

HEALTH AND SANITATION

ARTICLE I - NUISANCES

Section 25-1	Purpose
Section 25-2	Definitions
Section 25-3	Nuisance - Definition
Section 25-4	Exceptions
Section 25-5	Responsibility for Nuisances
Section 25-6	Nuisance Abatement - Administration
Section 25-7	Finding of Nuisance/Written Notice
Section 25-8	Remedies to Abate a Nuisance
Section 25-9	Appeals

ARTICLE II - WEEDS AND OFFENSIVE ACCUMULATIONS

Section 25-10	Inspection and Notice
Section 25-11	Compliance with the Notice
Section 25-12	Abatement by City
Section 25-13	Appeals

ARTICLE III - MISCELLANEOUS PROVISIONS

Section 25-14	Severability Clause
Section 25-15	Enforcement of Nuisances found elsewhere in City Ordinance in accordance with this chapter
Section 25-16	Repealing specific provisions of existing City Ordinance

CHAPTER 25

HEALTH AND SANITATION

ARTICLE 1. NUISANCES

Section 25-1	Purpose
Section 25-2	Definitions
Section 25-3	Nuisance - Definition
Section 25-4	Exceptions
Section 25-5	Responsibility for Nuisances
Section 25-6	Nuisance Abatement - Administration
Section 25-7	Finding of Nuisance/Written Notice
Section 25-8	Remedies to Abate a Nuisance
Section 25-9	Appeals

SECTION 25-1. Purpose.

The purpose of this ordinance is to provide a means for the City and individuals to identify nuisances within the City and to provide a means for correcting or abating the nuisances. The City needs the ability to abate nuisances in order to protect the health and safety of the public, to foster neighborhood stability, to preserve the appearance, character and beauty of neighborhoods, to encourage community pride, to preserve the value of property, and to protect the general welfare of the City and its citizens, businesses and visitors.

SECTION 25 -2. Definitions.

“Abate” means to repair, replace, remove, destroy, correct or otherwise remedy a condition which constitutes a nuisance by such means, in such a manner and to such an extent as the Code Enforcement Officer determines is necessary in the interest of the general health, safety and welfare of the community.

“Completion Date” means the date by which the Responsible Person must abate a nuisance. The Completion Date is set by the Code Enforcement Officer.

“Developed Property” means property which has been altered from its natural state by the construction or erection of materials located upon the land which, per city ordinance, requires a building permit.

“Dwelling Unit” One or more rooms providing complete living facilities for one family, including equipment for cooking or provisions for the same, and including room or rooms for living, sleeping and eating.

“Emergency” means a situation, which, in the opinion of the Code Enforcement Officer, requires immediate action to prevent or eliminate an immediate threat to the health or safety of a person or property.

“Graffiti” means any form of unauthorized printing, writing, spraying, scratching, affixing, etching, or inscribing on the property of another regardless of the content or the nature of the material used in the commission of the act.

“Hearing Officer” means the person(s) designated to hear appeals pursuant to this ordinance. The Hearing Officer shall be the Cedar City Manager or his or her designee. The designee need not be a City employee.

“Code Enforcement Officer” means a code enforcement officer, community service officer, or police officer(s) hired by the City to enforce this ordinance.

“Owner” means any person who, alone or with others, has title or interest in any building or premises, with or without accompanying actual possession thereof. For the purpose of giving notice, the term Owner also includes any person in physical possession of the building or premises.

“Premises” means a plot of ground, whether occupied or not.

“Property” means a building or structure, or the premises on which the building or structure is located, or undeveloped land.

“Public Place” means an area generally visible to public view and includes alleys, bridges, driveways, parking lots, parks, plazas, sidewalks, streets, and buildings open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

“Responsible Person” means the person(s) responsible for correcting or abating a nuisance pursuant to this ordinance. The Responsible Person includes the property owner of record according to the records of the county recorder, and any person who causes or permits a nuisance to occur or remain upon property in the City, and includes but is not limited to the owner(s), lessor(s), lessee(s), or other person(s) entitled to control, use and/or occupy property where a nuisance occurs. In cases where there is more than one Responsible Persons, the City may proceed against one, some or all of them.

