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor.

(9) Mastics, oil, grease or petroleum products allowed to be introduced into the sewer system by a user connected to the sewer system.

(Sections 12 to 14 reserved for expansion)

#### Nuisances Affecting Public Safety

Section 15. Creating a Hazard. No person shall create a hazard by:

(1) Maintaining or leaving, in a place accessible to children, a container with a compartment of more than one and one-half cubic feet capacity and a door or lid that locks or fastens automatically when closed and that cannot be easily opened from the inside.

(2) Being the owner or otherwise having possession of property on which there is a well, cistern, cesspool, excavation, or other hole of a depth of 4 feet or more, and a top width of 12 inches or more and failing to cover or fence it with a suitable protective construction.

Section 16. Attractive Nuisances.

(1) No owner or person in charge of property shall permit on the property:

(a) Unguarded machinery, equipment or other devices that are attractive, dangerous and accessible to children.

(b) Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.

(2) This section does not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

Section 17. Defective Sidewalks; Snow and Ice.

(1) No owner or person in charge of property, improved or unimproved, abutting on a public sidewalk, shall permit:

(a) Snow to remain on the sidewalk for a period longer than the first two hours of daylight after the snow has fallen.

(b) Ice to remain on the sidewalk for more than two hours of daylight after the ice has formed, unless the ice is covered with sand, ashes or other suitable material to assure safe travel.

(2) No owner of property, improved or unimproved, abutting on a public sidewalk, shall permit the sidewalk to deteriorate to such a condition that, because of cracks, chipping, weeds, settling, covering by dirt, or other similar occurrences, the sidewalk becomes a hazard to persons using it.

(3) The city shall not be liable to any person for loss or injury to a person or property suffered or sustained by reason of any accident on sidewalks caused by ice, snow, encumbrances, obstructions, cracks, chipping, weeds, settling, holes covered by dirt or other similar conditions. Abutting property owners shall maintain sidewalks free from such conditions and are liable for any and all injuries to persons or property arising as a result of their failure to so maintain the sidewalks.

Section 18. Noxious Vegetation.

(1) No owner or person in charge of property shall allow noxious vegetation to be on the property or in the right of way of a public thoroughfare abutting on the property. An owner or person in charge of property shall cut down or destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly, from becoming a fire hazard, or, in the case of weeds or other noxious vegetation, from maturing or from going to seed.

(2) The term "noxious vegetation" does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard or a fire or traffic hazard within the meaning of subsection (3).

(3) The term "noxious vegetation" does include:

(a) Weeds more than 10 inches high.

(b) Grass more than 10 inches high and not within the exception stated in subsection (2) of this section.

(c) Bushes that extend into a public thoroughfare or across a property line.

(d) Vegetation that is:

(i) A health hazard.

(ii) A fire hazard because it is near other combustibles.

(iii) A traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.

Section 19. Scattering Rubbish. No person shall deposit, on public or private property, rubbish, trash, debris, refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person, animal or vehicle traveling on a public way.

Section 20. Trees.

(1) No owner or person in charge of property that abuts on a street or public sidewalk shall permit trees or bushes on the property to interfere with street or sidewalk traffic. An owner or person in charge of property that abuts on a street or public sidewalk shall keep all trees and bushes on the premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than 10 feet above the roadway.

(2) No owner or person in charge of property shall allow a dead or decaying tree to stand if it is a hazard to the public or to persons or property on or near the property.

Section 21. Fences.

(1) No owner or person in charge of property shall construct or maintain a barbed-wire fence, or permit barbed

wire to remain as part of a fence, along a sidewalk or public way; except such wire may be placed above the top of other fencing not less than six feet.

(2) No owner or person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person.

Section 22. Surface Waters, Drainage.

(1) No owner or person in charge of a building or structure shall permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk or to flow across the sidewalk.

(2) The owner or person in charge of property shall install, and maintain in a proper state of repair, adequate drainpipes or a drainage system, so that overflow water accumulating on the roof or about the building is not carried across or on the sidewalk.

(Sections 23 to 30 reserved for expansion)

Nuisances Affecting Public Peace

Section 31. Radio and Television Interference.

(1) No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.

(2) This section does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.

Section 32. Junk.

(1) No person shall keep junk outdoors on a street, lot, or premises or in a building that is not wholly or entirely enclosed except for doors used for ingress and egress.

(2) The term "junk," as used in this section, includes all old motor vehicles, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances or appliance parts, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material.

(3) This section does not apply to junk kept in a licensed junk yard or automobile wrecking house.

Section 33. Notices and Advertisements.

