Ordinance No: 2023-02
An Ordinance Amending Title 4 Chapter 2 of the East Carbon City Code

WHEREAS, pursuant to Utah Code 10-11-1 et seq. a municipal legislative body may designate and regulate the abatement of the growth and spread of injurious and noxious weeds, garbage and refuse, a public nuisance, and illegal objects and structures;

WHEREAS, the City of East Carbon desires to clarify and modify certain provisions of the East Carbon City Code regarding Nuisances;

WHEREAS, the City of East Carbon desires to promote the health, safety, and economic development of the area by maintaining a clean and attractive City;

NOW, THEREFORE, BE IT RESOLVED that Title 4 Chapter 2 be repealed and replaced with the following:

NUISANCES

Sections:

4-2-1: Code Enforcement Officer
4-2-2: Weeds and Other Refuse·
4-2-3: Junk
4-2-4: Situations That Constitute a Property Nuisance
4-2-5: Examination of Property for Compliance
4-2-6: Violation - Notice to Owner
4-2-7: Violation - Penalties and Remedies
4-2-8: Violation - Persons Liable
4-2-9: Property Cleaned by City - When - Costs
4-2-10: Governmental Immunity.

4-2-1 Code enforcement officer.

An employee of the city shall be selected as a code enforcement officer and shall be sworn in as required by law and designated to perform the duties identified in this chapter for a code enforcement officer.

4-2-2 Unsightly structures, properties, weeds and other refuse.

A. Responsibility to Keep Property Clean: It is unlawful for any person, corporation, partnership or legal entity owning or occupying real propelty in the city to let the height of weeds on such property grow beyond the maximum permitted, or to fail to remove from the property any such weeds or refuse, dog manure or waste, unsightly or deleterious objects or structures, or fail to repair broken windows, siding, and shingles, after having been given written notice by the city.

B. Weed Control Standards: Weeds shall not be permitted to reach a height of more than six inches at any time or to otherwise create a fire hazard to structures or habitat for disease, insects,

rats, mice, skunks, snakes, or other vermin. As used in this chapter, the term "weeds" means plants which are unwanted in the location where they are growing and which are not a part of landscaping, xeriscaping, or native plant landscaping. The term "weeds" also includes noxious weeds which are described under the Utah Noxious Weed Act, defined by the State Weed Committee of the state of Utah and by Carbon County. In addition, the City may designate other plants as noxious weeds

4-2-3 Junk.

A. Responsibility to Keep Property Free of Junk: It is unlawful for any person, corporation, partnership or legal entity owning or occupying real property in the city to allow the accumulation of junk or to fail to remove from the property any junk.

B. Junk Defined:

1. "Junk" means any salvaged or scrap copper, brass, iron, steel, metal, rope, rags, batteries, paper, wood, trash, plastic, rubber, tires, furniture, appliances, or other machinery or equipment no longer usable for its intended purpose, and waste, or other articles not stored for recycling purposes in a fully enclosed container, or materials commonly designated as junk. "Junk," except as provided in subsection (B)(2) of this section, shall also mean any motor vehicle not currently registered, dismantled, wrecked or inoperable, motor vehicles, trailers, boats, ATVs, or similar property required by the State of Utah to be registered, or parts thereof which are stored or parked on property outside of an enclosed building and which remain in such condition for a period of time in excess of 60 days.

2. One truck with a capacity of one ton or less or automobile which is inoperable may be stored in a side yard, except a side yard which faces on a street or a rear yard on property, for a period not to exceed two years; provided, that the automobile or truck is secured with the windows closed, the trunk and hood closed and the doors locked and is not damaged or exposing jagged metal and is fully covered and concealed with a single covering maintained in a secure good condition which does not extend closer to the ground than the lowest point on the vehicle body.

4-2-4 Situations that constitute a property nuisance.

A. This list shall not be considered exhaustive. Additional situations may be determined to be a public nuisance in the City Code or by a Code Enforcement Officer. All items on this list shall be considered unlawful.

