

CHAPTER 4. ABATEMENT OF NUISANCES

- 8-4-1. Purpose.
- 8-4-2. Declaration regarding nuisances.
- 8-4-3. Definitions.
- 8-4-4. Nuisances and other unlawful conditions.
- 8-4-5. General enforcement authority.
- 8-4-6. Criminal penalties.
- 8-4-7. Civil penalties.
- 8-4-8. Nuisance abatement. (Repealed)
- 8-4-9. Notice of violation: content, extension.
- 8-4-10. Notice of violation: service.
- 8-4-11. Notice of violation: penalties.
- 8-4-12. Notice of violation: appeal.
- 8-4-13. Notice of violation: default judgment.
- 8-4-14. Notice of compliance.
- 8-4-15. Code enforcement order: authority.
- 8-4-16. Code enforcement order: enforcement.
- 8-4-17. Code enforcement order: appeal.
- 8-4-18. Stipulation agreement.
- 8-4-19. Recordation.
- 8-4-20. Withholding permits; appeal.
- 8-4-21. Abatement: emergency.
- 8-4-22. Abatement: non-emergency.
- 8-4-23. Recovery of Fees and Costs.
- 8-4-24. Abatement superfund.

8-4-1. Purpose.

The purposes of this Chapter include the protection of the public health, safety, and general welfare, and the implementation of City policies to promote the neat and orderly appearance of Tooele City.

(Ord. 2014-13, 10-15-2014) (Ord. 2006-08, 03-01-2006)
(Ord. 2004-22, 12-15-2004) (Ord. 1994-52, 10-25-1994)

8-4-2. Declaration regarding nuisances.

It is hereby declared that weeds, motor vehicles, objects, structures, graffiti, and certain conditions constitute a nuisance when they create a fire hazard, a source of contamination or pollution of water, air, or land, a threat to human health or safety, a breeding place or habitation for insects or rodents or other pests or vermin, or are unsightly, malodorous, or deleterious.

(Ord. 2014-13, 10-15-2014) (Ord. 2006-08, 03-01-2006)
(Ord 2004-22, 12-15-2004)

8-4-3. Definitions.

“Abandoned motor vehicle” means any motor vehicle which displays common indicia of abandonment.

“Abate” meant to effectuate an abatement.

“Abatement” means any action or proceeding commenced or pursued by the City to remove, alleviate, or correct a nuisance or other violation of this Chapter.

“Abatement period” means the 14-day period, beginning upon service of a notice of violation, within which abatement by a responsible person is required to be completed.

“Administrative hearing officer” means an administrative hearing officer appointed under Chapter 1-

28 of this Code.

“Association” means any business entity, including, without limitation, corporation, partnership, company, business, but not an individual.

“Code enforcement order” means an order issued by an administrative hearing officer in the context of an abatement commenced pursuant to this Chapter.

“Code enforcement performance bond” means a cash bond required by an administrative hearing officer and posted by a responsible person to gain compliance with this Chapter or with a code enforcement order.

“Code enforcement tax lien” means a lien recorded with the Tooele County Recorder and County Treasurer to facilitate the collection of all abatement-related costs, including monetary penalties, administrative fees, filing fees, and other reasonable and related costs.

“Department” means the Tooele City Community Development Department.

“Developed land” means real property, whether subdivided or not, upon which is built one or more buildings.

“Director” means the director of the Tooele City Community Development Department.

“Good cause” means incapacitating illness or accident, death of a parent, sibling, or child, lack of proper notice, or unavailability due to unavoidable and non-preventable emergency or circumstance.

“Graffiti” means any unauthorized inscription, word, figure, painting, or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any implement or material.

“Imminent hazard” means any condition that creates a present and immediate danger to the public health, safety, or welfare.

“Inoperable motor vehicle” means any motor vehicle which is mechanically not functionable for a period of over 30 days. The 30-day period may be extended by the Community Development Director for a maximum of 6 months upon proof by the owner of ongoing restoration.

“Junked motor vehicle” means a motor vehicle which has outlived its usefulness in its original form and which is commonly gathered up and sold to be converted into another product, either of the same or of a different kind, or as scrap.

“Monetary penalty” means the civil fines accrued for failure to complete an abatement. Monetary penalty does not include appeal filing fees, reinspection fees, or abatement costs.

