

TITLE 18. NUISANCES

Chapter 1. General, 18-1-1 to 18-1-9.

Chapter 2. Graffiti, 18-2-1 to 18-2-4

Chapter 1. General

18-1-1.	Definitions.
18-1-2.	Author of Nuisance.
18-1-3.	Declaration of Nuisance.
18-1-4.	Toilet and Sewer Facilities.
18-1-5.	Vehicular On Site Residential Parking.
18-1-6.	Inspector.
18-1-7.	Duties of Inspector.
18-1-8.	Compliance and Reinspection.
18-1-9.	Penalties for Failure to Comply.
18-1-10.	Revocation.

18-1-1. Definitions. As used in this code, the following words mean:

(1) **Abandoned Vehicle.** Any wrecked, junked, inoperable or obsolete vehicle or portion of vehicle which is four (4) months or greater past the valid licensing period; any vehicle not in drivable condition, i.e. no tires, missing windshields, no engine or transmission or rear end gears, unless the owner has attained a vehicle restoration permit from the Police Department, and parking illegally pursuant to the City zoning laws.

(2) **Nuisance.** Any unsightly or injurious object, structure, or disused or abandoned motor vehicles or equipment, or injurious or noxious weeds, trash, junk, refuse or garbage, grass or weeds over 10 inches high, or anything dangerous to human life or health, or anything rendering the soil, air, water or food to be impure or unwholesome.

(3) **Noxious Weeds.** Vegetation that is determined by the State of Utah or by Davis County to be an endangerment to the public health and safety.

(4) **Refuse, Junk, Debris or Garbage.** Useless, worthless or discarded materials; used tires; parts of vehicles; old and unused machinery, appliances or parts thereof; trash; rubbish; plant, grass and tree trimmings; litter; scrap building materials; food products waste; and dead animals.

(5) **Vehicle Restoration Permit.** (a) A twelve (12) month written permit issued by the Police Department to an owner allowing the unlicensed or unregistered vehicle to be on the owner's premises for the purpose of repair and restoration for a period not to exceed twelve (12) consecutive months. One (1) twelve (12)

month permit extension is available. Only three (3) vehicle restoration permits are allowed at a time per household or dwelling site.

(b) Any unlicensed or unregistered vehicle being repaired or restored under the Vehicle Restoration Permit authorization, must be stored in a garage or must be parked on a concrete or asphaltic surface, or an approved rock/gravel surface as allowed by the zoning laws.

(c) The repair or restoration of the vehicle must be for personal hobby or recreational purposes, and not be for business purposes, except through the Home Occupation licensing process.

History: 05/99, 11/03

18-1-2. Author of Nuisance Declared. Where a nuisance exists upon property, the landlord thereof, or his agent, the tenant, or his agent, and all other persons having control of the property on which the nuisance exists, shall be deemed to be the authors thereof and shall be equally liable therefor.

History: 05/99

18-1-3. Declaration of Nuisance. Every act or condition made, permitted, allowed, or continued in violation of this chapter, including, but not limited to, the acts and conditions hereinafter specified, are hereby declared to be nuisances and may be abated and punished as hereinafter provided:

(1) To permit or cause to keep, deposit, dump, burn, bury or allow to exist any unsightly or injurious objects, structures, junk, discarded or unused objects or equipment, or disused or abandoned vehicles or equipment, or injurious or noxious weeds, or grass or weeds over ten (10) inches in height;

(2) To allow vegetable waste, garbage, litter, filth, refuse or any manure to accumulate within or upon any private alley, yard or area, except when it is temporarily deposited for immediate removal;

(3) To discharge or place any offensive water, liquid waste, or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash natural water course, ditch, canal, or any vacant property which is offensive or liable to become offensive, or obstruct any watercourse;

(4) To permit any garbage container to remain on premises when it has become unclean or offensive or overflowing;