SECTION 25-3. Nuisance - Definition

This section defines nuisance by providing five general definitions of what constitutes a nuisance (subsection A), and then providing specific examples of situations, conduct or activities that constitute nuisances (subsection B). The purpose of the general definitions is to allow the

City to classify an offending situation, conduct or activity as a nuisance, even though the situation, conduct or activity may not be listed as a nuisance in the specific examples. The first three general definitions are taken directly from Utah State law. The purpose of listing the specific examples is to identify some of the specific situations, conduct and activities that the City intends to abate as nuisances.

A. General Definitions of Nuisance. Any activity that meets any one or more of the five definitions set forth below shall constitute a nuisance if it occurs within Cedar City:

1. **Nuisance as Defined in U.C.A. 78B-6-1101(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 U.C.A. 76-10-801.** Any item, thing, manner, or condition whatsoever that is dangerous to human life or health or renders soil, air, water, or food impure or unwholesome.
3. **Nuisance as Defined in U.C.A. 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;
 - b. offends public decency;
 - c. unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street, or highway; or
 - d. in any way renders three or more persons insecure in life or the use of property.

An act which affects three or more persons in any of the ways specified in this subsection is still a nuisance regardless of the extent to which the annoyance or damage inflicted to individuals is unequal.

4. **Nuisance.** A condition which:
 - a. wrongfully annoys, injures, or endangers the comfort, repose, health or safety of others; or
 - b. unlawfully interferes with, obstructs or tends to obstruct, or render dangerous for passage, any public park, square, street, sidewalk or highway, or any other public place; or
 - c. in any way renders other persons insecure in life, or in the use of property, and which affects the rights of an entire community or neighborhood, although the extent of the damage may be unequal.

5. Specific Nuisances Listed in Subsection B. Anything specifically listed as a nuisance in subsection (B) below.

B. 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. The first six listed nuisances are also listed as nuisances pursuant to U.C.A. 78-38-9

1. **Drug Houses.** Every building or premises where the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition of any controlled substance, precursor, or analog specified in Title 57, Chapter 37 of the Utah Code (Utah Controlled Substances Act) occurs.
2. **Gambling.** Every building or premises where gambling is permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 10, Part 11 of the Utah Code (Gambling) which creates the conditions of a nuisance as defined in Section 25-3-(A) (1) of this ordinance.
3. **Gangs.** Every building or premises wherein criminal activity is committed in concert with two or more persons as provided in Section 76-3-203.1 of the Utah Code.
4. **Party Houses.** Every building or premises where parties occur twice or more per month which create the conditions of a nuisance as defined in Section 25-3 (A) (1) of this ordinance. Some of the factors the City may examine in determining whether a party house exists include:
 - a. An increase in the number of emergency response calls due to parties being held;
 - b. Any pattern of activity that suggests that parties, creating a nuisance as defined by the ordinance, are taking place;
 - c. Any pattern of activity which diminishes the quiet enjoyment of those buildings and premises around the alleged party house or which cause the immediate neighbors to fear for their safety due to the party activity.
5. **Prostitution.** Every building or premises where prostitution or the promotion of prostitution is regularly carried on by one or more persons as provided in Title 76, Chapter 10, part 13 (Prostitution) of the Utah Code.
6. **Weapons.** Every building or premises where a violation of Title 76, Chapter 10, Part 5 (Weapons) of the Utah Code occurs on the premises.

