

## Chapter 1 Nuisance.

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### **Section 5.1.10. General Provisions.**

A. Purpose. To provide for the health, safety, welfare, and quality of life of Fairfield residents. An Ordinance providing for nuisance generally, an ordinance Inspector, an ordinance complaint filing and resolution process, and penalties for the violation of said Ordinance.

B. Definitions. As used in this chapter, the following words and terms shall have the meanings ascribed to them in this chapter:

Author. "Author" means when a nuisance exists upon the property and is the outgrowth of the usual, natural or necessary use of the property, the landlord or his agent, the tenant or his agent, and all other persons having control of the property on which such nuisance exists, shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business conducted thereon, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.

All other Definitions. See Title 12. Definitions.

### **Section 5.1.20. Declaration of Nuisances.**

A. Constitutes a Nuisance. Every situation, conduct, or activity listed in the following chapters constitutes a nuisance and may be abated pursuant to this ordinance. 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.

B. Protection of Health and Life. It is unlawful for any person, corporation, partnership or legal entity owning or occupying real property in the Town to annoy, injure, or endanger the comfort, repose, health, or safety of the public, or unlawfully interferes with, obstructs, or tends to obstruct or render dangerous for any passage, stream, canal, or basin, or any public park, square, street or highway, or in any way renders residents insecure in life or the use of their property.

**Section 5.1.30. Abandoned or Inoperable Vehicles.**

A. Accumulation of Vehicles. It is unlawful for any person, corporation, partnership or legal entity within the Town to allow the accumulation of a maximum of four (4)-abandoned or inoperable vehicles within the Town to be kept or stored outside of a closed structure or opaque fencing that is enclosed on all four (4) sides, for a period of more than thirty (30) continuous days. No inoperable motor vehicle shall be kept closer than one hundred (100) feet alongside or on any public right of way.

B. Mobile Homes, Campers or Trailers. Mobile homes/campers/trailers in such a condition as to be deemed abandoned or in a condition of deterioration or disrepair, including, but not limited to the following, are prohibited:

1. Any mobile home, camper, or trailer which is unfit for human habitation, or which is an unreasonable hazard to the health of the people residing in the vicinity thereof, or which presents an unreasonable fire hazard in the vicinity where it is located; or
2. Any mobile home, camper or trailer which is partially destroyed, or where the condition of the mobile home does not meet the requirements for finished building or structures as required by applicable Town ordinances or building codes; or
3. Any mobile home, camper or trailer that violates any building, electrical, plumbing, fire, a housing, or any other applicable ordinances.

**Section 5.1.40. Agriculture.**

A. Sound Practices. Any agricultural practices or operations that were in operation at the time of the incorporation of Fairfield shall be considered a sound practice..

B. Prohibited Operations. The raising of any fur bearing animals, including mink, rabbit, fox and beaver for commercial use in any way is prohibited.

**See zoning for other prohibited operations.**

C. Prohibited Animals. Prohibited Animals are any animal which violates the provisions of this chapter as defined or the chapter on Nuisance Generally and:

1. Causes damage to the property of anyone other than its owner;

- 2. Causes unreasonable odors;
- 3. Causes unsanitary conditions, either for the animal(s) or person(s) living nearby; or
- 4. Is a potentially dangerous or vicious animal as defined below:
  - a. Has a known propensity, tendency, or disposition to attack unprovoked, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals.
  - b. Attacks a human being or other domestic animal without provocation; or
  - c. Is trained or used as a fighting animal. This provision shall not apply to dogs owned or used by a government entity.

D. Animals, which by barking, howling or making other noises disturbs or disrupts the peace and quiet of multiple residences and/or property owners, or in the case of disturbing one or more persons, is documented by the Mayor/designee or the Utah County Sheriff Department on at least three (3) separate occasions or for an extended period of time.

E. Regularly chases vehicles.

F. Regularly chases people or other animals.

G. Dead Animals. It is the responsibility of the owner or other person responsible for any domestic animal or livestock which dies to bury or otherwise dispose of it within two (2) days after death. If the person shall fail to do so within the time herein provided, such omission shall be deemed a nuisance. If the owner or other person responsible for such an animal cannot be found, it is the duty of an animal control officer to bury the dead animal. In such an event, the Town shall be entitled to reimbursement by the property owner for the burial of the dead animal.