“Motor vehicle” means any motorized vehicle which initially was designed or constructed to be self-propelled. The term “motor vehicle” includes, without limitation, automobiles, motorcycles, and heavy equipment.

“Notice of compliance” means a document issued by the City confirming that a responsible person has abated the nuisance and corrected the violations set out in a notice of violation, paid all fees, penalties, and costs associated with the notice of violation, and otherwise has fully complied with the requirements of this Chapter, all as determined by an officer.

“Notice of violation” means a document prepared and issued by an officer that informs a responsible person of a nuisance or other violation of this Chapter, and that contains an order to abate the nuisance or correct the violation.

“Nuisance” means anything offensive or obnoxious to the health, safety, or welfare of the inhabitants of the City; or any act or thing repugnant to, creating a hazard to, or having a detrimental effect on the property of another person or to the community, and includes, but is not limited to, the following:

(a) A nuisance or public nuisance as defined by Utah law.

(b) Junked, wrecked, abandoned, or inoperable motor vehicles not kept as provided in this Chapter.

(c) Any attractive nuisance which may prove detrimental to children, whether in a building, on the premises of a building, or upon undeveloped or unimproved land. This includes any abandoned wells, shacks, basements, or excavations; abandoned refrigerators; any structurally unsound fences or structures; or any lumber, trash, fences, debris, or vegetation which may prove a hazard for inquisitive minors.

(d) Whatever is dangerous or detrimental to human life or health as determined according to the ordinances of Tooele City or Tooele County.

(e) Overcrowding a room with occupants so as to exceed the weight-carrying capabilities of the structure as determined by the Building Official, based upon the International Building Code or International Fire Code specifications for a similar structure.

(f) Insufficient ventilation or illumination as determined by the requirements of the International Mechanical Code.

(g) Inadequate or unsanitary sewage or plumbing facilities as determined by the International Plumbing Code.

(h) Uncleanliness as determined according to the ordinances of Tooele City or Tooele County.

(i) Whatever renders air, food, or drink unwholesome or detrimental to the health of human beings as determined according to the ordinances of Tooele City or Tooele County.

(j) To conduct any business of bone crushing or the making of glue or the manufacturing process involving the carcasses of dead animals or parts thereof in a manner that the odor or activities are obvious to 3 or more persons within 50 feet of the premises upon which the activity is conducted.

(k) To allow snow, ice, hail, or sleet to accumulate on any paved sidewalk abutting the property of any owner, occupant, or lessor, or to place or propel, or cause to be placed or propelled, snow, ice, or hail in the public way or in any manner which poses a hazard to vehicular or pedestrian traffic.

(l) To allow any lot or excavation to become the repository of stagnant water or decaying or offensive substances.

(m) To allow the growth of weeds or other

offensive, noxious, hazardous, or undesirable vegetation upon property.

(n) To allow the existence of refuse or unsightly or deleterious objects, structures, or mechanical devices upon property.

(o) Graffiti upon any real property or appurtenant or accessory structures or fixtures.

“Officer” means Administrative Code Enforcement Officer and Ordinance Compliance Officer.

“Responsible person” means any property owner, occupant, or other person or association with control over property who allows, permits, causes, or maintains a nuisance or a violation of this Chapter to exist upon the property owned, occupied, or controlled. Use of the singular “person” in this Chapter includes the plural “persons.”

“Undeveloped land” means real property that is subdivided into one or more building lots or parcels of record which are not built upon.

“Unimproved land” means real property that is not built upon with a primary structure.

“Violation” means any violation of this Chapter.

“Wrecked motor vehicle” means a motor vehicle which has been destroyed, disabled, or seriously damaged. (Ord. 2017-32, 11-15-2017) (Ord 2017-17, 06-21-2017) (Ord. 2014-13, 10-15-2014) (Ord. 2006-08, 03-01-2006) (Ord. 2004-22, 12-15-2004) (Ord. 1994-52, 10-25-1994)

8-4-4. Nuisances and other unlawful conditions.

