

ORDINANCE 2020-13

AN ORDINANCE AMENDING THE PENALTIES RELATED TO RESIDENTIAL INFRACTIONS

WHEREAS; the Utah Legislature passed House Bill 202 in 2020 which regulates penalties related to residences; and

WHEREAS; The City has several ordinances related to residences which impose penalties in excess of those proscribed by HB 202; and

WHEREAS; The City wishes to clarify penalties related to residences, while keeping more significant penalties for appropriate violations; and

WHEREAS; The City has reviewed the following ordinances and wishes to amend the following penalties as outlined below.

NOW THEREFORE, BE IT ORDAINED by the North Ogden City Council that the North Ogden City Code be amended as follows.

SECTION 1: The penalties in North Ogden Code shall be amended as follows:

5-1-1: ACCUMULATION PROHIBITED

- A. Specified; Authority: It is unlawful for the owner or occupant of any real property or estate, or its agent, to cause or permit upon such property, or right of way adjacent thereto, the accumulation of, or, after notice as provided in this chapter, to fail to properly maintain, eradicate or remove any injurious and noxious weeds, garbage, refuse, dead trees, tree stumps, abandoned or inoperable vehicles, boats or trailers, fail to maintain protective ground cover, or any unsightly or deleterious objects or structures pursuant to the powers granted to the city by Utah Code 10-11.
- B. Public Nuisance Declared: It is declared that the above listed objects shall constitute a public nuisance when they create a fire hazard, a source of pollution to water, air or land, or they create a breeding place or habitation for insects, rodents or other forms of life deleterious to human habitation, or are unsightly or deleterious to their surroundings.

5-1-2: INOPERABLE MOTOR VEHICLE STORAGE

- A. Inoperable Defined: For the purposes of this chapter, a motor vehicle, boat, recreational vehicle or trailer shall be deemed inoperable if it is not currently licensed, as required by state code, and operable for the use for which it was intended. The same shall be deemed abandoned if it has been left unattended for a period of seven (7) days or more upon any public or private property.
- B. Fence Required: Any inoperable or abandoned vehicle must be stored in an enclosed structure or behind an opaque six foot (6') fence, which is intended to shield the vehicle from view from any adjoining public or private property.

5-1-3: ADMINISTRATION AND ENFORCEMENT

The enforcement procedures for this chapter are found in CCNO 1-9, or any other relevant municipal or state code provision. This Title in no way limits any remedy available to North Ogden City authorized under any local, state, or federal rule, regulation, code, or other provision

5-1-4: PENALTY

Any person who violates this chapter or any provision thereof shall be guilty of an infraction, subject to penalty as provided in CCNO 1-4-1 and may also be charged under Utah Code § 26-23-3. If an individual receives a penalty/fine on the same residence three times the next penalty/fine shall be a Class B misdemeanor with a mandatory court appearance.

5-2: NUISANCES

5-2-1: STATE PROVISIONS ADOPTED BY REFERENCE:

5-2-1: STATE PROVISIONS ADOPTED BY REFERENCE:

Except insofar as the application thereof is clearly impractical or inappropriate, in view of the context of purposes or penalty as provided, all of the definitions, requirements, regulations, prohibitions, provisions, penalties and sections of the state nuisance provisions, Utah Code § 76-10-801 et seq., as amended, are hereby adopted by the city.

