



CODE Chapter 5 NUISANCES

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4-5-1: PURPOSE:

The purpose of this chapter is to provide a means for the city and complainants to identify nuisances within the city and to provide a means for correcting or abating the nuisances. The city must have the ability to abate nuisances in order to protect the health and safety of the public, to foster neighborhood stability, to preserve the appearance, character and beauty of neighborhoods, to encourage community pride, to preserve the value of property, and to protect the general welfare of the city and its citizens, businesses and visitors. This chapter provides for progressive enforcement measures to abate nuisances; the most aggressive forms of enforcement are generally reserved for the most recalcitrant violators of this chapter. (Ord. 795, 10-4-2011)

4-5-2: DEFINITIONS:

ABATE: To repair, replace, remove, correct or otherwise remedy a condition which constitutes a nuisance by such means, in such a manner and to such an extent as the city determines is necessary in the interest of the general health, safety and welfare of the community.

CODE ENFORCEMENT INSPECTOR: A code enforcement inspector(s) designated by the city to enforce this chapter. This can include: employee(s) of the community development department, or employee(s) or officer(s) of the Riverdale City police, fire or public works departments.

COMPLETION DATE: The date by which the responsible person must abate a nuisance. The completion date is originally set by the city in the voluntary correction agreement or in the administrative citation. The completion date may be modified by the justice court.

EMERGENCY: A situation which, in the determination of the city, requires immediate action to prevent or eliminate an immediate threat to the health or safety of a person or property.

JUSTICE COURT: The Riverdale City justice court.

OWNER: Any person who, alone or with others, has title or interest in any building, property or premises, with or without accompanying actual possession thereof. For the purpose of giving notice, the term "owner" also includes any person in physical possession.

PREMISES: A plot of ground, whether occupied or not.

PROPERTY: A building or structure, or the premises on which the building or structure is located, developed or undeveloped land.

PUBLIC PLACE: An area generally visible to public view and includes: alleys, bridges, driveways, parking

lots, parks, plazas, sidewalks, streets, and buildings open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

RESPONSIBLE PERSON: The person(s) responsible for correcting or abating a nuisance or ordinance violation pursuant to this chapter. The responsible person includes the owner and any person who causes or permits a nuisance to occur or remain upon property in the city, and includes, but is not limited to, the owner(s), lessor(s), lessee(s), or other person(s) entitled to control, use and/or occupy property where a nuisance occurs. In cases where there are more than one responsible persons, the city may proceed against one, some or all of them.

UNDRIVABLE OR NONTOWABLE CONDITION: A vehicle or RV which has missing tires or tire, missing engine, missing transmission, is dismantled or in such a manner as to which the vehicle is rendered unable to pass state safety inspection requirements, unable to move upon its own operable means, or the vehicle has become the habitat for rats, birds, mice, vermin, or insects. (Ord. 780, 3-15-2011)

4-5-3: NUISANCE DEFINED:

This section defines "nuisance" by providing five (5) general definitions of what constitutes a nuisance or ordinance violation (subsection A of this section), and then providing specific examples of situations, conduct or activities that constitute nuisances or ordinance violations (subsection B of this section). The purpose of the general definitions is to allow the city to classify an offending situation, conduct or activity as a nuisance, even though the situation, conduct or activity may not be listed as a nuisance in the specific examples. The first three (3) general definitions are taken directly from Utah state law. The purpose of listing the specific examples is to identify some of the specific situations, conduct and activities that the city intends to abate as nuisances.