(1) It shall be unlawful for any person or association owning, occupying, or otherwise exercising control over real property in Tooele City to allow, permit, cause, or maintain a nuisance, including any of the following:

(a) weeds and/or grass in excess of 6 inches in height located:

(i) in the public right-of-way between the property line and the edge of street pavement;

(ii) on any land less than 5 acres in size; or,

(iii) within 30 feet of the property line of any land of 5 or more acres in size ;

(b) the accumulation of garbage, refuse, or unsightly or deleterious objects or structures upon real property, unless contained in connection with an association lawfully situated and licensed for the same;

(c) junked, wrecked, inoperable, or abandoned motor vehicles upon real property, except that up to 2 such vehicles or parts thereof may be stored within an enclosed building or completely screened by a sight-obscuring fence;

(d) any other unsightly or deleterious condition that gives rise to a threat to human health or safety; and,

(e) the failure, by any person owning, occupying, or exercising control over any real property within the City, to remove graffiti from the property.

(2) Automobile impound yards and wrecking yards, which are lawfully established, licensed, and operated within the City, are not a nuisance under this Chapter if the yards are completely screened by a sight-obscuring fence and are compliant with all Tooele City conditional use permit, site plan, building permit, and other City

requirements.

(Ord. 2023-25, 06-07-2023) (Ord. 2017-32, 11-15-2017)
(Ord. 2017-17, 06-21-2017) (Ord. 2014-13, 10-15-2014)
(Ord. 2014-04, 02-05-2014) (Ord. 2006-08, 03-01-2006)
(Ord. 2004-22, 12-15-2004) (Ord. 1994-52, 10-25-1994)

8-4-5. General enforcement authority.

(1) Officer. An officer as defined in this Chapter has the authority to abate and to gain compliance with the provisions of this Chapter upon finding that a violation of this Chapter exists. An officer may commence administrative investigation procedures, assist with criminal investigation procedures at the request of the police department, commence administrative enforcement procedures, issue notices of violation and notices of compliance, issue civil citations for violations of this Chapter, inspect public and private property, and abate nuisances upon public and private property

(2) Police Department. A Tooele City peace officer has the same authority as an officer, and is further authorized to commence criminal investigation and enforcement procedures, including criminal citation and arrest.

(3) Discretion. The City has the sole discretion in commencing or pursuing abatement and enforcement, and to otherwise gain compliance with this Chapter. Nothing shall require an officer or a peace officer to commence or pursue an abatement or enforcement, or other action to gain compliance with this Chapter. The City recognizes the principle of prosecutorial discretion in the context of this Chapter.

(4) Inspection. Any officer or peace officer has authority to enter upon property and premises to perform inspections, examinations, and surveys as may be necessary to gain compliance with this Chapter, including the taking of photographs, samples, or other physical evidence. All inspections, examinations, and surveys requiring entry onto private property or premises shall be accompanied by a warrant, be done in a reasonable manner, and be based upon probable cause. However, no warrant shall be required where a responsible person's or property owner's consent, as applicable, is voluntarily given, or where the inspection, examination, or survey is conducted from a public right-of-way or from another property whose owner or occupant has given voluntary consent to enter.

(Ord. 2023-25, 06-07-2023) (Ord. 2017-32, 11-15-2017)
(Ord. 2014-13, 10-15-2014) (Ord. 2004-22, 12-15-2004)
(Ord. 1994-52, 10-25-1994)

8-4-6. Criminal penalties.

(1) In addition to other penalties provided in this Chapter, the following shall be a class B misdemeanor criminal offense:

- (a) any violation of this Chapter;
 - (b) any violation of a code enforcement order;
- and,
- (c) any failure to remedy a violation described in a notice of violation.

(2) An individual person convicted of a criminal

offense shall be sentenced to pay a fine up to \$1000. An association convicted of a criminal offense shall be sentenced to pay a fine up to \$5,000.

(3) Restitution. In addition to any fines imposed, any individual or association convicted of a criminal offense shall pay to the City restitution for all expenses incurred by the City to abate the nuisance or to correct the violation for which the individual or association was charged.

(4) Each and every day that a violation of this Chapter continues after being charged, by criminal citation or Information, shall constitute a separate criminal offense. Penalties for separate criminal offenses may be imposed consecutively.

(5) A criminal prosecution brought under this Chapter is not an exclusive remedy and shall not preclude the City from commencing and pursuing an administrative or civil proceeding to abate a nuisance or to correct a violation of this Chapter.

(Ord. 2023-25, 06-07-2023) (Ord. 2014-13, 10-15-2014)
(Ord. 2004-22, 12-15-2004) (Ord. 1994-52, 10-25-1994)

8-4-7. Civil Penalties.

(1) In addition to other penalties and abatement procedures provided in this Chapter, a violation of this Chapter is a civil infraction.