7. **Unsafe Condition.** A condition that unreasonably or unlawfully affects the health or safety of one or more persons.
8. **Fire Hazard.** Defined as a condition which encourages a fire to start or increases the intensity or severity of a fire.
9. **Noxious Emanations.** Emanation of noxious or unreasonable odors, fumes, gas, smoke, soot or cinders.
10. **Noxious Weeds.** Noxious weeds located on vacant lots or other property, along public sidewalks or the outer edge or any public street, or weeds in any other location which constitute a fire hazard. Noxious Weeds also includes all weeds designated under R68-9-2 of the Utah Administrative Code. As applied only to subdivided lots with vertical infrastructure, and developed property, the definition of noxious weeds shall also include all common weeds and wild grasses exceeding twelve (12) inches in height.
11. **Refuse.** Keeping or storing of any refuse or waste in a manner which interferes with the reasonable enjoyment of nearby property.
12. **Stagnant Water.** Polluted or stagnant water which constitutes an unhealthy or unsafe condition.
13. **Improper Accumulations.** Accumulation of soil, litter, debris plant, trimmings, or trash, visible from the street or an adjoining property. Improper accumulations that occur on an undeveloped lot is considered a nuisance.
14. **Accumulation of Junk.** Accumulation of used or damaged lumber; junk; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, cabinets, or fixtures or equipment stored so as to be visible from a public street, alley or adjoining property. However, nothing herein shall preclude the placement of stacked firewood for personal non-commercial use on the premises. Accumulation of junk that occurs on an undeveloped lot is considered a nuisance.
15. **Attractive Nuisances.** Any attractive nuisance dangerous to children and other persons including, but not limited to, abandoned foundations or excavations, or improperly maintained or secured pools.
16. **Vegetation.** Dead, decayed, diseased, or hazardous trees, weeds, hedges, and overgrown or uncultivated vegetation which is in a hazardous

condition, is an obstruction to pedestrian or vehicular traffic, or which is likely to harbor rats, vermin or other pests.

17. **Improper Storage.** The keeping, storing, depositing or accumulating on the premises longer than sixty (60) days, or in the public right-of-way longer than forty-eight (48) hours, any dirt, sand, gravel, concrete, or other similar materials, or maintenance of such material. Storage of any material on sidewalks is prohibited. Any materials left in the public right of way shall be clearly marked with appropriate safety measures as determined by the superintendent of streets.
18. **Garbage Can.** The leaving of any city, commercial, or privately owned garbage can or refuse container in the street, other than on collection day, for more than twenty-four (24) hours after the collection day.
 - A. **Exception:** Commercial refuse containers may be left on the public streets as long as the party who is the primary user of the container first obtains a thirty (30) day permit from the streets supervisor, pays the applicable fee, and complies with necessary and appropriate restrictions as to placement of the container and posting of safety measures.
19. **Construction Equipment.**
 - a. Construction Equipment of any type or description parked or stored on property when it is readily visible from the ground level of a public street, alley, or adjoining property, except while excavation, construction or demolition operations covered by an active building permit are in progress on the subject property or an adjoining property or where the property is zoned for the storage of construction equipment and/or machinery.
 - b. Construction equipment or machinery shall not be considered a nuisance when stored in a zone not zoned for such storage and covered by a tarp or similar covering, stored in a shed, garage, or stored behind a site obscuring fence.
 - c. Construction equipment or machinery does not include tools and yard equipment used to maintain personal property and home no larger than a riding lawn mower or a four-wheeler.
20. **Improper Sign.** Improper maintenance or a sign; or signs which advertise a business that is no longer extant on the property.

21. **Improper Parking or Storage.**
 - a. Parking or storage of inoperative, unregistered, abandoned, wrecked, or dismantled vehicles, boats, trailers, or vehicle parts, including recreational vehicles on a premises, or in the public right-of-way. Storage or parking that is specifically allowed by City Zoning Ordinance shall not be considered a nuisance.
 - b. Parking or storage of registered vehicle, trailers or boats in violation of City Ordinance.
 - c. It shall not be considered a nuisance to park or store inoperative, unregistered, wrecked or dismantled vehicles, boats, trailers, or vehicle parts, including recreational vehicles, on private property so long as said inoperative, unregistered, wrecked, or dismantled vehicles, boats, trailers, or vehicle parts, including recreational vehicles, are covered by a tarp or similar covering, stored in the garage or shed, or stored behind a site obscuring fence. All of the above items are those that are being kept temporarily for parts, repairs, reconstruction, etc. And have a use in an ongoing project.
22. **Hazardous Conditions.** Any wall, sign, fence, gate, hedge, or structure maintained in such condition of deterioration or disrepair as to constitute a hazard to persons or property.
23. **Graffiti.** Graffiti which remains on the exterior of any building, fence, sign, or other structure and is visible from a public street.
24. **Improper Maintenance.** Maintenance of buildings and/or structures in such condition as to be deemed defective or in a condition of deterioration or disrepair including, but not limited to:
 - a. Any building or structure which is unfit for human habitation, or which is an unreasonable hazard to the health of people residing in the vicinity thereof, or which presents an unreasonable fire hazard in the vicinity where it is located; or
 - b. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of City ordinances, or any use of land, buildings, or premises in violation of City ordinances; or
 - c. Buildings which are abandoned, partially destroyed, or left in an unreasonable state of partial construction for a period of six (6) months or longer. An unreasonable state of partial construction is

defined as any unfinished building or structure where the appearance or condition of the building or structure does not meet the requirements for finished buildings or structures as required by applicable City ordinances or building codes. The building or structure shall not be considered to be a nuisance if it is under active construction; or