5-3: NOISE RESTRICTIONS ON USES OR ACTIVITIES

5-3-1: HORNS AND SIGNALING DEVICES

5-3-2: TRUCK IDLING

5-3-3: MOTOR VEHICLE OPERATION

5-3-4: SOUND AMPLIFICATION DEVICES; MUSICAL INSTRUMENTS

5-3-5: CONSTRUCTION EQUIPMENT OR ACTIVITY

5-3-6: COMMERCIAL POWER EQUIPMENT

5-3-7: DOMESTIC POWER EQUIPMENT

5-3-8: REFUSE COLLECTION AND COMPACTING

5-3-9: LOADING/UNLOADING OPERATIONS

5-3-10: MUFFLERS REQUIRED FOR ENGINE EXHAUST

5-3-11: FIRING RANGES

5-3-12: SPECIAL PERMIT FOR RELIEF

5-3-13: PENALTY

5-3-1: HORNS AND SIGNALING DEVICES

No person shall, at any time, sound any horn or audible signal device on any automobile, motorcycle, bus or other vehicle, except as a danger signal or traffic warning as provided under the Utah motor vehicle act; create by means of any such signaling device any unreasonably loud or harsh sound; or sound any such device for an unnecessary or unreasonable period of time.

5-3-2: TRUCK IDLING

No person shall operate an engine of any standing motor vehicle with a weight in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight (GVA) for a period in excess of ten (10) minutes when such vehicle is parked on a residential premises, on a premises next to a residential premises, or on a public street next to a residential premises; provided, however, that vehicles confined and operated within an enclosed structure, or vehicles being used directly in construction activity or the operation of construction equipment, shall not be subject to the provisions of this section.

5-3-3: MOTOR VEHICLE OPERATION

No person shall operate or cause to be operated any motor vehicle unless the exhaust system of the vehicle is:

- A. Free from defects that affect sound reduction;
- B. Equipped with a muffler or other noise dissipative device; or
- C. Not equipped with any cutout, bypass or similar device.

5-3-4: SOUND AMPLIFICATION DEVICES; MUSICAL INSTRUMENTS

- A. Affecting Residential Premises: No person shall operate a sound amplification device or musical instrument:
 - 1. Between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. in a way that is exceeds 65 dBC at the property line of a residential premises, except on the 4th of July when the hours shall be extended to eleven o'clock (11:00) P.M.; or
 - 2. In a way that at any time is offensive to a reasonable person from inside a residential premises, when all exterior doors and windows of such dwelling unit are closed.
- B. Operation In A Motor Vehicle: No person shall operate a sound amplification device within a motor vehicle parked or operated on a public street, which is offensive to a reasonable person or which causes a person to be aware of vibration accompanying the sound either:
 - 1. At a distance of thirty feet (30') from the motor vehicle; or
 - 2. Within another motor vehicle on a public street, at any distance, when all doors and windows of such other vehicle are closed.
- C. Public Parks: No person shall operate a sound amplification device within a public park, which exceeds 75 dBC at a distance of seventy five feet (75') from the device, unless operated pursuant to a special permit issued under CCNO 5-3-12 of this chapter or related to Amphitheater use under CCNO 8-6-5.
- D. Commercial Operation On Public Street Without Permit: No person shall operate a sound amplification device in a fixed or movable position or mounted upon any vehicle, in or upon a public street, for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmission of music to any persons or assemblages of persons in violation of other sound levels/restrictions, unless a permit is first obtained under CCNO 5-3-12 of this chapter.
- E. Projection From Building On Public Street: No person shall operate in any building a sound amplification device or musical instrument, the sound wherefrom is cast directly upon a public street and where such device is maintained and operated for advertising purposes or for the purpose of attracting the attention of the passing public unless a special permit issued under CCNO 5-3-12 of this chapter.
- F. Amphitheater Usage: Any activity in or around the Barker Park Amphitheater which has received a special events permit from the Parks and Recreation Department shall be exempt from the rules in this chapter, but must comply with Title 8 Chapter 6 Section 5 of this code.
- G. Any person who violates this chapter or any provision thereof shall be guilty of an infraction, subject to penalty as provided in CCNO 1-4-1 and may also be charged under Utah Code § 26-23-3. If an individual receives a penalty/fine on the same residence three times the next penalty/fine shall be a Class B misdemeanor with a mandatory court appearance.