- (5) To obstruct or interfere with the access or use of city streets, sidewalks, easements or right-of-ways without permission from the city;
- (6) To permit the accumulation of manure in any stable, stall, corral, yard, feed yard, or in any other building or area in which any animals are kept;
- (7) To permit any person, firm or corporation to endanger the health of any person in violation of Title 14 of the Clinton City Code;
- (8) To permit to be kept or collected any stale or putrid grease or other offensive matter;
- (9) To have or permit upon any premises any fly or mosquito producing condition;
- (10) To befoul water in any spring, stream, well, or water source supplying water for culinary purposes;
- (11) To allow any privy, vault or cesspool to become a menace to public health, safety or welfare;
- (12) To neglect or refuse to discontinue use of, clean out, disinfect, and fill up all privy vaults and cesspools within 20 days after notice from an official of the city;
- (13) To permit or perform any body cleansing or washing in or near any public drinking fountain or culinary water supply;
- (14) To permit any lot or excavation to become the repository of stagnant water or any decaying or offensive substances;
- (15) To allow tree roots to enter the city's storm drain, field and land drain or sewer systems, or cause heaving of sidewalks, curbs, gutters or streets;
- (16) To allow trees or shrubs to obstruct the clear view of regulatory, traffic, street and caution signs, fire hydrants, city utilities, public right-of-ways, sidewalks, curbs, and corner property sight triangles;
- (17) To fail to properly keep adjoining public sidewalks clear of snow and other obstructions (Title 25 of City Code)
- (18) To put or cause to have put snow or water, causing a hazard or an obstruction, or litter into the paved street area (Title 25 of City Code);
- (19) To operate a business within the City without obtaining the appropriate City Business License (Title 15 of City Code); and

(20) For any person, firm, entity or corporation to fail to control and prevent backflow and eliminate all cross connections between any auxiliary water source and the culinary water systems of the City (Title 27 of City Code).

History: 05/99

18-1-4. Toilet and Sewer Facilities. All toilet or sewer facilities shall be constructed and maintained in accordance with the ordinances, laws, rules and regulations of Clinton City and Davis County. All facilities that do not comply with these provisions are hereby declared to be a nuisance and are subject to abatement as provided in this chapter.

History: 05/99

18-1-5. Vehicular On Site Residential Parking. (a) On residential properties, the parking of licensed and registered vehicles, trailers and RV's which are not "abandoned vehicles", shall be only on the hard surface driveway, within a garage or carport, on back yard weed less gravel surfaces or on side yard hard surfaces as allowed by the City Zoning laws.

(b) Property owners not in compliance with (a) above and who are parking on the allowed side yard, but not on the required hard surface, may get a one-time only three (3) month time period within which to remedy the parking violation. Such time period may be granted by the Inspector at his discretion, based on the proposed remedy of the property owner, such as, install hard surface, put in a gravel pad in the rear of property, sell vehicle, and other reasonable proposals.

History: 11/03

18-1-6. Inspector. (1) The position of Inspector is hereby created for the purpose of administering the provisions of this Title and the powers delegated to it by laws and statutes relating to nuisances and obnoxious substance in the City, subject to such control, assignment and review as the City Manager may from time to time direct.

(2) The City Manager may appoint the Inspector and Assistant Inspectors as needed. The powers and duties of the assistants shall be the same as those of the Inspector unless otherwise specified by the City Manager.

History: 05/99, 11/03

18-1-7. Duties of Inspector. (1) The Inspector is hereby authorized and directed to:

- (a) Perform all functions necessary to enforce the provisions of this code;
- (b) Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether they are in compliance with all provisions of this code as outlined in this chapter.
- (2) If the Inspector determines that any of the conditions listed in this chapter exist on any property within the limits of Clinton City, the Inspector shall:
- (a) Ascertain the names of the owners and occupants of the premises where the conditions exist, together with a description of the premises; and may either,
- (b) Issue a letter of notification to the owner or occupant of the property identifying the conditions violating this chapter and give notice that they must be corrected within the next fourteen (14) calendar days, as dated in letter. The notice shall also state that failure to comply with this request shall result in the issuance of a citation, which requires accountability to the Clinton Justice Court; or
- (c) Issue a citation to the owner or occupant of the property by either serving the citation personally upon the owner or occupant, or mailing the citation registered mail, postage prepaid, addressed to the owner or occupant at his or her last known address as disclosed by the records of the County Assessor or as otherwise ascertained. In the event the inspector elects to mail the notice, it shall be deemed served when it is sent by registered mail, postage prepaid. In the event the notice is returned unaccepted, the notice shall be turned over to the Clinton City Prosecutor for prosecution.
- (d) The citation shall:
- (i) Require the person to whom it is sent to correct the violation within the time period the Inspector shall designate, which shall be not less than ten (10) days, nor greater than twenty (20) days and shall be known as the *correction period*, except as noted in Subsection 18-1-7(3) of this code. The time given to remedy the violation shall begin to run on the day following the day on which the citation is issued.
- (ii) Inform the person to whom it is sent to appear in Justice Court of Clinton, normally within five (5) days following the end of the *correction period*. This shall be known as the *appearance date*.
- (iii) Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.