(2) A violation of this Chapter committed by an individual shall result in a civil citation and be punishable as follows:

- (a) first violation: written warning;
- (b) second violation: \$50 fine;
- (c) third violation: \$200 fine;
- (d) fourth and subsequent violations: \$500 fine.

(3) A violation of this Chapter committed by a business entity shall result in a civil citation and be punishable as follows:

- (a) first violation: written warning;
- (b) second violation: \$100 fine;
- (c) third violation: \$500 fine;
- (d) fourth and subsequent violations: \$1,000 fine.

(4) Compliance.

(a) An individual or business entity served with a civil citation shall eliminate the cited violation.

(b) Failure to fully eliminate a cited violation within 14 days after a written warning for a first violation shall constitute a second violation.

(c) Failure to fully eliminate a cited violation within 7 days after a citation for a second or subsequent violation shall be a further violation.

(5) Form. Civil citations for violations of this Chapter shall be on a form approved by the Chief of Police or other department head responsible for nuisance abatement, and the City Attorney.

(6) Service.

(a) Civil citations for violations of this Chapter shall be served by one or more of the following methods:

- (i) regular mail, first-class postage prepaid,
- to both:
- (A) the last known address of an owner

of the property upon which the violation exists, as found in the records of the Tooele County Recorder; and,

(B) the address of the property upon which the violation exists; or,

(ii) certified U.S. mail, return receipt requested, to the last known address of an owner of the property upon which the violation exists, as found in the records of the Tooele County Recorder; or,

(iii) personal delivery to an owner of the property upon which the violation exists; or,

(iv) affixing the citation in a conspicuous place upon the property upon which the violation exists.

(b) Service by regular mail shall be deemed made on the third day after the date of mailing.

(6) Appeals. Appeals of civil citations issued pursuant to this Section shall be to the Administrative Hearing Officer under Chapter 1-28, and filed within 10 calendar days of service of a civil citation.

(7) Collection. The City may use all available legal remedies for collection of unpaid fines imposed under this Section.

(8) Nuisance abatement. A violation of this Chapter continuing after issuance of a civil citation and after expiration of the compliance period may be abated under other provisions of this Chapter.

(Ord. 2023-25, 06-07-2023) (Ord. 2014-13, 10-15-2014) (Ord. 2013-07, 04-18-2013) (Ord. 2006-08, 03-01-2006) (Ord. 2006-02, 01-04-2006) (Ord. 2004-22, 12-15-2004)

8-4-8. Nuisance abatement. (Repealed.)

(Ord. 2014-13, 10-15-2014)

8-4-9. Notice of violation: content, extension.

(1) An abatement is commenced by the issuance and service of a notice of violation.

(2) Content. A notice of violation shall indicate the following:

(a) the nature of the nuisance or other violation of this Chapter;

(b) the street address and parcel number for the property upon which the nuisance or violation exists;

(c) the name of the property owner of record according to the records of the Tooele County Recorder;

(d) the date of the nuisance or violation;

(e) the penalties associated with the nuisance or violation;

(f) the abatement required;

(g) the abatement period;

(h) the contact information for the officer with whom the notice of violation may be discussed;

(i) the procedure for obtaining a notice of compliance; and,

(j) the procedure for filing an appeal.

(3) Extension. A responsible person may request a 14-day extension of the abatement period by submitting a written request to the Department during the abatement period. An approved extension shall result in an amended notice of violation which establishes a new abatement period. An extension request shall state and affirm the following:

(a) the responsible person understands that the extension is conditioned upon the responsible person's waiver of the right to appeal the notice of violation;

(b) the responsible person is actively engaged in the abatement required by the notice of violation; and,

(c) the responsible person is unable to complete abatement during the abatement period due to circumstances that are unusual, extraordinary, or outside the responsible person's control.

(Ord. 2017-32, 11-15-2017) (Ord. 2014-13, 10-15-2014)

8-4-10. Notice of violation: service.

(1) A notice of violation shall be served by one or more of the following methods:

(a) regular mail, first-class postage prepaid, to both:

(i) the last known address of a responsible person as found in the records of the Tooele County Recorder; and,

(ii) the address of the property subject to the notice of violation; or,

(b) certified U.S. mail, return receipt requested, to the last known address of a responsible person, as found in the records of the Tooele County Recorder; or,

(c) personal delivery to a responsible person; or,

(d) posting of the notice of violation upon the property or premises which is the subject of the notice of violation.