(1) No person shall affix or cause to be affixed any placard, bill, advertisement or poster upon real or personal property, public or private without first securing permission from the owner or person in control of the property. This section shall not be construed to amend or repeal any regulation adopted by the city regulating the use or location of signs and advertising.

(2) No unauthorized person shall remove any notice posted in accordance with law.

(Sections 34 to 44 reserved for expansion)

Unenumerated Nuisances

Section 45. Unenumerated Nuisances.

(1) The acts, conditions or objects specifically enumerated and defined in sections 2 to 44 are declared public nuisances and may be abated by the procedures set forth in sections 46 to 51.

(2) In addition to the nuisances specifically enumerated in this ordinance, every other thing, substance or act that is determined by the council to be injurious or detrimental to the public health, safety or welfare of the city is declared a nuisance and may be abated as provided in this ordinance.

Abatement Procedure

Section 46. Notice.

(1) On determination by the council that a nuisance exists, the council shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance.

(2) At the time of posting, the city recorder shall cause a copy of the notice to be forwarded by registered or certified mail to the person responsible at the person's last known address.

(3) The notice to abate shall contain:

(a) A description of the real property, by street address or otherwise, on which the nuisance exists.

(b) A direction to abate the nuisance within 10 days from the date of the notice.

(c) A description of the nuisance.

(d) A statement that, unless the nuisance is removed, the city may abate the nuisance and the cost of abatement will be charged to the person responsible and may be made a lien against the property.

(e) A statement that failure to abate a nuisance may warrant imposition of a fine.

(f) A statement that the person responsible may protest the order to abate by giving notice to the city recorder within 10 days from the date of the notice.

(4) If the person responsible is not the owner, an additional notice shall be sent to the owner, stating that the cost of abatement not paid by the person responsible may be assessed to and become a lien on the property.

(5) Upon completion of the posting and mailing, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting.

(6) An error in the name or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.

#### Section 47. Abatement by the Person Responsible.

(1) Within 10 days after the posting and mailing of notice as provided in section 46, the person responsible shall remove the nuisance or file a protest, as described in subsection (2).

(2) A person responsible, protesting that no nuisance exists, shall file a written statement that specifies the basis for the protest with the city recorder.

(3) The statement shall be referred to the council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the council. The council shall determine whether a nuisance in fact exists, and the determination shall be entered in the official minutes of the council. Council determination shall be required only in cases where a written statement has been filed as provided.

(4) If the council determines that a nuisance in fact exists, the person responsible shall abate the nuisance within 10 days after the council determination.

Section 48. Joint Responsibility. If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the city in abating the nuisance.

Section 49. Abatement by the City.

(1) If the nuisance has not been abated by the person responsible within the time allowed, the council may cause the nuisance to be abated.

(2) The officer charged with abatement of the nuisance shall have the right to enter into or upon property at reasonable times to investigate or cause the removal of a nuisance.

(3) The city recorder shall keep an accurate record of the expense incurred by the city in physically abating the nuisance and shall include a charge of 20 percent of those expenses for administrative costs,

Section 50. Assessment of Costs.

(1) The city recorder shall forward to the owner and the person responsible, by registered or certified mail, a notice stating:

(a) The total cost of abatement, including the administrative costs

(b) That the costs as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.

(c) That if the owner or the person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the city recorder not more than 10 days from the date of the notice.

(2) No sooner than 30 days after the date of the notice, the council, in the regular course of business, shall hear and make a decision on the objections to the costs assessed.

(3) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, as stated or as decided by the council, shall be made by resolution and shall be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the property from which the nuisance was removed or abated.

(4) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of 10 percent per annum. The interest shall begin to run from the date of entry of the lien in the lien docket.



(5) An error in the name of the owner or the person responsible or a failure to receive the notice of the proposed assessment will not void the assessment, and it shall remain a valid lien against the property.

#### General

Section 51. Summary Abatement. The procedure provided by this ordinance is not exclusive, but is in addition to procedure provided by other ordinances. The chief of the fire department, a law enforcement officer, or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

Section 52. Penalties. A violation of a provision of this ordinance is punishable by a fine not to exceed \$500.

Section 53. Separate Violations.

(1) Each day's violation of a provision of this ordinance constitutes a separate offense.

(2) The abatement of a nuisance is not a penalty for violating this ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance. However, abatement of a nuisance within 10 days of the date of notice to abate, or if a written protest has been filed, then abatement within 10 days of council determination that a nuisance exists, will relieve the person responsible from the imposition of a penalty under section 52 of this ordinance.

Section 54. Repeal. Ordinance No. 35, enacted October 1, 1899; Ordinance No. 50, enacted May 29, 1903; and Ordinance No. 51, enacted August 29, 1903, are repealed.

Passed by the council and approved by the mayor October 22, 1986.