**Section 5.1.50. Endangerment.**

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 the following shall be deemed an endangerment:

- 1. 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;

2. Engaging in acts of violence, including fighting amongst themselves; or
3. Discharging a firearm or explosive in violation of Town Ordinance or State law.

**Section 5.1.60. Firearms, Fireworks, Explosives, Fires.**

- A. Firearms. The discharge of any firearm within the town limits without the written consent of the property owner is prohibited.
- B. Fireworks. The discharging of any fireworks within the town limits without the written consent of the property owner is prohibited.
- C. Explosives. The manufacture of any explosive material, as defined by NFPA 495, shall be prohibited unless such manufacture is authorized by federal license and is conducted in accordance with recognized safe practices. (Manufacturer’s Instructions IFC 3307.2.) Blasting operations shall be performed in accordance with the instructions of the manufacturer of the explosive materials being used. See [NFPA 495: Explosive Materials Code](#)
- D. Fires. Open fires are allowed in a properly maintained fire pit or ring. All other open burning, other than for agricultural purposes, requires a burn permit.

**Section 5.1.70. Garbage.**

- A. General. It is unlawful for any person, corporation, partnership or legal entity owning or occupying real property in the Town to allow the accumulation of garbage or to fail to remove from the property garbage, household waste, food waste, all animal and vegetable refuse from kitchens or residences, hotels, cafes, restaurants and places where food is prepared for human consumption, the materials in which such food products are packaged, and also all condemned, or decayed or unsound vegetables, meats, fish, fruit and all waste and offal from markets, stores, factories and any other manner of refuse, rubbish, or trash which in and of itself has no value. *The keeping or storage of garbage or rubbish on private property, including inside a building, in such a manner that the items, regardless of the method of containment, have become a breeding ground, food source or habitation for insects, rodents or vermin is prohibited.*
- B. Garbage Containers. Garbage containers cannot be on a public right of way for more than forty eight (48) continuous hours and must be kept at least twenty (20) feet off of the public right of way.

**Section 5.1.80. Junk.**

- A.. General. It is unlawful for any person, corporation, partnership or legal entity owning or occupying real property in the Town to allow the accumulation of junk or to fail to remove from the property any junk stored so as to be visible from a public street or neighboring property. It is also unlawful to allow any accumulation of junk that creates a threat to public health or safety. Nothing herein shall preclude the

placement of stacked firewood for personal, noncommercial use on the premises. It is also unlawful to keep or store junk, garbage or rubbish on private property, including inside a building, in such a manner that the items, regardless of the method of containment, have become a breeding ground, food source or habitation of insects, rodents or vermin. Deleterious to its surroundings, or prone to a fire hazard.

B. Garbage Storage. The keeping or storage of ashes, junk, garbage or rubbish outside of a totally enclosed structure on private property except in a sealed container designed for the purpose of holding such ashes, junk, garbage, or rubbish is prohibited.

### **Section 5.1.90. Environmental Regulations, Air Quality, Weeds, Befouling of Water.**

A. General. No Person shall cause, suffer or allow the discharge from any source whatsoever such quantities of air contaminants or other material which cause a nuisance.

B. Fugitive Dust.

1. Fugitive Dust refers to particles lifted into the air caused by man-made and natural activities such as the movement of soil, vehicles, equipment, blasting, and wind. Fugitive dust is emitted into the air by activities that disturb the soil, such as earthmoving and vehicular or equipment traffic on unpaved surfaces.
2. Any person engaged in activities involving the dismantling or demolition of buildings, grubbing, grading, clearing of land, public or private construction, the operation of machines and equipment, the grading of roads, trenching operations, the operation and use of unpaved parking facility, operation of livestock arenas, horse arenas, feedlots, off-road vehicles, operation and use of raceways, motor vehicles, motorcycles, ATVs/UTVs and or all other outdoor recreational activities shall take all reasonable precautions to abate fugitive dust from becoming airborne from such activities. Reasonable precautions including but not limited to sprinkling, compacting, enclosure, chemical, or asphalt sealing, cleaning, sweeping, or such other measures as the Town of Fairfield may, specify to accomplish satisfactory results.
3. Circumstances of Fugitive Dust. The following circumstances represent examples of “Fugitive Dust” becoming airborne:
  - a. A visible plume of dust, resulting from construction activities, which extends more than one hundred (100) yards from the point of origin or beyond the nearest property line, whichever is less;
  - b. Visible dust emissions on an unpaved road at a construction site being used by haul trucks;
  - c. Visible dust emissions generated by vehicles traveling over mud and dirt carried out to a paved road near or adjacent to a construction site;
  - d. No person shall cause or permit the handling, transporting, or storage of any material in a manner which allows or may allow controllable particulate matter to become airborne; or