A. General Definitions Of Nuisance: Any activity that meets any one or more of the five (5) definitions set forth below shall constitute a nuisance if it occurs within the city of Riverdale:

1. **Injurious To Health:** Anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
2. **Dangerous To Human Life:** Any item, thing, manner, or condition whatsoever that is dangerous or harmful to human life or health or renders soil, air, water, or food impure or unwholesome.
3. **Act Or Omission:** Unlawfully doing any act or omitting to perform any duty, which act or omission:
 - a. Annoys, injures, or endangers the comfort, repose, health, or safety of three (3) or more persons;
 - b. Offends public decency;
 - c. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street, or highway; or
 - d. In any way renders three (3) or more persons insecure in life or the use of property.An act which affects three (3) or more persons in any of the ways specified in this subsection is still a nuisance regardless of the extent to which the annoyance or damage inflicted on individuals is unequal.
4. **Nuisance:** A condition which:
 - a. Wrongfully annoys, injures, or endangers the comfort, repose, health or safety of others; or
 - b. Unlawfully interferes with, obstructs or tends to obstruct, or render dangerous for passage, any public park, square, street or highway, or any other public place; or
 - c. In any way renders other persons insecure in life, or in the use of property, and which affects the rights of an entire community or neighborhood, although the extent of the damage may be unequal.
5. **Specific Nuisances Listed In Subsection B Of This Section:** Anything specifically listed as a nuisance in subsection B of this section.

B. Nuisances Enumerated: Every situation, conduct or activity listed below constitutes a nuisance and may be abated pursuant to this chapter. The listed examples are not exhaustive; a situation, conduct or activity not listed below, but coming within one of the general definitions of nuisance listed above, shall also constitute a nuisance.

1. Drug Houses: Every building or premises where the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition of any controlled substance, precursor, or analog specified in title 58, chapter 37 of the Utah code (Utah controlled substances act) occurs.
2. Gambling: Every building or premises where gambling occurs as prohibited in title 76, chapter 10, part 11 of the Utah code (gambling and "fringe gambling") which creates the conditions of a nuisance as defined in subsection A1 of this section.
3. Gang Houses: Every building, house, apartment or premises wherein criminal activity is committed in concert with two (2) or more persons as provided in section 76-3-203.1 of the Utah code.
4. Prostitution: Every building, house, apartment or premises where prostitution or the promotion of prostitution is regularly carried on by one or more persons as provided in title 76, chapter 10, part 13 (prostitution) of the Utah code.
5. Weapons: Every building, house, apartment or premises where a violation of title 76, chapter 10, part 5 (weapons) of the Utah code occurs on the premises.
6. Unsafe Condition: A condition that unreasonably or unlawfully affects the health, safety or well being of one or more persons.
7. Fire Hazard: A fire hazard.
8. Noxious Emanations: Emanation of noxious, offensive, foul or unreasonable odors, fumes, gas, smoke, soot or cinders.
9. Noxious Weeds: Noxious weeds located on vacant lots or other property, along public sidewalks or the outer edge of any public street, or weeds in any other location which constitute a fire or safety hazard, or violate any other city, state or federal ordinance, statute, or law. Noxious weeds: Weeds that are listed as noxious by the Utah state extension service. Said list of weeds is incorporated herein by reference and said weeds shall be removed from all real property subject to the provisions of this chapter.
10. Refuse: Keeping or storing of any refuse or waste matter which interferes with the reasonable enjoyment of nearby property. Refuse matter: animal fecal matter, vegetative waste, weed, and/or grass clippings shall not be allowed to accumulate on property, unless they are kept in an enclosed compost bin that does not create a nuisance pursuant to section 4-5-1 of this chapter by being a health or safety hazard.
11. Stagnant Water: Polluted or stagnant water which constitutes an unhealthy or unsafe condition.
12. Improper Accumulations: Accumulation of soil, litter, debris, plant trimmings, or trash, visible from the street or an adjoining property.
13. Accumulation Of Junk: Accumulation of used or damaged lumber; junk; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, cabinets, or other fixtures or equipment stored so as to be visible from a public street, alley, or adjoining property. However, nothing herein shall preclude the placement of stacked firewood for personal noncommercial use on the premises.
14. Attractive Nuisances: Any attractive nuisance dangerous to children and other persons including, but not limited to, abandoned, broken, or neglected household appliances, equipment and machinery, abandoned foundations or excavations, or improperly maintained or secured pools.
15. Vegetation: Dead, decayed, diseased, or hazardous trees, weeds, hedges, and overgrown or uncultivated vegetation which is in a hazardous or unsafe condition, is an obstruction to pedestrian or vehicular traffic, or which is likely to harbor rats, vermin or other pests.