1. It shall be unlawful for any person to deposit, drain, wash, allow to run over or upon, divert onto, across or upon any public-use sidewalk, street, alley, storm drain, or sanitary sewer within the City oil, petroleum, gasoline, antifreeze, coolant, vehicular fluid, chemicals, pesticide, herbicide, or any toxic substance.

2. It shall be unlawful for any person to wash or polish any vehicle or patt thereof upon any public-use sidewalk, street, or alley in the City when a charge is made for such service, unless permission is obtained from the City.

3. It shall be unlawful for any person to deposit on any public-use sidewalk, street, or alley in the City (a) any material that will cause to crack, break, or collapse or that may

be harmful to the pavement thereof, or (b) any waste material, glass, or other articles that may cause injury to any person, animal, or property.

4. It shall be unlawful for any person to repair, grease, or construct any vehicle or any part thereof upon any public sidewalk, street, or alley in the City of East Carbon, provided, however, temporary emergency repairs may be made upon a public street.

5. It shall be unlawful for any person to dispose of trash except as authorized. Trash disposal must be made in an appropriate manner, i.e. through the City's contracted trash pick-up service, self-haul to an approved disposal site, composting in a back yard compost pile.

6. It shall be unlawful to pollute any well, storm drain, detention pond, irrigation pond, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes, or other substances, chemicals, or liquids.

7. It shall be unlawful to dispose of the carcass of any animal or fowl in any public place within the City of East Carbon.

8. It shall be unlawful for any person owning, renting, leasing, occupying, managing, or having charge or possession of any real property in this City to maintain premises in such a manner that any of the following conditions are found to exist in a building, structure, or portion thereof which is in a dilapidated or dangerous condition so as to be unfit, unsafe, or unsuitable for human occupancy. Such conditions include but are not limited to:

a. inadequate or inoperable mechanical, electrical, plumbing, or sanitation systems or equipment;

b. lack of effective exterior walls or roof covering to provide weather protection;

c. lack of structural integrity, including deteriorated or inadequate foundations, joints, or vertical or horizontal supports;

d. broken, missing, or inoperable windows or doors constituting a hazardous condition or a potential attractive nuisance to trespassers; or

e. broken, deteriorated, or substantially defaced structures presenting a risk to public safety.

9. An abandoned building or structure such as:

a. an unoccupied and unsecured building or structure;

b. a partially constructed, reconstructed, or demolished building or structure where work is abandoned for 180 consecutive days; or

c. a damaged or partially destroyed building or structure not removed or repaired within 180 days after the damage or destruction occurred or, if the removal or repair cannot reasonably be accomplished within 180 days, arrangements have not been made with the City Building Official.

10. Property maintained in a condition so defective or in a state of such deterioration, disrepair, or neglect that it causes a health, safety, or fire hazard or obstructs the free use or enjoyment of public or private property including but not limited to the following:

a. Storage of personal property (other than items designated for outdoor use) in front, exterior side, or rear yard areas visible to public view, including unregistered, inoperative, or dismantled vehicles or vehicle parts, building materials not currently being used for the construction of improvements on the

site, appliances, household furnishings or equipment, tools, machines, garbage cans, packing boxes, debris, rubbish, and broken or discarded furniture.

b. Weeds reaching a height of more than six inches at any time, that create a fire hazard or that create a habitat for disease, insects, vector, or vermin. Destruction by burning within the city is unlawful unless a permit is first obtained from the Fire Department, Carbon County Health Department, and State of Utah.

c. Abandoned and broken equipment or machinery or parts thereof.

d. Fences or walls that: lack structural support because of missing or wet soil, missing or failed footings or missing or failed fastenings; do not stand erect; or are in disrepair due to damage, crumbling mortar, missing bricks or wood, rotted wood, breaks or dents in their structure.

e. Clothing, linen, towels, laundry, rugs, mattresses, and other similar material hung, placed, or attached to power lines, trees, bushes, fences, buildings, railings, or walls and visible from public property or an area open to the public. Properly installed and maintained clotheslines are permitted.

f. Waste matter or personal property placed on rooftops.

g. Vehicle or vessel repair that occurs in a residentially-zoned district and is offensive or detrimental to the health, safety, or welfare of other persons or which substantially interferes with the reasonable enjoyment of property by other persons, because of the substances, odors, noise, or visual clutter created by the repair, or because of the items stored in connection with the repair, or because the repair is performed on a vehicle not owned by the occupant of the property.