- e. Sand Blasting. Sand and abrasive blasting operations will not be permitted unless effective enclosures or other such dust control devices including but not limited to the injection of water have been installed to prevent excessive sand and dust dispersal.

C. Weeds. Any plant the Utah Commissioner of Agriculture determines to be especially injurious to public health, crops, livestock, land or other property is considered a weed. It shall be unlawful for any person occupying any real property in Fairfield to fail to control the growth of injurious and noxious weeds on such property or to fail to remove from such property any such weeds or any refuse and any unsightly or detrimental objects or structures upon notice from Fairfield Town as provided in this chapter.

D. Befouling Water. Befouling water in any spring, stream, well or water source supplying water for culinary purposes is prohibited.

E. Discharging Offensive Water Or Liquid Waste. Discharging or placing any offensive water, chemical spray, liquid waste or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal or any vacant lot or which, as the result of continued discharge, will render the place of discharge offensive or likely to become so. Intentional depositing of liquid petroleum crude oil, liquid petroleum crude oil by-products and derivatives or liquid industrial wastes on the ground. Keeping or collecting any stale or putrid grease or other offensive matter. Dumping or disposing of human waste.

F. Stagnant Water. Offensive Substances: Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substances.

G. Liquid Industrial Wastes. "Liquid Industrial Wastes" means any industrial wastewater, leachate, off-specification commercial product, grease-trap clean-out residue, used oil, or other liquid waste produced by, incident to or resulting from industrial or commercial activity.

#### **Section 5.1.100. Signs.**

Prohibited Signs. Signs containing statements, words, or pictures which are obscene or vulgar are prohibited. Signs placed in a manner that would create a safety hazard is prohibited.

#### **Section 5.1.110. Dwellings.**

A. Buildings and Structures. Any building or other structure which is in such a dilapidated condition that it is unfit for Human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents more than an ordinarily dangerous fire hazard in the vicinity where it is located is prohibited.

B. Lighting. Searchlights, laser source lights, strobe or flashing lights, illusion lights or any similar high intensity light shall not be permitted except in emergencies or by police and fire personnel or for approved special events. See Fairfield Outdoor Lighting Standards Title 9.3.00

C. Exemptions.

1. Airport operations lighting and aircraft navigational beacons as established by the Federal

Aviation Administration (FAA) are exempt from these provisions. All other airport outdoor lighting must conform to this ordinance; or

2. Tower or antenna safety lighting required by the FAA.

**Section 5.1.120. Excessive Sound Levels.**

A.. General. It shall be unlawful for any person to make, continue, or cause to be made or continued, any loud, unnecessary or unusual noise, or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the town. The following acts, when prolonged, unusual and unnatural in their time, place and use, may be a detriment to the public health, comfort, convenience, safety, welfare and prosperity: horns, radios, stereos, loudspeakers, yelling or shouting, exhausts, motor vehicles, atv's, UTV's, motorcycles, drums, musical instruments, construction equipment, commercial vehicles, large diesel vehicles with refrigeration units, airplanes or blasting.

B. Purpose. This chapter establishes minimum standards to:

1. Reduce the making and creation of excessive, unnecessary, or unusually loud noises within the limits of the Town;
2. Prevent excessive, unnecessary, or unusually loud noises which are prolonged, unusual, or unreasonable in their time, place, or use, and that affect and are a detriment to public health, comfort, convenience, safety, or welfare of the residents of the Town; and
3. Secure and promote the public health, comfort, convenience, safety, welfare and the peace and quiet of the residents of the Town

C. Noise levels. The making and/or creating a noise disturbance within the Town as identified in Title 12. Definitions - Noise Disturbance or identified and measured in the manner prescribed in subsection (E) of this section.