16. Dust: Any premises which causes excessive dust due to lack of landscaping, maintenance or other cause.
17. Improper Storage: The keeping, storing, depositing or accumulating on the premises or in the public right of way any trailers, equipment, machinery, dirt, sand, gravel, concrete, or other similar materials, or maintenance of such material on public rights of way for an unreasonable period of time or longer than seventy two (72) hours. Material stored as part of an active construction project shall not be considered a nuisance so long as such equipment or machinery does not otherwise create a nuisance herein.
18. Garbage Can: The leaving of any garbage can or refuse container in the street, other than on collection day, for more than twenty four (24) hours after the collection day.
19. Construction Equipment: Construction equipment or machinery of any type or description parked or stored on property when it is readily visible from a public street, alley or adjoining property, except while excavation, construction or demolition operations covered by an active building permit are in progress on the subject property or an adjoining property, or where the property is zoned for the storage of construction equipment and/or machinery so long as such equipment or machinery does not otherwise create a nuisance herein.
20. Improper Sign: Improper maintenance or nonmaintenance of a sign or signs which advertise a business or businesses that no longer exists on the property, or is in violation of any other Riverdale City ordinance.
21. Abandoned Vehicles: A car, truck, bus, motor home, fifth wheel vehicle, trailer, camper, boat, jet ski, motorcycle, ATV, snowmobile, and/or a combination thereof or any other vehicle that is not currently registered or is in an undrivable condition or unusable as a vehicle and is visible from a public street or an adjoining property. If any of the above mentioned types of vehicles are visible from a public street or an adjoining property the vehicle or vehicles if allowed to remain on property must be stored/enclosed in an approved accessory building or garage. Tarps, covers, tents or temporary shelters are not approved enclosures to be used for the purpose of complying with this section.
22. Improper Parking Or Storage:
 - a. Parking or storage of inoperative, unregistered, abandoned, wrecked or dismantled vehicles, boats, trailers or vehicle parts, including recreational vehicles, on a premises or in the public right of way. Storage or parking that is specifically allowed by the city's zoning ordinance shall not be considered a nuisance.
 - b. Parking or storage of registered vehicles, trailers or boats in violation of city ordinance.
23. Hazardous Conditions: Any wall, sign, fence, gate, hedge, or structure maintained in such condition of deterioration or disrepair as to constitute a hazard to persons or property.
24. Graffiti: Graffiti which remains on the exterior of any building, fence, sign, or other structure and is visible from a public street.
25. Improper Maintenance: Maintenance of buildings and/or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair including, but not limited to:
 - a. Any building or structure which is unfit for human habitation, or which is an unreasonable hazard to the health of people residing in the vicinity thereof, or which presents an unreasonable fire or health hazard in the vicinity where it is located; or
 - b. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of city ordinances, or any use of land, buildings or premises in violation of city ordinances; or
 - c. Buildings, signs or structures which are abandoned, partially destroyed, or left in an unreasonable state of partial construction for a period of six (6) months or longer. An "unreasonable state of partial construction" is defined as any unfinished building, sign or structure where the appearance or condition of the building, sign or structure does not meet the requirements for finished buildings, signs or structures as required by applicable city ordinances or building codes. The

