

Ordinance No. 2007-3

An Ordinance Defining A Nuisance and Enacting Enforcement Provisions For Nuisances

WHEREAS, the Castle Valley Town Council (“*Council*”) has enacted Ordinance 2006-6, which establishes a complaint resolution process designed to resolve citizen complaints and enforce Town Ordinances in a manner that is conciliatory and creative, but

WHEREAS the Council needs to have a process which can be utilized when the complaint resolution process fails to find a solution to a problem which is clearly disrupting a citizen’s enjoyment of his/her own property; and

WHEREAS, the Council has specifically discussed the need for enacting provisions regarding removal of junk, disabled vehicles and abandoned mobile homes on private property and providing for abatement of the same; and

WHEREAS, the Council finds that it is in the best public interest to enact provisions regarding removal of these problems along with the effective enforcement of other Town ordinances; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interest of the health, safety and welfare of the citizens of the Town of Castle Valley (“*Town*”) to enact provisions defining nuisances in the Town and how they might be prosecuted if the complaint resolution process has not succeeded,

NOW, THEREFORE, BE IT ORDAINED by the Council as follows:

1.1. Nuisance Prohibition. It is unlawful for any person to maintain or assist in maintaining a nuisance. A person who maintains or assists in maintaining a nuisance is guilty of a class B misdemeanor.

1.2. Nuisance - Definition.

A. This section defines “nuisance” by providing five general definitions of what constitutes a nuisance (subsection B), and then providing specific examples of situations, conduct, or activities that constitute nuisances under the fifth definition (subsection C). The purpose of the general definitions is to allow the Town 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 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 Town may need to define as nuisances when complaint resolution processes have failed to resolve problems that are clearly affecting the health, safety or well-being of the community.

B. **General Definitions of Nuisance.** Any activity that meets any one or

more of the five definitions set forth below shall constitute a “nuisance” if it occurs within the Town:

1. **Nuisance as Defined in Utah Code Ann. § 78-38-1(1).** 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. **Nuisance as Defined in Utah Code Ann. § 76-10-801.** Any item, thing, manner, or conditions whatsoever that it is dangerous to human life or health or renders soil, air, water, or food impure or unwholesome.
3. **Nuisance as Defined in Utah Code Ann. § 76-10-803.** 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 or more persons, at separate and distinct addresses in the affected neighborhood of the Town; or
- (b) offends public decency; or
- (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 or more persons, at separate and distinct addresses in the affected neighborhood of the Town, insecure in life or the use of property.

An act which affects three or more persons, at three separate and distinct addresses in the affected neighborhood of the Town, 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 street 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 C.** Anything specifically listed as a nuisance in subsection (C), below.

C. Nuisances Enumerated. Every situation, conduct, or activity listed below 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.

1. **Noxious Emanations.** Emanation of noxious or unreasonable odors, fumes, gas, smoke, soot, or cinders.
2. **Refuse.** Keeping or storing of any refuse or waste matter which interferes with the reasonable enjoyment of nearby property.
3. **Stagnant Water.** Polluted or stagnant water which constitutes an

unhealthy or unsafe condition.

4. **Accumulation of Junk.** Accumulation of used or damaged lumber; junk; scrap metal; machinery or machinery parts; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, boxes, barrels, bottles, cans, containers, ice boxes, refrigerators, cabinets, or other fixtures or equipment that

- (a) Is stored so as to be visible from a public street or neighboring property.,
or
- (b) Creates a threat to public health or safety, or
- (c) Is a threat to the Castle Valley watershed

However, nothing herein shall preclude the placement of stacked firewood for personal noncommercial use on the premises.

5. **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:

- (a) 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; or
- (b) Engaging in acts of violence, including fighting amongst themselves; or
- (c) Discharging a firearm or explosive in violation of Town ordinance or State law.

6. **More than One Dwelling Unit.** Keeping or allowing people to live on a premise in violation of the Town's single family residence and zoning requirements.

7. **Pest Control.** Any premises that contains conditions that create a habitat for mosquitoes or other harmful insects or pests.

8. **Abandoned Mobile Home.** A mobile home in such a condition as to be deemed abandoned or in a condition of deterioration or disrepair, including, but not limited to:

- (a) Any mobile home 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
- (b) Mobile homes which are partially destroyed. Partially destroyed means a mobile home where the condition of the mobile home does not meet the requirements for finished building or structures as required by applicable Town ordinance or building codes; or
- (c) Mobile homes that are not connected to plumbing and/or electrical systems; or
- (d) Mobile homes that violate any building, electrical, plumbing, fire, housing, or any other applicable code.

9. **Disabled or Inoperable Vehicles.** A collection of three or more vehicles in such a condition as to be deemed abandoned or in a condition of deterioration

or disrepair, including, but not limited to a vehicle that is or has any of the following conditions: dismantled, broken windows; flat tires; no tires; missing doors; missing windows; missing fenders; missing hood; or missing trunk that

- (a) Is visible from a public street or neighboring property
- (b) Creates a threat to public health or safety, or
- (c) Is a threat to the Castle Valley watershed

10. **Animals.** Violations of Ordinance No. 1998-2 regarding animal control.

11. **Lighting.** Violations of Ordinance No. 1991-1 regarding outdoor lighting.

12. **Watershed Protection.** Violations of Ordinance No. 1996-1 regarding watershed protection.

13. **Noise.** The making or continuing, or causing to be made or continued, any loud, unnecessary, or unusual noise that disturbs the peace and quiet of any receiving property or cause discomfort or annoyance to any reasonable person of normal sensitivity residing in the area.

2.1. Other Remedies. The Town may take other remedies that it deems necessary, including, but not limited to, pursuing the remedies identified in Utah Code Ann. § 10-11-1 through 4 without complying with any other of the provisions of this ordinance.

This ordinance shall become effective upon public posting.

PASSED AND ADOPTED this ____ day of _____, 2007.

TOWN OF CASTLE VALLEY, UTAH

By:

Mayor, Damian Bollermann

Official Seal of the Town of Castle Valley

ATTEST:

Town Clerk