D. Scale. A measurement of sixty five (65) decibels shall be considered to be a noise disturbance within the Fairfield Town limits.

1. Measurement of Sound. Anything other than a residential zone will be measured at any property line of where the noise disturbance is coming from.
2. When a complaint is in a residential area the noise disturbance shall be measured at the property line of the complainant and shall be measured with a sound level meter which meets ANSI specification S1.4-1974 for Type 1 or Type 2 equipment. The manufacturer's published indication of compliance with such specifications is prima facie evidence of compliance with this subsection.

E. Specific Noise Prohibitions. The following acts are unlawful:

1. Horns and Signaling Devices. The sounding of any horn or signaling device on any truck, automobile, motorcycle, emergency vehicle, or other motor vehicle within the Town, except as a danger warning signal as provided by the Vehicle Code of the State of Utah; and
2. Radios, Television Sets, Tape Players, Musical Instruments and Similar Devices. Using, operating, or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum or other device for the production or reproduction of sound:
  - a. In a way that is plainly audible beyond the property boundary of the source; and
  - b. On public property, public rights-of-way, or private property at any time so as to be plainly audible fifteen (15) feet from the device.
3. Public Loudspeakers. The use or operation of a loudspeaker or sound-amplifying equipment in a fixed or moveable position or mounted upon any sound vehicle in or upon any street, alley, sidewalk, park, place, public or private property for the purposes of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmission of music to any persons or assemblages of persons in violation of Fairfield Town Ordinances;
4. Hawkers and Peddlers. Selling any item or service by outcry, whether artificially amplified or not, within any area of the Town in such a manner as to violate Fairfield Town Ordinances;
5. Construction Work. It is unlawful for any person to perform or cause to be performed any construction work on any construction site under his control in such a manner as to violate Fairfield Town Ordinances. The Town Council may authorize extended hours for construction operations or procedures which, by their nature, require continuous operation, or modify or waive the hours of work for or on projects in generally isolated areas where the extended hours do not carry an impact upon adjoining property occupants;
6. Dynamic Braking Device. Operating any motor vehicle with a dynamic braking device engaged, except for the avoidance of imminent danger;
7. Defect in Vehicle. Operating or permitting the operation or use of any truck, automobile, motorcycle, or other motor vehicle that, because of disrepair or mode of operation, violates this ordinance;
8. Motor Vehicle Noise. Operating or causing to be operated any motor vehicle unless the exhaust system is free from defects that affect sound reduction; equipped with a muffler or other noise dissipative device; and not equipped with any cutout, bypass or similar device; and
9. People Noises. Yelling, shouting, whistling, singing or conducting unnecessarily loud or annoying Vocal utterances at any time or place, so as unreasonably to annoy or disturb



the quiet, comfort or repose of any person in any hospital, residential medical facility school, place of worship, place of business or dwelling, hotel or other type of residence, or of any person in the vicinity.

F. Exemptions. The following uses and activities shall be exempt from noise level regulations:

1. Sound created by safety signals, warning devices and emergency pressure relief valves;
2. Sound resulting from any authorized emergency vehicle when responding to an emergency call or in time of an emergency;
3. Sound resulting from emergency work;
4. Sound resulting from lawful fireworks and noise makers used for celebration of an official holiday;
5. Any sound resulting from activities of a temporary nature during periods permitted by law which has been approved by the Town;
6. The sound was made within the terms of temporary events such as a parade, fireworks, display, or other event for which a permit and exemption was issued by the Fairfield Town Council as being in the public interest, and the conditions of such permit were being complied with;
7. The sound was made by farm animals or by the normal day or night operation of farm equipment;
8. The sound was made under the auspices of a variance issued by Fairfield Town Council or its designee to grant noise ordinance variances, and was made within the terms and conditions of such variance. To grant a variance the Fairfield Town Council or the designee must find:
  - a. The facts of the specific variance will result in no undue harm or loss to other parties;
  - b. The best available sound control technologies have been employed and the sound still exceeds the standards stated above;
  - c. No reasonable alternative exists for the person or entity producing the sound;
  - d. Conditions or mitigation measures are required as a part of the variance approval which are sufficient to protect the interests of the public;and
  - e. The discharging of firearms at a reasonable time and period.
9. Sound created by aircraft during approach to landing or during take-off to or from an FAA

established runway or landing strip.