- building, sign or structure shall not be considered to be a nuisance if it is under active construction; or
- d. Buildings having dry rot, mold, warping, termite infestation, decay, excessive cracking, peeling, or chalking, as to render the building unsightly and/or in a state of disrepair; or
 - e. Buildings with missing doors and/or windows containing broken glass and/or no glass at all where the window is of a type which normally contains glass; or
 - f. Building exteriors, walls, fences, gates, driveways, sidewalks, walkways, signs or ornamentation, or alleys maintained in such condition as to render them unsightly and/or in a state of disrepair; or
 - g. Buildings or conditions that violate any building, electrical, plumbing, fire, housing, or other code adopted by the city.
26. City Code Nuisances: Any violation of a Riverdale City code section that expressly declares a specific situation, conduct or activity to be a nuisance.
27. Drugs And Alcohol: Every property or premises not licensed under applicable federal or state law or city ordinance where any intoxicating drugs, liquors or alcohol are kept for unlawful use, sale or distribution.
28. Inappropriate Conduct: Every property or premises where there exists an environment which causes, encourages or allows individuals or groups of individuals to commit one or more of the following acts on the property, premises or adjacent public place, including, but not limited to:
- a. Illegally consuming intoxicating liquor or alcohol or illegal drugs;
 - b. Publicly urinating or defecating;
 - c. By physical action, intentionally causing or attempting to cause another person to reasonably fear imminent bodily injury or the commission of a criminal act upon their person or upon property in their immediate possession;
 - d. Engaging in acts of violence, including fighting;
 - e. Discharging a firearm or an explosive in violation of city ordinance or state law;
 - f. Creating unreasonable or excessive noise, traffic, smells or light which disturbs others or deprives someone of their peaceful enjoyment of their property;
 - g. Intentionally obstructing pedestrian or vehicular traffic; or
 - h. Soliciting acts of prostitution.
29. Dangerous Conditions: Any fence, wall, shed, deck, house, garage, building, structure or any part of any of the aforesaid; or any tree, pole, smokestack; or any excavation, hole, pit, basement, cellar, sidewalk, subspace, dock, or loading dock; or any lot, land, yard, premises or location which in its entirety, or in any part thereof, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to any one or more individuals in the city, in any one or more of the following particulars:
- a. By reason of being a menace, threat and/or hazard to the general health and safety of the community.
 - b. By reason of being a fire hazard.
 - c. By reason of being unsafe for occupancy, or use on, in, upon, about or around the aforesaid property.
 - d. By reason of lack of sufficient or adequate maintenance of the property, and/or being vacant, any of which depreciates the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such property is situated or such condition exists.
30. Zoning Violations: Any violation of the city's zoning ordinances in which the owner or occupier has not obtained a nonconforming use approval, as obtained through title 10, chapter 20 of this code.
31. Parking On Landscaping: Parking in an area required to be landscaped by city ordinance. This does not include temporary parking of less than four (4) hours.
32. Required Landscaping: Failure to install or maintain landscaping required by city ordinance.
33. Unmanaged Growth: Unmanaged growth includes, but is not limited to, the following:

- a. Weeds or grasses, other than ornamental grasses, that are in excess of six inches (6") in height relative to the surrounding hardscape and that are in areas required to be landscaped by city ordinance;
 - b. Trees, shrubs, or other vegetation, that interferes with the ingress or egress to a city street or right of way including sidewalks, visually, or through other manner from a private drive, street or other entryway; or
 - c. Trees, shrubs, or other vegetation, that interferes with the delivery, service or operation of any public utility.
 - d. The provisions of this section shall govern and be applied to all owners and occupants of real property which is:
 - (1) Located within the Riverdale City corporate limits, in any and all residential zones; or
 - (2) Located within the Riverdale City corporate limits with a zoning designation of A-1, provided said A-1 zoned real property has been developed for a residential use.
 - e. The provisions of this section shall not be applicable to any real property located in the Riverdale City corporate limits, zoning designation notwithstanding, which is:
 - (1) Protected by local, state, or federal law, statute, or regulation; or
 - (2) All properties with a certified hillside slope of twenty percent (20%) or greater.
34. Animals, Pets Or Fowl: Any animal, pet or fowl kept for any reason, or the containment means or living structure for the same that creates objectionable, offensive or annoying odor, noise, deterioration of property or that is unsightly, hazardous or unhealthy. (Ord. 780, 3-15-2011)