5-3-5: CONSTRUCTION EQUIPMENT OR ACTIVITY

The operation of construction equipment or the performance of construction activity, except as required for emergency work, shall only be allowed between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M. on weekdays and Saturdays. No construction equipment or construction noise activity shall take place on Sundays.

5-3-6: COMMERCIAL POWER EQUIPMENT

The operation of any commercial power equipment shall only be allowed between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M., and only when in compliance with established noise levels of this chapter.

5-3-7: DOMESTIC POWER EQUIPMENT

The operation of any domestic power equipment shall only be allowed between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

5-3-8: REFUSE COLLECTION AND COMPACTING

Garbage, refuse or other solid waste collection shall only be allowed between the hours of six o'clock (6:00) A.M. and seven o'clock (7:00) P.M., when such collection takes place on any residential premises or on any premises next to, or across the street or alley from, a residential premises.

5-3-9: LOADING/UNLOADING OPERATIONS

Except as otherwise provided for solid waste collection in CCNO 5-3-8, loading, unloading, opening, closing, or otherwise handling boxes, crates, containers, building materials, liquids, garbage cans, refuse, or similar objects, or the pneumatic or pumped loading or unloading of bulk materials in liquid, gaseous, powder or pellet form, or the compacting of refuse by persons engaged in the business of scavenging or garbage collection, whether private or public, shall not be allowed between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M., the sound wherefrom is clearly audible across the property line of a residential premises.

5-3-10: MUFFLERS REQUIRED FOR ENGINE EXHAUST

No person shall discharge into the open air the exhaust of any stationary internal combustion engine, motorboat or motor vehicle, except through a muffler or other device, which will effectively prevent loud or explosive noises therefrom.

5-3-11: FIRING RANGES

The operation of a firing range shall only be allowed between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M., Monday through Saturday, the sound wherefrom is clearly audible at the property line of the premises of the firing range.

5-3-12: SPECIAL PERMIT FOR RELIEF

- A. Application: Applications for a permit for relief from the noise level designated in this chapter may be made to the city council.
- B. Information Required: Applications for a permit shall supply information, including, but not limited to:
 - 1. The nature and location of the noise source for which such application is made;
 - 2. The reason for which the permit is requested, including the hardship that will result to the applicant, his/her client or the public if the permit is not granted;
 - 3. The level of noise that will occur during the period of the permit;
 - 4. The ordinance provision for which the permit shall apply;
 - 5. A description of interim noise control measures to be taken for the applicant to minimize noise and the impacts occurring wherefrom; and
 - 6. A specific schedule of the noise control measures that shall be taken to bring the source into compliance with this chapter within a reasonable time.
- C. Conditions Specified: Any permit granted under this section shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective, which shall be no longer than one year.
- D. Proof Required For Approval: No permit shall be approved unless the applicant presents adequate proof that:

1. Compliance with this chapter would impose an undue hardship on the applicant without equal or greater benefits to the public and additional time is necessary for the applicant to alter or modify his activity or operation to comply with this chapter; or
 2. The activity, operation or noise source will be of temporary duration, and cannot be done in a manner that would comply with this section; and
 3. No other reasonable alternative is available to the applicant; and
 4. Noise levels occurring during the period of the permit will not constitute a danger to public health.
- E. Considerations For Determination: In making the permit determination, the city council shall consider:
1. The character and degree of injury to, or interference with, the health and welfare or the reasonable use of property that is caused or threatened to be caused;
 2. The social and economic value of the activity for which the permit is sought; and
 3. The ability of the applicant to apply the best practical noise control measures.
- F. Minimization Of Effects: The city council, in granting such a special permit, may prescribe any conditions or requirements it deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.
- G. Revocation: The permit may be revoked by the city council, or the city council's designee, if there is:
1. Violation of one or more conditions of the permit;
 2. Material misrepresentation of fact in the permit application; or
 3. Material change in any of the circumstances relied on by the city council in granting the permit.

5-3-13: PENALTY

Except as otherwise indicated a violation of any subsection of this chapter shall be considered a class C misdemeanor and may also be charged under Utah Code § 76-9-102.