**Section 5.1.130. Jurisdiction.**

A. Utah County Health Department. The Town is under the jurisdiction of the County Health Department and has adopted the current state and county health regulations.

B. Extent of Annoyances or Damage. An act which affects the public in any of the ways specified in this section is still a nuisance regardless if the extent of annoyance or damage inflicted upon individuals is unequal.

**Section 5.1.140. Enforcement.**

A. Filing a Complaint. All complaints filed in Fairfield Town shall be made in writing and shall be delivered:

1. In Person - File a complaint at the Town Office during regular business hours;
2. By Regular Mail to the following address: Fairfield Town Office, Attention: Mayor, PO Box 271, Cedar Valley, UT 84013.

B. Enforcement Conducted by the Mayor. All enforcement under this chapter shall be conducted by the Mayor or law enforcement as an agent of the Town to investigate and or inspect and enforce this ordinance. It will be the duty of the Mayor or law enforcement to perform inspections and to examine real property situated within the corporate limits of Fairfield Town for the purpose of determining whether, in their opinion, the property contains objects or conditions of the kind in nature described above and for the purpose of determining whether the existence of the objects or conditions create or constitute a public safety hazard or nuisance as defined in this ordinance and or in the Fire Code. From time to time the Town Council may appoint other assistant inspectors and delegate to them such powers and duties as it may see fit.

C. The Town 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 Town from engaging in its standard prosecution practices. Therefore, the Town may prosecute violators of Town 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 Town from enforcing applicable Town ordinances, or building codes, without first treating the offending conduct, situation or activity as a nuisance pursuant to this chapter.

D. At the Mayor's discretion no action will be taken without two (2) written complaints from two different households.

E. The municipal attorney is empowered to institute an action in the name of this municipality to abate a public nuisance.

F. Emergency Orders. Whenever the Mayor or designee finds that an emergency exists, one or all of the following actions may be required to be taken:

1. Order of Emergency Suspension. In time of a public calamity or disaster, emergency suspension of this chapter may be suspended for a period of time designated by the Mayor; or
2. Approval of Application for Exemption for Emergency Reasons. An individual may apply for emergency exemption to this chapter based on good and reasonable cause due to emergency circumstances, as defined in this chapter.

G. Voluntary Correction. This section may apply whenever the Town determines that a nuisance exists. Although the Town's first step in correcting or abating the nuisance may be to obtain voluntary compliance. The Town shall make a reasonable attempt to secure voluntary correction or abatement of the nuisance by:

1. Mayor or Law enforcement shall personally inform residents of the violation along with a written copy of this nuisance ordinance. A time period will be given to come into compliance of any violation; and
2. If the violation has not been satisfied; a notice will be served in writing upon the owner and occupant of such premises, by mailing or hand delivering such notice to the owner and occupant.

H. The Notice of Violation shall include:

1. Written copy of Town Nuisance Ordinance;
2. Explanation of the nuisance;
3. Requesting the responsible person to abate the nuisance;
4. Give a reasonable amount of time for nuisance abatement;
5. Explain possible further action;
6. Provide contact information of Mayor or Law enforcement;
7. Explain that they may request in writing a hearing before the Town Council; and
8. A response to an application for a hearing shall state the time and location for the hearing.

I. Administrative Citation. Issuance Of An Administrative Citation. When the Mayor determines that a nuisance exists, and is unable to secure voluntary correction pursuant to this Section 5.1.140 (G), the Town may issue an administrative citation to the responsible person. The Town may issue an administrative citation without having attempted to secure voluntary correction as provided in this section under the following circumstances:

1. When an emergency exists;

2. When the Town is unable to locate or determine the identity of the responsible person, other than the property owner; or
3. When the Town has previously entered into an agreement with the responsible party(s) within the previous twenty four (24) months;

J. Content Of Administrative Citation. The administrative citation shall include all of the following:

1. The name and address of the responsible person;
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;
3. A description of the nuisance;
4. The required corrective action;
5. The completion date and a notice that the Town 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;
6. The time for appealing the administrative citation to the Town Council and the Procedure for filing an appeal; and
7. A statement that the Town may abate the nuisance and assess the 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 Town before the completion date.