11. Buildings, structures, or other surfaces upon which graffiti exists.

12. Keeping, storing, depositing, or accumulating on the premises dirt, sand, gravel, concrete, or other similar materials or maintenance of such material, unless done so pursuant to a valid and unexpired building permit.

13. Leaving any garbage can or refuse container in the street except the day before, the day of, and the day, after the collection day.

14. Creating or maintaining situations offensive, or unsightly to the senses, such as noises, bright lights, burning, or any conduct that interferes with the comfortable enjoyment of life and property or otherwise tends to depreciate the value of property to others.

15. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any public, private street, highway, sidewalk, stream, ditch or drainage.

16. Any building or structure that is a public nuisance under common or statutory law.

4-2-5 Examination of Property for Compliance

The examination and investigation authorized by this section shall not include physical entry to private property in the city, unless probable cause exists to believe that a violation of this chapter is present. The officer of the city is authorized to make observations based on conditions in plain view from public property or from the property of a complaining witness and nothing in this section shall be construed to prevent the officer from entering on property to deliver a notice to the occupant of the property.

4-2-6 Violation - Notice to Owner.

A. Upon a determination that a violation of the provisions of this section exists, the officer shall ascertain the name of the owner and a description of the premises where the violation exists. The officer shall serve notice in writing upon the owner or occupant of such property, either personally or by certified mail, postage prepaid, addressed to the owner or occupant at the last known post office address as disclosed by the records of the county assessor, requiring such owner/occupant, as the case may be, to repair, eradicate, destroy or remove the weeds, refuse, junk, objects or structures causing the violation within such time as the officer may designate, which shall be no less than IO days from the date of service of such notice.

B. The written notice shall:

1. Indicate the nature of the violation;

2. Order the action necessary to correct the violation;

3. Give information regarding the established warning period for the violation; and

4. State the action the officer intends to take if the violation is not corrected within the warning period.

C. The written notice hall be delivered personally or mailed, postage prepaid, certified, return receipt requested, to the property owner, as shown on the records of the county recorder, and to any other person who may be responsible for the violation. Receipt of notice shall the date written notice is delivered or delivered when mailed as provided herein.

D. The written notice shall serve to start any warning periods provided in this chapter, commencing upon receipt of notice. If the violation remains uncured within five days after the expiration of the warning period, a second notice of violation and order shall be delivered in the same manner as the first notice. The second notice shall serve as notice of criminal violation and shall be accompanied by a criminal citation.

E. For a notice of injurious and noxious weeds described above, the Code Enforcement Officer is not required to make more than one notice for each annual season of weed growth for weeds growing on a property.

F. In cases where the officer determines that a delay of enforcement would pose a danger to the public health, safety or welfare, or would otherwise compromise the effective enforcement of this section, the city attorney may seek immediate enforcement without prior written notice by instituting any appropriate remedies.

4-2-7 Violation - Penalties and Remedies.

A. Upon conviction, violation of any of the provisions of this section is punishable as a Infraction. In addition, the provisions of this section may also be enforced by injunctions, mandamus, abatement, civil penalties, or any other remedies provided by law.

B. Any one, all, or any combination of the penalties and remedies set forth in subsection (A) of this section may be used to enforce the provisions of this section.

C. Each day that any violation continues after notification by the officer that such violation exists shall be considered a separate offense for purposes of penalties and remedies set forth in this section.