(2) Service by regular mail shall be deemed made on the third day after the date of mailing.

(Ord. 2017-32, 11-15-2017) (Ord. 2014-13, 10-15-2014)

8-4-11. Notice of violation: penalties.

(1) The monetary penalties associated with abatement shall be established by resolution of the Tooele City Council.

(2) The monetary penalties associated with a notice of violation shall accrue daily until the earlier of the following occurs:

(a) the abatement period ends; or,

(b) a notice of compliance is issued by an officer; or,

(c) a code enforcement order halting, modifying, or suspending the penalties is issued.

(3) Accrued monetary penalties (but not abatement costs) associated with a notice of violation shall be suspended upon:

(a) the responsible person causing the nuisance or other violation described in the notice of violation to be corrected during the abatement period or amended abatement period;

(b) the responsible person requesting an inspection from the City during the abatement period; and,

(c) a notice of compliance being issued in response to the request for inspection.

(4) The suspension of monetary penalties associated with a notice of violation shall continue and become permanent if during the 12 months immediately following

the date of the notice of compliance there is no recurrence of substantially the same nuisance or violation.

(5) If a responsible person fails to correct the nuisance or violation described in a notice of violation during the abatement period, or if the responsible person commits or allows substantially the same nuisance or violation to occur during the 12 months immediately following the date of a notice of compliance, all monetary penalties that began to accrue daily on the date of the original notice of violation shall be owed in full to the City.

(6) In the event of multiple responsible persons associated with a notice of violation, default judgment, or code enforcement order, all responsible persons shall be jointly and severally liable for abatement, for compliance with any orders, and for payment of any monetary penalties and costs.

(Ord. 2017-32, 11-15-2017) (Ord. 2014-13, 10-15-2014)

8-4-12. Notice of violation: appeal.

(1) A responsible person served with a notice of violation may appeal to the administrative hearing officer.

(2) A code enforcement order that upholds some but not all of the violations described in a notice of violation shall have the effect of amending the notice of violation and resetting the date of the notice of violation and the abatement period.

(3) A notice of violation that is amended by order or decision of the administrative hearing officer is a code enforcement order and is not administratively appealable to the administrative hearing officer.

(Ord. 2017-32, 11-15-2017) (Ord. 2014-13, 10-15-2014)

8-4-13. Notice of violation: default judgment.

(1) A responsible person who fails to request a compliance inspection during the abatement period and who does not timely appeal the notice of violation is deemed to have waived any administrative appeal rights associated with a notice of violation and shall be subject to the entry of default judgment upholding the notice of violation. The default judgment shall direct the abatement and impose the monetary penalty, fees, and costs associated therewith.

(2) A default judgment shall be issued by the administrative hearing officer upon officer affidavit that a responsible person both failed to request a timely compliance inspection and failed to make a timely appeal.

(3) A copy of a signed default judgment shall be served on all affected responsible persons by any method of service allowed for a notice of violation.

(4) A responsible person adversely affected by a default judgment may appeal the default judgment to the administrative hearing officer. The administrative hearing officer may set aside a default judgment only upon a written finding of good cause shown by the appealing responsible person.

(5) Following the issuance of a default judgment and the failure to timely appeal the default judgment, or following the issuance of a code enforcement order upholding the default judgment, the City may forthwith

proceed to abate the nuisance or violation described in the default judgment, and may forthwith proceed to collect all accrued monetary penalties and costs associated with the abatement.

(Ord. 2017-32, 11-15-2017) (Ord. 2014-13, 10-15-2014)

8-4-14. Notice of compliance.

(1) It shall be the duty of a responsible person served with a notice of violation to request a City compliance inspection when the described nuisance or violation has been abated.

(2) It is prima facie evidence that the nuisance or violation is continuing if no compliance inspection is requested.

(3) The City shall perform the requested compliance inspection. If the officer finds that the nuisance or violation for which the notice of violation was issued has been abated fully, the officer shall issue a notice of compliance to the responsible person requesting the compliance inspection.

(4) A notice of compliance shall be deemed effective upon the day of the inspection that determined full compliance. No further monetary penalties shall accrue after this date unless the same or a similar nuisance or violation occurs within the 12 months immediately following the notice of compliance.

(5) If, following a request for compliance inspection, the City declines to issue a notice of compliance, it remains the duty of the responsible person to request a reinspection once further abatement is completed.