K. Service Of Administrative Citation. The Town 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 Utah 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.

L. 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 Town Council.

**Section 5.1.50. Appeals.**

A. Hearing. At the written request of an owner, occupant or other person having an interest in property which is the subject of a violation of this ordinance, the Town Council shall conduct an informal hearing, wherein such persons may present such evidence as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this ordinance. The Town Council shall also permit the presentation of evidence and argument by the Mayor and other interested parties. Thereafter within not less than five (5) nor more than ten (10) days, the Town Council shall, over the signature of the Mayor, or such other member of the Town Council as it may designate, render its written decision, a copy of which shall be mailed to or served upon the owner or any other person to whom the original notice was given by the Inspector.

B. Abatement By Owner Or Occupant. In the event the decision of the Town Council upholds the determination of the violation originally given by the Mayor or Law enforcement as above provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions. The Town Council shall issue a time frame within which abatement must take place.

C. Failure to Comply. The Town 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 Town Council.

1. Abatement by the Town. The Town may abate a nuisance when any of the following occur:

- 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
- c. The administrative citation is appealed to the Town Council and the terms of the administrative citation are amended by the Town Council; or
- d. The terms of the Town Council order have not been complied with.

D. Whenever a nuisance is occurring which constitutes an immediate or escalating threat to the public health, safety or welfare or to the environment, the Town 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.

E. Using any lawful means, the Town may enter upon the subject property and may remove or correct the condition which is subject to abatement. The Town may seek such judicial process as it deems necessary to effect the removal or correction of such conditions.

F. 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 Town within fifteen (15) calendar days of the mailing or service date. The term "incidental expenses" includes, but is not limited to:

1. Personnel costs, both direct and indirect, including attorney fees and costs;
2. Costs incurred in documenting the violation;
3. Hauling, storage and disposal expenses;
4. Actual expenses and costs for the Town in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and
5. The costs of any required printing and mailing.

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

1. A per day fine shall be assessed for each day during the first week that the nuisance remains uncorrected or unabated after the completion date. see FF fee schedule.
2. A per day fine shall be assessed 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. 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. see FF fee schedule.
3. Any monetary fine assessed must be paid to the town within fifteen (15) calendar days from the date of mailing of the Town Council's decision and order or service of a notice from the Town that the fine is due. The Town 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.

H. Civil Actions. Either the Town 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.

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

1. Any person who creates, aids in creating, or contributes to a nuisance, or who supports, continues, or retains a nuisance is guilty of a class C enhanced misdemeanor violation. Each day for which a nuisance is not abated constitutes a separate violation. Any person convicted of two or more violations of this chapter within a two (2) year period shall be guilty of a class B misdemeanor;
2. If the alleged nuisance is also a violation of other ordinances (other than this nuisance ordinance) or state law, the responsible person may be charged under the specific provision of the code or state law, even if the town did not first attempt to obtain voluntary correction as provided in this ordinance.
3. Any person who knowingly obstructs, impedes, or interferes with the Town 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 Town Council, or a voluntary correction agreement, is guilty of a class B misdemeanor.

J. Abatement by Eviction. Whenever there is reason to believe that a nuisance is kept, maintained, or exists in the Town, the Town attorney or any citizen(s) residing in the Town, or any person or entity doing business in the Town, 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.

K. Lien for Costs. If a person fails to pay any fines or costs related to nuisance abatement when due, the Town may:

1. Record a lien on the property or premises for the full amount of the unpaid fines and costs; or
2. A statement of said fines may be added to current Town utility billing.

L. Non Exclusive Remedies. The Town 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 Town or any person to recover damages or penalties for its past existence.

## **Title 5. Public Health and Safety.**

### **Chapter 3 Soil Ordinance.**

Section 5.3.10.	Fairfield Soil Ordinance and Maintenance of Soil Cap.
Section 5.3.20.	Definitions.
Section 5.3.30.	Soil Testing Requirements.
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#### **Section 5.3.10. Fairfield Soil Ordinance and Maintenance of Soil Cap.**

A. Purpose. The purpose of this Soil Ordinance is to identify areas of arsenic contamination within the boundaries of Fairfield Town, define hazardous levels, and to set standards and procedures to mitigate potential health risks from exposure by disturbance, movement of soil or the habitation of these areas.