4-5-4: EXCEPTIONS:

No act which is done or maintained under the express authority of an authoritative statute, ordinance or court ruling shall be declared a nuisance. (Ord. 795, 10-4-2011)

4-5-5: RESPONSIBILITY FOR NUISANCES:

Any person or entity, whether as owner, manager, agent, renter, occupant, or the person(s) or entity who controls or who is in charge of any property, lot or premises, who creates, aids in creating, or contributes to a nuisance, or who supports, continues, or retains a nuisance, is responsible for the nuisance and is therefore a responsible person pursuant to this chapter. Every successive owner, tenant or responsible person of a property or premises who fails to abate a continuing nuisance upon or in the use of such property or premises caused by a former owner, tenant or responsible person is responsible therefor in the same manner as the one who first created it. (Ord. 795, 10-4-2011)

4-5-6: NUISANCE ABATEMENT - ADMINISTRATION:

This chapter may be administered and enforced by the city, code enforcement or the public safety department. In case of nuisances involving dangerous buildings enforcement may be administered by the community development or fire department or any other properly authorized agent of the city. (Ord. 780, 3-15-2011)

4-5-7: FINDING OF NUISANCE:

If the city finds that a nuisance exists, the city shall attempt to have the responsible person abate the nuisance. (Ord. 780, 3-15-2011)

4-5-8: VOLUNTARY CORRECTION:

This section may apply whenever the city determines that a nuisance exists. Although the city's first step in correcting or abating the nuisance may be to obtain voluntary compliance, the city may pursue any remedy or combination of remedies available pursuant to this chapter, state law or common law in order to abate the nuisance. Nothing in this section shall be interpreted to prohibit the city from engaging in its standard prosecution practices. Therefore, the city may prosecute violators of city ordinances or state laws without first having to comply with the provisions of this chapter, even though the activity or conduct prosecuted may also constitute a nuisance under this chapter. Nothing in this chapter shall be interpreted to prevent the city from enforcing applicable city ordinances, or building codes, without first treating the offending conduct, situation or activity as a nuisance pursuant to this chapter.

- A. Contact: One of the options available before taking other steps to abate the nuisance, the city may make a reasonable attempt to secure voluntary correction or abatement of the nuisance by:
1. Contacting the responsible person, where possible;
 2. Explaining the nuisance;
 3. Requesting the responsible person to abate the nuisance; and
 4. Agreeing to terms with the responsible person to abate the nuisance, in writing signed by both parties.
 5. Issue a "fix-it" citation as prescribed in subsection 1-4-4F of this code.
- B. No Agreement: If the city and the responsible person cannot agree to terms for correcting or abating the nuisance, the city may still abate the nuisance using one or more of the procedures set forth in this chapter, state law, or common law.
- C. Voluntary Correction Agreement: If the city and the responsible person agree to terms for abating the nuisance, they shall enter into and sign a voluntary correction agreement. The voluntary correction agreement is a contract between the city and the responsible person in which the responsible person agrees to abate the nuisance within a specified time and according to specified conditions. The voluntary correction agreement shall include the following terms:
1. The name and address of the responsible person;
 2. The street address of the nuisance, or a description sufficient to identify the building, structure, premises, or land upon or within which the nuisance is occurring;
 3. A description of the nuisance;
 4. The necessary corrective action to be taken, and a date or time by which correction must be completed;
 5. An agreement by the responsible person that the city may inspect the premises as necessary to determine compliance with the voluntary correction agreement;
 6. An agreement by the responsible person that the city may abate the nuisance and recover its costs and expenses to abate the nuisance, as well as a monetary fine pursuant to this chapter from the responsible person, if terms of the voluntary correction agreement are not met;
 7. An agreement by the responsible person acknowledging that he/she waives the right to appeal the city's finding that a nuisance exists and waives the right to appeal the specific corrective action required in the voluntary correction agreement; and
 8. An agreement by the responsible person that failure to comply with the voluntary correction agreement may be grounds for criminal prosecution.
 9. If a voluntary correction agreement has been entered into between the city and this responsible party, within the previous twenty four (24) months, the city may, but is not required to, enter into another voluntary correction agreement but may exercise any options available to the city to abate the nuisance such as issue an administrative citation as described in section 4-5-9 of this chapter or a fix-it citation as prescribed in subsection 1-4-4F of this code.
 10. It shall be the obligation of the responsible person to notify the city to sign off on the voluntary correction agreement when the work is completed prior to the date of expiration or the voluntary correction agreement expires. Failure to do so will become an administrative citation in the Riverdale justice court.