(6) The first compliance inspection shall not require the payment of a fee. All reinspections shall require the payment of a fee established by the City Council.

(7) If the City declines to issue a notice of compliance, it shall provide a written explanation to the responsible party requesting the compliance inspection.

(8) A responsible person may appeal the denial of a notice of compliance to the administrative hearing officer.

(9) A request for compliance inspection or reinspection shall toll the abatement period and the accrual of monetary penalties until the issuance of written reasons for the denial of a notice of compliance or until the occurrence of substantially the same nuisance or violation with the 12 months immediately following the notice of violation.

(Ord. 2017-32, 11-15-2017) (Ord. 2014-13, 10-15-2014)

8-4-15. Code enforcement order: authority.

In addition to the authority granted under Chapter 1-28 of this Code, the administrative hearing officer shall have authority to do the following:

(1) upon appeal, to uphold, modify, or reject a notice of violation, and to issue a code enforcement order to that effect;

(2) upon appeal, to uphold, modify, or reject a notice of compliance, and to issue a code enforcement order to that effect;

(3) upon officer affidavit, to issue a default judgment;

(4) upon appeal, to uphold, modify, or reject a

default judgment, and to issue a code enforcement order to that effect;

(5) upon appeal, to uphold, modify, suspend, dismiss, or order the payment of monetary penalties associated with a notice of violation, and to issue a code enforcement order to that effect;

(6) upon appeal, to establish a payment plan for payment of monetary penalties associated with a notice of violation, and to issue a code enforcement order to that effect;

(7) to make written findings of fact and conclusions of law associated with a code enforcement order;

(8) to issue a code enforcement order requiring a responsible person to post a cash code enforcement performance bond and to sign an associated bond agreement prepared by the City Attorney;

(9) to issue a code enforcement order for the return of the cash code enforcement performance bond to the posting responsible person;

(10) to incorporate a stipulation agreement into a code enforcement order;

(11) to declare a code enforcement tax lien released and/or fully satisfied, and to issue a code enforcement order to that effect; and,

(12) to issue any other lawful code enforcement order regarding any aspect of abatement.

(Ord. 2017-32, 11-15-2017) (Ord. 2014-13, 10-15-2014)

8-4-16. Code enforcement order: enforcement.

The City may use all lawful means to enforce a code enforcement order, including a default judgment, and to recover all costs associated with such enforcement. (Ord. 2014-13, 10-15-2014)

8-4-17. Code enforcement order: appeal.

A responsible person subject to a code enforcement order may appeal to a court in the manner provided in Chapter 1-28 of this Code. (Ord. 2014-13, 10-15-2014)

8-4-18. Stipulation agreement.

The City may enter into a stipulation agreement with a responsible person to resolve a notice of violation. A signed stipulation agreement shall be delivered to the administrative hearing officer, who shall issue a code enforcement order incorporating the stipulation agreement. By entering into a stipulation agreement, a responsible person waives all administrative and judicial appeals associated with the notice of violation. (Ord. 2014-13, 10-15-2014)

8-4-19. Recordation.

(1) If a nuisance or violation continues to exist after the abatement period, and the notice of violation has not been appealed, an officer may record the notice of violation, together with any default judgment and code enforcement order, with the office of the Tooele County Recorder. This recordation is not a lien against property, but a notice concerning any continuing nuisance or violation found upon the property.

(2) If a notice of compliance or code enforcement order finding compliance is issued after a notice of violation, default judgment, or code enforcement order has been recorded, the officer shall cause the notice of compliance or code enforcement order finding compliance to be recorded with the office of the Tooele County Recorder. This recordation shall have the effect of updating and nullifying a previously recorded notice of violation, default judgment, or code enforcement order to which it relates.

(3) Notice of any recordation shall be served upon the owners of the real property against which a recordation has been made. The failure to serve such notice shall not be grounds to void the recordation.

(Ord. 2017-32, 11-15-2017) (Ord. 2014-13, 10-15-2014)

8-4-20. Withholding permits; appeal.

(1) During the pendency of any unresolved notice of violation or code enforcement order, the City may withhold from a responsible person subject to the notice or order any permit, license, or land use approval associated with the property upon which the nuisance or violation of this Chapter continues. The withholding shall continue until the issuance of a notice of compliance or code enforcement order finding compliance.