B. Hold Harmless. The Town is aware that contaminated soils exist and have been deposited throughout the Town due to run off from mines, relocation of tailings as well as other means of movement. The Town, however, does not know where all contaminated properties may be located. Each property owner is responsible for the condition of his or her own property. Each property owner is responsible for determining how this Soils Ordinance applies to his or her property. Each property owner is also responsible for any remediation or actions required by this Soils Ordinance regarding his or her property.

C. The Town under no circumstances takes any responsibility for the cleanup, removal, capping of contaminated soil within the Town boundaries. The Town is not liable nor responsible for any detrimental effects or happenings due to contaminated soils within the Town boundaries.

#### **Section 5.3.20. Definitions.**

See Title 12. Definitions.

#### **Section 5.3.30. Soil Testing Requirements.**

This chapter shall be in full force and effect within the Town limits of Fairfield, Utah.

A. Soil Ordinance Boundary. A minimum of .5 acres of the inhabited area of a parcel shall be tested and subject to this Soils



Ordinance/Code. Inhabited areas larger than .5 acres will be required to test soils extending one hundred (100) feet in all directions up to but not extending past parcel property lines of the area to be inhabited;

B. Structures Requiring Testing. Any structure over four hundred (400 square) feet requiring a permanent foundation will be subject to this Soils Chapter and will require a minimum of .25 acres to be tested.

C. Soil Testing by an Accredited Company. All sampling, collection and testing shall be conducted by a certified NELAP (National Environmental Laboratory Accreditation Program) accredited company as provided by the owner of the property.

#### **Section 5.3.40. Minimum Capping with Topsoil or Other Acceptable Materials.**

A. Soil Contaminant and Coverage Levels. All real property within the Soil Ordinance Boundary tested by an approved/certified soil testing laboratory and with arsenic levels found to be above the 200 ppm action level, must be capped and maintained with a minimum cap of six (6) inches of approved topsoil and acceptable cap as described in Section 5.3.50 of this title: Exception, where such real property is capped by asphalt, concrete, permanent structures or paving materials.

B. Vehicle Parking. Parking of vehicles or recreational equipment shall be parked on impervious surfaces and not areas that have been capped with non impervious material.

#### **Section 5.3.50. Acceptable Soil Caps.**

A. Vegetated Areas. All areas within the Soil Ordinance Boundary where real property is capped with six (6) inches or more of "Approved Topsoil" defined in Chapter 12, must be vegetated with grass or other suitable vegetation to prevent soil erosion of the six (6) inch topsoil layer.

B. Xeriscaped Areas. Owners that practice xeriscape are allowed to employ a weed barrier fabric if the property is capped with six (6) inches of rock or bark and maintained to prevent soil breakthrough.

#### **Section 5.3.60. Additional Landscaping Requirements.**

A. Landscaping. In addition to the minimum capping of topsoil requirements set forth in Section 5.3.40 and the vegetation requirements set forth in Section 5.3.50, the following additional requirements shall apply:

1. Flower or Vegetable Planting Bed at Grade. All flower or vegetable planting beds at grade shall be clearly defined with edging material to prevent edge drift and shall have a minimum depth of twenty-four (24) inches of approved topsoil so that contaminated soil is not mixed with the cap through normal tilling procedures. Such topsoil shall extend twelve (12) inches beyond the edge of the flower or vegetable planting bed.
2. Flower or Vegetable Planting Bed Above Grade. All flower or vegetable planting beds above grade shall extend a minimum of eighteen (18) inches above the grade of six (6) inches of approved topsoil cap and shall contain only approved topsoil.
3. Shrubs and Trees. All shrubs planted after the passage of this ordinance shall be surrounded by approved topsoil for an area, which is three (3) times bigger than the rootball and extends six (6) inches below the lowest root of the shrub at planting. All trees planted after the passage of this ordinance shall have a minimum of eighteen (18) inches of approved topsoil around the root

ball with a minimum of eighteen (18) inches of approved topsoil around the root ball within a minimum of twelve (12) inches of approved topsoil below the lowest root of the tree.