- d. Buildings having dry rot, warping, termite infestation, decay, excessive cracking, peeling, or chalking, as to render the building unsightly and/or in a state of disrepair; or
- e. Buildings with missing doors and/or windows containing broken glass and/or no glass at all where the window is of a type which normally contains glass; or
- f. Building exteriors, walls, fences, gates, driveways, sidewalks, walkways, signs or ornamentation, or alleys maintained in such condition as to render them unsightly and/or in a state of disrepair; or
- g. Buildings or conditions that violate any building, electrical, plumbing, fire, housing or other code adopted by the City.

25. **City Code Nuisances.** Any violation of a Cedar City Code section that expressly declares a specific situation, conduct or activity to be a nuisance.

26. **Alcohol.** Every property or premises not licensed under applicable State law or City ordinance where any intoxicating liquors or alcohol are kept for unlawful use, sale or distribution.

27. **Inappropriate Conduct.** Every property or premises where there exists an environment which causes, encourages or allows individuals or groups of individuals to commit one or more of the following acts on the property, premises or adjacent public place, including but not limited to

- a. Illegally using or possessing any controlled substance, precursor, analog or drug paraphernalia.
- b. Illegally consuming intoxicating liquor or alcohol;
- c. Public urinating or defecating;
- d. 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;
- e. Engaging in acts of violence, including fighting amongst themselves;
- f. Discharging a firearm or explosive in violation of City ordinance or State law;
- g. Creating unreasonable noise which disturbs others;

- h. Intentionally obstructing pedestrian or vehicular traffic; or
 - i. Soliciting acts of prostitution.
28. **Dangerous Conditions.** Any fence, wall, shed, deck, house, garage, building, structure on any part of any of the aforesaid; or any tree, pole, smokestack; or any excavation, hole, pit, basement, cellar, sidewalk, subspace, dock, or loading dock; or any lot, land, yard premises or location which in its entirety, or in any part thereof, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property, or cause any hurt, harm inconvenience, discomfort, damage, or injury to any one or more individuals in the City, in any one or more of the following particulars:
- a. By reason of being a menace, threat and/or hazard to the general health and safety of the community.
 - b. By reason of being a fire hazard.
 - c. By reason of being unsafe for occupancy, or use on, in, upon, about or around the aforesaid property.
 - d. By reason of lack of sufficient or adequate maintenance of the property, and/or being vacant, any of which depreciates the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such property is situated or such condition exists
29. **Parking on Landscaping.** Parking in an area required to be landscaped by City ordinance.
30. **Required Landscaping.** Failure to install or maintain landscaping required by City ordinance.

SECTION 25-4. Exceptions

No act which is done or maintained under the express authority of a statute, ordinance or court ruling shall be declared a nuisance.

SECTION 25-5. Responsibility for Nuisances

The Responsible Person(s) is responsible for abating nuisances pursuant to this ordinance. Any person, whether as owner, agent, or occupant, who creates, aids in creating, or contributes to a nuisance, or who supports, continues, or retains a nuisance, is responsible for the nuisance and is therefore a Responsible Person pursuant to this ordinance. Every successive owner or tenant of a property or premises who fails to abate a continuing nuisance upon or in the use of such property or premises caused by a former owner or tenant is responsible therefore in the same manner as the one who first created it.

SECTION 25-6. Nuisance Abatement - Administration

This ordinance shall be administered by the Police Department. In case of nuisances involving dangerous buildings or violations of codes typically administered and enforced by the Building Department, this ordinance may also be administered and enforced by the Building Department.

SECTION 25-7. Finding of Nuisance/Written Notice

A. Finding of Nuisance. If a Code Enforcement Officer has probable cause to believe a nuisance exists, the Code Enforcement Officer may attempt to have the Responsible Person abate the nuisance.