D. Accumulation of penalties for continuing violations, but not the obligation for payment of penalties already accrued, shall stop upon correction of the violation.

E. The appearance of a criminal citation under this section shall be a mandatory court appearance citation. The recipient of the citation shall appear in the East Carbon Justice Court prior to the citation being resolved by guilty plea, no contest plea, or bail forfeiture.

F. Upon conviction under this section, the penalty imposed by the court shall include community service hours of not less than 25 hours for a first conviction, 50 hours for a second conviction, 75 hours for a third conviction, and 100 hours for a fourth conviction. The court may authorized community service hours to be bought out at $10.00 per hour.

4-2-8 Violation - Persons Liable.

Any person, corporation or other entity, whether as owner, occupant, agent or employee, who causes, permits or otherwise participates in any violation of the provisions of this section may be held responsible for the violation, suffer the penalties, and be subject to the remedies provided by law.

4-2-9 Property Cleaned by City When - Costs.

A. If any owner or occupant of property described in the notice provided in this section fails to repair, eradicate, destroy or remove the weeds, refuse, junk, objects or structures causing the violation in accordance with such notice, the officer is authorized to employ necessary assistance and cause to repair, eradicate, destroy or remove the weeds, refuse, junk, objects or structures causing the violation at the expense of the city. Nothing in this chapter shall require the city to take such action.

B. Following abatement of the violation by the city, the officer shall prepare an itemized statement of all expenses incurred in the abatement of the violation and shall mail a copy thereof to the owner demanding payment within 30 days of the date of mailing. Such notice shall be deemed delivered when mailed by registered mail and addressed to the last known address of the property owner.

1. Costs - Alternate Methods of Compelling Payment. In the event the owner fails to make payment of the amount set forth in such statement to the city treasurer within 30 days of the date of mailing, the city may cause suit to be brought in an appropriate court of law, or pursue remedies as provided in Section 10-11-1, et seq., Utah Code Annotated 1953.

2. Costs - Collection by Lawsuit. In the event collection of expenses of destruction and removal are pursued through the court, the city shall sue for and receive judgment for all expenses of destruction and removal, together with reasonable attorney's fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

3. Costs - Included in Tax Notice-Procedure. In the event collection of expenses of abatement are pursued as provided in Section 10-11-1, et seq., Utah Code Annotated 1953, the provisions of those Sections shall apply:

4-2-10 Governmental Immunity.

East Carbon City, the police department, the Code Enforcement Officer, or any city employee working under the direction of either the city Code Enforcement Officer or the police department, shall be immune from any liability by reason of the city's abatement of any of the items identified herein, after following the procedures set forth in this chapter or in Utah Code Annotated Title 10 Chapter 11.

THE CITY COUNCIL HEREBY DIRECTS THAT THESE PROVISIONS BE INSERTED INTO THE OFFICIAL COPIES OF THE MUNICIPAL CODE IN THE OFFICE OF THE CITY RECORDER.

THIS ORDINANCE SHALL TAKE EFFECT UPON ITS PASSAGE AND POSTING AS REQUIRED BYLAW.

Passed, adopted, and ordered posted by the City Council of East Carbon City this 5th day of March 2023

David F. Avery, East Carbon City Mayor

Elizabeth M. Holt, City Recorder

SAM LEONARD *Chief of Police*

EAST CARBON POLICE

TO SERVE AND PROTECT

101 West Geneva • East Carbon, UT 84520 • Telephone: 435.888.2081 Fax: 435.888.5245 24 Hour: 435.888.2100

EAST CARBON CITY NOTICE OF VIOLATION

ORDINANCE # 2023-02 NUISANCE / PROPERTY CLEANUP

Owner/ Occupant.....

Date of Violation.....Address of Violation.....

Section (S) Violated.....

Violation Description.

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Action Necessary to Correct the Violation.

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A minimum of ten days will be allowed to comply with Ordinance # 2023-02. Failure to comply will result in a criminal citation and mandatory court appearance.

Code Enforcement Officer.....