### **Section 5.3.70. Soil Cap Disturbance.**

A. Causing a Disturbance to the Soil. All work related to the disturbance of a cap will be subject to Title 5 Chapter 3. Following any work causing the disturbance to a cap within the Soil Ordinance/Code boundary, such as digging, landscaping and tilling soils, will require all disturbed soils to be collected and reintroduced onsite by either onsite soil capping or off site disposal as required by this ordinance and State and Federal law.

B. Off Site Disposal. All soil generated from the Soil Ordinance/Code boundary that cannot be reintroduced within the Soils Ordinance/Code boundary and are destined for off site disposal must be sampled and characterized with representative sampling and tested by a certified NELAP (National Environmental Laboratory Accreditation Program) company and be disposed of accordingly.

C. Hazardous Characteristics. Soils exhibiting hazardous characteristics exceeding the following Toxic Characteristic Leaching Procedure (TCLP) standards, must be managed as a hazardous waste and disposed of within a Utah Department of Environmental Quality permitted facility:

1. Arsenic - 5.0 mg/L (TCLP) Method 6010 B.
2. Lead - 5.0 mg/L (TCLP) Method 6010 B.

D. Export of Contaminated Soil. No contaminated soil generated within the Soil Ordinance/Code Boundary is allowed to be exported for use as fill outside of the Soils Ordinance/Code boundary.

E. Reuse of Generated Soil. Reuse of generated soils within the Soils Ordinance/Code boundary is acceptable provided the receiving property is capped with six (6) inches of clean topsoil or capped with an acceptable material, i.e. vegetation, bark or rock as required by this ordinance.

F. Relocating Contaminated Soil. Contaminated soil that is relocated within the Soil Ordinance/Code boundary must be pre-approved by the Planning Commission before being relocated and reused.

### **Section 5.3.80. Dust Control.**

Contractor/Owner Responsibility. Contractor or owner is responsible for controlling dust during the time between the beginning of construction activity and the establishment of plant growth in accordance with the Fairfield Town Nuisance Ordinance/Code. Due care shall be taken by the contractor or owner, to protect workmen while working within the site from any exposure to dust emissions during construction activity by providing suitable breathing apparatus or other appropriate control.

### **Section 5.3.90. Certificate of Compliance and Restrictive Covenants.**

A. Restrictive Covenants. A restrictive covenant must be written and recorded with the Utah County Recorder detailing the stipulations involved in mitigating the contaminated soil. All covenants must be approved by the Town attorney. Covenants will not be enforced by the Town.

B. Compliance Inspection. Upon application by the owner of record or agent of the owner for inspection, payment for the inspection must be made according to the Fairfield Town Fee Schedule. Once paid, the Fairfield Building Department or their designee at the applicant's expense shall inspect the applicant's property for compliance with the Ordinance. After inspection, additional compliance inspections or testing may be required depending upon circumstances. When the property inspected complies with this chapter, a Certificate of Compliance shall be issued to the owner by Fairfield Town.

C. Verification of Soil Cap Depth. Verifying soil cap depth and representative sample results that are equal to or below the following standards will result in full compliance and eligibility for the certificate. Verification of compliance will be confirmed by the Fairfield Town Building Department or a designee of the Town:

1. Inhabited Property - Arsenic 41 ppm (Total).
2. Action level 200 ppm (Total).

**Section 5.3.100. Transit Center Disturbance.**

Permit Required. A permit shall be required for all construction activity, utility modification and landscaping that results in the breach of the installed protective cap or the generation of soil and must be conducted in accordance to the implemented site management plan that is provided with the Soil Cap Disturbance Permit Application and shall be kept on file at the Town Office.

**Section 5.3.110. Failure to Comply with Ordinance.**

Legal Action. Any person failing to landscape, maintain landscaping, control dust or dispose of contaminated soil as required by this Chapter and/or comply with the provisions of this Chapter shall be guilty of a Class B misdemeanor. Any person failing to comply with the provisions of this Chapter may be found to have caused a public nuisance and appropriate legal action may be taken against that person.