(2) The withholding of a permit, license, or land use approval pursuant to authority of this Section may be appealed to the administrative hearing officer.

(Ord. 2017-32, 11-15-2017) (Ord. 2014-13, 10-15-2014)

8-4-21. Abatement: emergency.

(1) The City is authorized to summarily abate an imminent hazard.

(2) Whenever an officer and the Director determine that an imminent hazard exists, the officer may issue an emergency order directing one or more of the following actions:

(a) order the immediate vacation of any owners, tenants, and occupants, and prohibit occupancy until all imminent hazards have been abated;

(b) post the property or premises as unsafe, substandard, or dangerous;

(c) board, fence, and otherwise secure any property or premises;

(d) raze, grade, and otherwise remove structures and objects on the property to the extent necessary to remove any imminent hazard;

(e) make emergency repairs;

(f) cut and remove weeds, grass, and other vegetation as necessary to mitigate an imminent fire hazard due to vegetation height, concentration, dryness, or other combustibility factors; and,

(g) take any other reasonable action to eliminate an imminent hazard or to protect the public from an imminent hazard.

(3) A notice of violation shall be served upon a responsible person associated with an imminent hazard. The notice shall describe the nature of the imminent hazard. Service is not required prior to taking steps to abate an imminent hazard.

(4) City personnel and agents may enter property or premises without a warrant to the extent necessary to abate an imminent hazard.

(5) The City shall pursue only the minimum level of abatement necessary to abate an imminent hazard under this Section. Once an imminent hazard is abated sufficiently to constitute a nuisance or violation that is not an imminent hazard, the City shall follow the procedures of this Chapter for non-emergency abatement.

(6) A responsible person shall be liable for all costs associated with the abatement of an imminent hazard.

(7) Promptly after an emergency abatement, an officer shall notify a responsible person of the abatement actions taken, the itemized costs for those actions, and the location of any seized and removed personal property.

(8) A responsible person may appeal the costs of an emergency abatement to the administrative hearing officer.

(Ord. 2017-32, 11-15-2017) (Ord 2017-17, 06-21-2017)
(Ord. 2014-13, 10-15-2014)

8-4-22. Abatement: non-emergency.

(1) If a responsible person fails to abate a nuisance or violation within the abatement period or within the deadline established in a code enforcement order, the City is authorized to abate the nuisance or violation.

(2) The City and its agents have authority to enter upon any property or premises as may be necessary to abate a nuisance or violation. Such entry onto a private property or premises shall be accompanied by a warrant, be done in a reasonable manner, and be based upon probable cause. However, no warrant shall be required where a responsible person's consent is voluntarily given.

(3) A responsible person shall be liable for all costs associated with the abatement. If the City undertakes preparatory or other steps to perform an abatement, but the responsible person completes the abatement before the City begins or completes the abatement, the responsible person shall remain responsible for the City's preparatory and other costs.

(4) Promptly after an abatement, an officer shall notify a responsible person of the abatement actions taken, the itemized costs for those actions, and the location of any seized and removed personal property.

(5) A responsible person may appeal the costs of an abatement to the administrative hearing officer.

(Ord. 2017-32, 11-15-2017) (Ord. 2014-13, 10-15-2014)

8-4-23. Recovery of Fees and Costs.

(1) As provided in U.C.A. Sections 10-11-3 and -4, as amended, and after any established deadlines for the payment of monetary penalties and abatement-related fees and costs has passed, the officer may file and record with the Tooele County Recorder and Treasurer a code enforcement tax lien and an itemized statement of all such penalties, fees, and costs.

(2) Upon full payment of all amounts owing under a code enforcement tax lien, or upon the entry of a code enforcement order or judicial order declaring the lien amount satisfied, the City shall file and record an

appropriate notice of satisfaction and/or release of lien.

(3) The City may pursue all lawful means to recover all penalties, fees, and costs imposed or incurred pursuant to this Chapter.

(Ord. 2017-32, 11-15-2017) (Ord. 2014-13, 10-15-2014)

8-4-24. Abatement superfund.

There is hereby established a revolving fund, to be known as the abatement superfund, to defray the costs of abatement. The abatement superfund shall be funded by monetary penalties, compliance reinspection fees, appeal fees, and other fees and costs collected pursuant to this Chapter.

(Ord. 2017-32, 11-15-2017) (Ord. 2014-13, 10-15-2014)