The city may grant an extension of the time limit for correcting or abating the nuisance if the responsible person has shown due diligence and/or substantial progress in correcting or abating the nuisance but unforeseen circumstances render abatement under the original conditions unattainable. If the responsible person complies with the terms of the voluntary correction agreement, the city shall take no further action against the responsible person related to the nuisance described in the voluntary correction agreement unless the nuisance recurs. (Ord. 780, 3-15-2011)

4-5-9: ADMINISTRATIVE CITATION:

- A. Issuance Of An Administrative Citation: When the city determines that a nuisance exists, and is unable to secure voluntary correction pursuant to section 4-5-8 of this chapter, the city may issue an administrative citation to the responsible person. The city may issue an administrative citation without having attempted to secure voluntary correction as provided in section 4-5-8 of this chapter under the following circumstances:
1. When an emergency exists; or
 2. When the city is unable to locate or determine the identity of the responsible person, other than the property owner; or
 3. When the city has previously entered into an agreement with the responsible party(ies) within the previous twenty four (24) months.

- B. Content Of Administrative Citation: The administrative citation shall include the following:
1. The name and address of the responsible person; and
 2. The street address of the nuisance or a description sufficient for identifying the building, structure, premises, or land upon or within which the nuisance is occurring; and
 3. A description of the nuisance; and
 4. The required corrective action; and
 5. The completion date and a notice that the city may abate the nuisance and charge the responsible person for all abatement costs if the responsible person does not correct the nuisance before the completion date; and
 6. The time for appealing the administrative citation to the justice court and the procedure for filing an appeal.
 7. A statement indicating that no monetary fine will be assessed if the city approves the completed, required corrective action prior to the completion date; and
 8. A statement that the city may abate the nuisance and assess costs and expenses of abatement and a monetary fine against the responsible person if the correction is not completed by the responsible person and approved by the city before the completion date.
- C. Service Of Administrative Citation: The city shall serve the administrative citation upon the responsible person, either personally or by mailing, certified, return receipt requested, a copy of the administrative citation to the responsible person at his/her last known address. If the responsible person cannot after due diligence be personally served within Weber County and if an address for mailed service cannot after due diligence be ascertained, notice shall be served by posting a copy of the administrative citation conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made, and if by posting, the facts showing that due diligence was used in attempting to serve the person personally or by mail.
- D. No Extension: No extension of the time specified in the administrative citation for correction of the nuisance may be granted, except by order of the justice court. (Ord. 780, 3-15-2011)

4-5-10: OTHER REMEDIES:

The city may take one or more of the following actions against any responsible person who fails to comply with the terms of a voluntary consent agreement, an administrative citation, or an order of the justice court:

- A. Abatement by The City:
1. The city may abate a nuisance when:
 - a. The terms of a voluntary correction agreement have not been met; or
 - b. The requirements of an administrative citation have not been complied with, or, if the administrative citation is appealed to a justice court and the terms of the administrative citation are amended by the justice court, the terms of the justice court's order have not been complied with; or
 - c. The condition is subject to summary abatement as provided for in subsection A2 of this section.
 2. Whenever a nuisance is occurring which constitutes an immediate and emergent threat to the public health, safety or welfare or to the environment, the city may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the responsible person as soon as reasonably possible after the abatement.
 3. Using any lawful means, the city may enter upon the subject property and may remove or correct the condition which is subject to abatement. The city may seek such judicial process as it deems necessary to effect the removal or correction of such condition.
 4. The costs, including incidental expenses, of correcting or abating the violation shall be billed to the responsible person and/or the owner, lessor, tenant or other person entitled to control, use and/or occupy the property and shall become due and payable to the city within ten (10) days of actual receipt of the bill (within 15 days of the mailing date if the bill is mailed). The term "incidental expenses" includes, but is not limited to:
 - a. Personnel costs, both direct and indirect, including attorney fees and costs;
 - b. Costs incurred in documenting the violation;
 - c. Hauling, storage and disposal expenses;
 - d. Actual expenses and costs for the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and
 - e. The costs of any required printing and mailing.

B. Monetary Fine: The responsible person shall pay the city a monetary fine for each day the nuisance continues after the completion date. The nuisance shall be considered to continue until the city approves the responsible person's actions to correct or abate the nuisance. The amount of the monetary fine shall be as follows:

1. One hundred dollars (\$100.00) per day for each day during the first week that the nuisance remains uncorrected or unabated after the completion date;
2. Two hundred dollars (\$200.00) per day for each day thereafter until the nuisance is corrected or abated according to the terms set forth in the administrative citation.

The monetary fine shall be cumulative and may not be waived by the city. Payment of a monetary fine pursuant to this section does not relieve the responsible person from the duty to abate the nuisance as required by the voluntary consent agreement or the administrative citation. The monetary fine constitutes a personal obligation of the responsible person. Any monetary fine assessed must be paid to the city within ten (10) calendar days from the date of mailing of the justice court's decision and order or a notice from the city that the fine is due. The city attorney or his/her designee is authorized to take appropriate action to collect the monetary fine, plus reasonable attorney fees and costs incurred in collecting said monetary fine.

C. Civil Actions: Either the city or any private person directly affected by a nuisance may bring a civil action to abate or enjoin the nuisance, or for damages for causing or maintaining the nuisance (including the cost, if any, of cleaning the subject property). The civil action may be brought pursuant to this chapter or pursuant to state law.

D. Criminal Actions: Criminal actions may be initiated by criminal citation from the city or by information filed with the court.

1. Any person who maintains or assists in maintaining a nuisance is guilty of a class C misdemeanor. A prior conviction within the previous five (5) years will be considered an enhanced violation and any person convicted of a second or more violations of this chapter within five (5) years shall be guilty of a class B misdemeanor.
 - a. If the alleged nuisance is also a violation of a provision of this code (other than this nuisance chapter) or state law, the responsible person may be charged under the specific provision of this code or state law, even if the city did not first attempt to obtain voluntary correction as provided in section 4-5-8 of this chapter.
2. Any person who knowingly obstructs, impedes, or interferes with the city or its agents, or with the responsible person, in the performance of duties imposed by this chapter, or a decision and order issued by the justice court, or a voluntary correction agreement, is guilty of a class B misdemeanor.

E. Abatement By Eviction: Whenever there is reason to believe that a nuisance under subsections 4-5-3B1 through B6 of this chapter is kept, maintained, or exists in the city, the city attorney or any citizen(s) residing in the city, or any person or entity doing business in the city, in his or their own names, may maintain an action in a court of competent jurisdiction to abate the nuisance and obtain an order for the automatic eviction of the tenant of the property harboring the nuisance. The eviction shall take place as specified in Utah law.