(iv) Inform the person to whom the citation is issued that if compliance is accomplished within the correction period and is fully remedied as outlined in Section 18-1-7, the citation will be signed off by the Inspector and must be returned by the cited person to the Justice Court of Clinton by or before the appearance date.

(v) Inform the person that in the event a criminal prosecution is pursued, the prosecution shall be for a Class C Misdemeanor.

History: 05/99, 08/03, 11/03

18-1-8. Compliance and Reinspection. In the event the person complies with the notice of the Inspector within the correction period, the person shall notify the Inspector a minimum of 48 hours (not including weekends or holidays) prior to the end of the *correction period*. A date and time for inspection prior to the appearance date shall be assigned and the Inspector shall again inspect the property.

(1) If the property is in compliance with this chapter, the Inspector shall sign off compliance on the cited person's copy of the citation. The person receiving the citation must take the signed citation to the Clinton Justice Court on or before the appearance date indicated on the citation, in order to have the charges dismissed. Failure to perform this step will result in prosecution by the Court.

(2) In the event the person in violation has not received a reinspection indicating compliance with this chapter prior to the end of the *correction period*, criminal prosecution of the matter shall proceed.

(3) In the event that the violation is an immediate threat to the public health, safety or welfare, the Inspector may require immediate correction or up to a period of 48 hours. Examples of these types of violations may be found in 18-1-3 of this chapter. If this violation is not corrected and reinspection requested within the required time, the citation will be referred directly to the Clinton City Prosecutor.

(4) In the event that the violation listed on the citation is not corrected within the appropriate time period, whether it be the normal or immediate correction time period, the City Manager may order the Public Works Director to abate or procure the abatement of the violation. Should the City abate the violation, the cited person shall still face criminal prosecution and shall be required to appear before the Justice Court of Clinton on the designated appearance date. The actual expenses and the appointed administrative fee for the City abating the violation shall be collected from the person,

firm or corporation in violation of this chapter, by the Justice Court of Clinton and be added to any fine and penalties set by that court. The City may place a lien against the property in accordance with Utah Code chapter 10-11.

History: 05/99, 11/03

18-1-9. Penalties for Failure to Comply. Any owner, occupant or person having an interest in, or control over, the property to which a citation is issued under the provisions of this chapter, who fails to comply with a citation from the Inspector or order given pursuant to this chapter shall be guilty of a Class C Misdemeanor.

History: 05/99, 11/03

18-1-10. Revocation. This ordinance supersedes reference to time, fines, penalties, periods of notification, appeals and other references to appointment of Inspector, procedural inspection and/or notification outlined in the Code of Revised Ordinances of Clinton City.

History: 05/99, 11/03

Chapter 2. Graffiti

18-2-1	Statement of Purpose
18-2-2	Definitions
18-2-3	Graffiti Prohibited
18-2-4	Graffiti Removal - Private Property

18-2-1 Statement of Purpose. The Purpose of this chapter is to:

- (1) Establish control and eradication measures for graffiti within the city;
- (2) Establish penalties associated with enforcement of this chapter; and,
- (3) Establish procedures associated with the eradication of graffiti.

18-2-2 Definitions. For the purpose of this chapter the following definitions apply:

- (1) **Property:** As used herein shall mean all property, public and private, with or without apparent ownership, real and personal property, and anything temporarily or permanently affixed thereto or thereon, including but not limited to structures, plant life, signs, banners, etc.
- (2) **Graffiti:** As used herein shall mean the painting, writing, drawing, application of stickers or logos of any material or otherwise marking of any property without the express written consent of the true owner, or that is not otherwise allowed by ordinance, which defaces, detracts or diminishes the value or

reasonable appearance of the property. For purposes of Section 10-11-1 et. seq., of the Utah Code, graffiti is deleterious and/or unsightly.

(3) **Gang:** As used herein shall mean a group or association which condones, encourages, facilitates or promotes among its membership unlawful activities, is including but not be limited to:

- (a) The establishment of alleged territorial areas beyond their own actual property ownership, wherein they intend to exclude those that otherwise may lawfully enter in or proceed through; or
- (b) Divisiveness among other such groups, neighborhoods, races, colors, or nationalities.