5-7: PROTECTIVE GROUND COVER

5-7-1: INSTALLED

5-7-2: MAINTENANCE

5-7-3: ALTERNATIVES

5-7-4: BOND

5-7-5: ENFORCEMENT

5-7-6 Penalty

5-7-1: INSTALLED

- A. In order to obviate the nuisance described in CCNO 5-2-1 relating to weeds and other noxious growth, "protective ground cover", as defined in CCNO 8-5-3, shall be installed on the front and side yards of every lot, including the right-of-ways adjacent thereto, not containing pavement, sidewalks, or other similar materials, within eighteen (18) months after the issuance of an occupancy permit. All back yards of every residential lot shall be covered by protective ground cover within two and one-half (2½) years from the date of the issuance of an occupancy permit.
- B. Where an occupancy permit has been issued prior to the effective date hereof, "protective ground cover", as defined in CCNO 8-5-3, shall be installed on or before August 31, 1994, on all portions of every residential lot, including the parking strip, not containing pavement, sidewalks or other similar type materials.
- C. Nothing in this section shall prohibit the planting, installation or maintenance of a flower or vegetable garden, orchard, pasture, playground or other open space not prohibited by ordinance. No vegetable garden shall be planted or maintained in the parking strip.
- D. Violation of any subsection of this section shall be considered an infraction.

5-7-2: MAINTENANCE

The owner of property upon which protective ground cover has been installed under CCNO 5-7-1 shall cause the protective ground cover to be adequately maintained, including within the right-of-ways adjacent thereto, and in that connection shall observe the following minimum standards:

- A. With respect to living protective ground cover, provide sufficient water and care to the protective ground cover which will ensure that the ground cover does not die and maintains the color or hue it would achieve if the proper quantity of water was applied to the protective ground cover; provided, however, that in the event the mayor, pursuant to Utah Code § 10-7-12, declares by proclamation that a scarcity of water should limit the use of water for all purposes other than specified domestic uses, the provisions of this subsection will be suspended during the term covered by such proclamation.
- B. If the protective ground cover is grass or similar turf, periodically mow or cut the turf so as not to exceed a height of more than six inches (6").

5-7-3: ALTERNATIVES

Protective ground cover not authorized for planting may not be installed unless approved by a city official designated for that purpose. All appeals from the decision of said official shall be to the administrative hearing officer in accordance with CCNO 11-4-4. In no event, however, shall an alternative protective ground cover be approved by the designated official which: a) fails to maintain storm runoff detention capabilities of the area to be landscaped to substantially the same degree that would be accomplished if authorized protective ground cover were installed; or b) which is injurious to the health, safety, welfare (including aesthetics), and property values of the surrounding residences.

5-7-4: BOND

If, in the opinion of city officials, weather, scarcity of water, or other circumstance does not permit the installation of protective ground cover within the time periods described in CCNO 5-7-1, a cash bond in the sum of five hundred dollars (\$500.00), to guarantee the completion of the installation of protective ground cover, shall be provided to the city before the expiration of the required time period in question. In such case, the city shall specify, in writing, the date upon which installation of protective ground cover shall be completed.

5-7-5: ENFORCEMENT

This Title shall be enforced according to the procedures outlined in CCNO 1-9 or any other relevant municipal or state code. This code in no way limits any remedy available to North Ogden City authorized under any local, state, or federal rule, regulation, code, or other provision.

5-7-6 Penalty

Any person who violates this chapter or any provision thereof shall be guilty of an infraction subject to penalty as provided in CCNO 1-4-1 and may also be charged under Utah Code § 26-23-3. If an individual receives a penalty/fine on the same residence three times the next penalty/fine shall be a Class B misdemeanor with a mandatory court appearance.

SECTION 2: This ordinance shall take immediate effect.

PASSED and ADOPTED this 9th day of June.