F. Lien For Costs: If a person fails to pay any fines or costs related to nuisance abatement when due, the city may:

1. Record a lien on the property or premises for the full amount of the unpaid fines and costs; and
2. Add such fines or costs to the utility water bill account.

G. Nonexclusive Remedies: The city may take any or all of the above mentioned remedies (administrative, civil or criminal) to abate a nuisance and/or to punish any person or entity that creates, causes or allows a nuisance to exist. The abatement of a nuisance does not prejudice the right of the city or any person to recover damages or penalties for its past existence. (Ord. 795, 10-4-2011)

4-5-11: APPEALS:

A. Grounds: Any person receiving an administrative citation may appeal the administrative citation to the Riverdale justice court. Only the following issues may be appealed to the justice court:

1. The person charged as the responsible person is not the "responsible person" as defined by this chapter.
2. The condition described as a nuisance is not a "nuisance" as defined by this chapter.

3. The method required to abate the nuisance is inappropriate.
 4. The time period given to abate the nuisance is unreasonable.
 5. The monetary fine is unreasonable.
 6. The responsible person claims that the requirement(s) violates his/her constitutional rights.
- B. Filing: The person desiring to appeal must file a notice of appeal at the city's office of community development, and the Riverdale justice court within ten (10) days of receipt of the citation (within 15 days of the mailing date if the citation is mailed).
- C. Hearing: The hearing before the justice court shall be informal according to rules and procedures established by the justice court. The appellant may, but is not required to, bring an attorney or other representative to assist him or her. The appellant and the city may each call witnesses at the hearing. The justice court judge may, with or without the parties present, visit the site of the alleged nuisance. If the justice court judge allows the parties at the site visit, both parties must be given the opportunity to be present. The hearing shall be scheduled by the justice court within thirty (30) days of when the notice of appeal is filed with the city.
- D. Burden Of Proof: The appellant shall have the burden of proof to demonstrate by a preponderance of the evidence that he/she had legitimate grounds for an appeal. The determination of the city as to the need for the required corrective action shall be accorded substantial weight by the justice court in determining the reasonableness of the corrective action.
- E. Authority Of The Justice Court: The justice court shall have authority to affirm or vacate the administrative citation, or to modify or waive specific provisions of the administrative citation. If the appellant fails to attend the hearing, the justice court shall affirm the administrative citation. The justice court shall not vacate the administrative citation unless he/she finds that no nuisance exists. The justice court shall modify the administrative citation if he/she finds that a nuisance exists, but that one or more of the requirements of the administrative citation is improper or inappropriate. A requirement is improper if it is contrary to this chapter. A requirement is inappropriate if the justice court finds that there is a better means of resolving the problem or that the proposed solution is inappropriate given the nature or severity of the problem. When determining whether to waive or modify a requirement of the administrative citation, the justice court may also consider:
1. Whether the appellant responded to the city's attempts to contact the appellant and cooperated with efforts to correct the nuisance;
 2. Whether the appellant has shown due diligence and/or substantial progress in correcting the nuisance;
 3. The financial ability of the appellant and the amount, if any, that the appellant has benefited financially by maintaining the nuisance;
 4. Any other relevant factors.
- If the appellant appeals the city's refusal to approve appellant's corrective action, the justice court shall visit the site and determine if the appellant complied with the requirements of the administrative citation.
- F. Order: The justice court shall issue a written order to the appellant and the city notifying them of his/her decision. The order shall include the justice court's findings of fact and ultimate decision. If the justice court modifies or waives provisions of the administrative citation, the order shall specify which portions are modified and how they are modified. The justice court shall mail a copy of the order to the appellant and the city within five (5) working days of the close of the hearing.
- G. Appeal To District Court: Either the city (in the case of a ruling on an administrative citation only) or the appellant may appeal the justice court's order by filing a petition for review of the order. The petition must be filed in the second district court within thirty (30) calendar days from the date the justice court's order was mailed to the appellant. (Ord. 780, 3-15-2011)