(4) **Gang Graffiti:** As used herein shall mean, in addition to the definition for graffiti given herein, graffiti that identifies, indicates, infers, or communicates in any way that it was done by a gang or member thereof, is about a gang or member thereof, or is to a gang or member thereof. The criteria to be used in making such a determination may include, but is not limited to content (whether words, names, letters, initials, signs, pictures or symbols), style of writing, colors used, location of the graffiti and that location's history regarding graffiti, how it was placed in reference to existing graffiti or gang graffiti (such as overstriking other graffiti or in response to other graffiti or gang graffiti), absence of or overstriking of certain letters, or the absence of particular colors.

18-2-3 Graffiti Prohibited. It is unlawful for any person to place, or assist, encourage, aid or participate, in the placement of, or cause to be placed, or be in attendance with others and acquiescing in the placement of graffiti upon any property.

(1) Penalties; Enhancement.

(a) Any violation of any provision of this chapter shall be a Class C Misdemeanor and is punishable as such.

(b) Any person found guilty of violating this ordinance shall be punished as follows:

(i) Upon a first conviction a minimum fine of Three Hundred Dollars (\$300.00) shall be imposed.

(ii) Upon a second conviction a minimum fine of Five Hundred Dollars (\$500.00) shall be imposed.

(iii) Upon a third conviction a minimum fine of Seven Hundred Dollars (\$700.00) shall be imposed.

(iv) Upon a fourth and subsequent conviction a minimum fine of Nine Hundred Dollars (\$900.00) shall be imposed.

(c) Upon any of the foregoing convictions restitution shall be ordered in an amount sufficient to reimburse the victim or victims for the cost of restoration of the property to the condition as it existed prior to the violation.

(d) Any incarceration, probation, or other conditions of sentencing are left to the discretion of the sentencing court. It is recommended that for second and subsequent convictions the court weigh seriously the imposition of a jail sentence. It is also recommended that if the court, in its discretion, imposes any community service in lieu of a fine as penalty and/or a jail sentence, that said community service be assigned in the area of graffiti removal.

(2) Gang Enhancement Provision. The fines set forth in 18-2-3(1) above shall be enhanced by an amount equal to one hundred percent (100%) of the fine to otherwise be imposed under either one of the following criteria:

(a) If the actor is shown, by clear and convincing evidence at a sentencing hearing, to be a member of a gang, to hold oneself out to be a member of a gang, or to purposely appear to be a member of the gang, regardless of whether the graffiti was gang graffiti;

(b) If the graffiti which formed the basis of the actors conviction was shown, by clear and convincing evidence at a sentencing hearing, to be gang graffiti, regardless of whether the actor was associated with a gang.

18-2-4 Graffiti Removal - Private Property.

(1) Owners of property, structures, buildings or natural features upon which graffiti has been placed shall report the incident to the Clinton City Police Department as soon as reasonably possible.

(2) Owners of property, structures, buildings or natural features upon which graffiti has been placed shall remove the graffiti within five (5) calendar days after the initial report of the incident whether made by the actual owner or by a third party. If the owner of said structure fails to remove such graffiti within the required five (5) calendar days, owner shall be given written notice sent by certified mail that if not removed within five (5) days after service of the notice, said graffiti may be removed by the City at the expense of the owner. The City shall do so at the expense of a property owner for the actual and reasonable costs of cleaning the graffiti, including labor.

(3) The owner may appeal the notice requiring graffiti clean-up by filing an appeal with the City Manager or designee within five (5) days of the date of the order. The City Manager or designee may sustain, modify or

reverse the order based on evidence regarding the following criteria: history of graffiti being placed on the same location and the owner's timely removal thereof; the extent and frequency of graffiti incidents; owner's ability to bear the costs of removal; general upkeep of the property; and other related, articulated criteria.

(4) After the time for appeal has expired and the property is cleaned by the City, if the owner fails to make payment to the City treasurer within twenty (20) days of the date of billing, the City may either cause suit to be brought in an appropriate court of law, or certify the amount to the county treasurer for inclusion in the tax notice of the property owner.

(5) In the event collection of expenses of removal are pursued through the court, the City shall sue for and receive judgment for all expenses of removal, together with reasonable attorney's fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

(6) In the event that the City elects to certify the expenses of removal to the county treasurer for inclusion in the tax notice of the property owner, an itemized statement of all expenses incurred in such removal shall be delivered to the county treasurer within ten (10) days of the completion of the graffiti removal.

History: 02/09