B. Written Notice. Once a Code Enforcement Officer has probable cause to find that a nuisance exists, the Code Enforcement Officer must serve written notice of the nuisance finding to the Responsible Person. The written notice may be served in person or by mail to the Responsible Person as defined by this ordinance.

1. The written notice shall:
 - a. identify the Responsible Person according to the records of the county recorder;
 - b. describe the property;
 - c. describe the nuisance contained on the property; and
 - d. request the Responsible Person to abate the nuisance within 14 days of notice.

SECTION 25-8. Remedies to Abate a Nuisance

This section applies whenever the Code Enforcement Officer determines that a nuisance exists. The Code Enforcement Officer may pursue any remedy or combination of remedies available pursuant to this ordinance, State law or common law in order to abate the nuisance. Nothing in this section shall be interpreted to prohibit the City from engaging in its standard prosecution practices. Nothing in this ordinance shall be interpreted to prevent the City from enforcing applicable City ordinances, building codes, or the Abatement of Dangerous Buildings Code without first treating the offending conduct, situation or activity as a nuisance pursuant to this ordinance.

- A. Voluntary Correction.** Before taking other steps to abate the nuisance, the Code Enforcement Officer may make a reasonable attempt to secure voluntary correction or abatement of the nuisance by:
1. Contacting the Responsible Person, where possible;
 2. Explaining the nuisance;

3. Requesting the Responsible Person to abate the nuisance; by an agreed upon completion date. The completion date shall be no less than ten (10) days from the day on which the written notice is delivered in person or post-marked, or offer to have the City abate the nuisance at the Responsible Person's expense as outlined in Section 25-8(C); and
4. Agree to terms. The responsible person and the officer may agree as to what actions must be taken to abate the nuisance. Failure to abide by the agreement can result in further action being taken, as outlined in this Chapter.

If the Responsible Person has shown due diligence and/or substantial progress in correcting or abating the nuisance, but unforeseen circumstances render abatement under the agreed to terms unattainable, the Code Enforcement Officer, with consent of their Sergeant, may give the Responsible Person seven (7) additional days to abate the nuisance.

- B. Criminal Citation.** When the Code Enforcement Officer has probable cause to believe a nuisance exists, they may issue a criminal citation to the Responsible Person. The Code Enforcement Officer may issue a criminal citation without having attempted to secure voluntary correction as provided in Section 25-8(A).

1. When a criminal action is pursued, any restitution ordered by the court on behalf of the City is to be collected and received by the City and deposited into the Nuisance Abatement account whereby the City may access, and use said funds to help pay for the costs associated to abate nuisances.

- C. Abatement by the City.**

1. The City may abate a nuisance when:
 - a. The Responsible Person gives consent for the City to enter the subject property and abate the nuisance; or
 - b. Whenever a nuisance is occurring which constitutes an emergency as defined in Section 25-2, the City may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the Responsible Person as soon as reasonably possible either before or after the abatement.
2. Using any lawful means, the City may enter upon the subject property and may remove or correct the condition which is subject to abatement. The City may seek, but is not required to seek, such judicial process as it deems necessary to affect the removal or correction of such condition.

3. During an abatement proceeding, any personal property constituting a nuisance, as defined by this Article, may be confiscated as part of the abatement process. Any property that has been confiscated by the City as part of an abatement will be held pending the resolution of the nuisance. The owner of the abated property may recover the property upon showing that the nuisance has been corrected or that substantial efforts, as determined by the Code Enforcement Officer in collaboration with the Cedar City Policy Department, have been made to correct the nuisance. The property owner shall pay the cost of storage of the property. If, after 90 days of the property being confiscated, the property owner fails to claim the confiscated property, after complying with the requirements of Section 77-24a-5 U.C.A., the City may dispose of the property, to include sale at auction, disposal, etc. and seek to collect the cost of storage from the property owner and any other remedies as provided by law.
4. The cost, including incidental expenses, of correcting or abating the nuisance shall be billed to the responsible person and/or the owner, lessor, tenant, or other person entitled to control, use and/or occupancy of the property and shall become due and payable to the City within thirty (30) days of actual receipt of the bill, or thirty (30) of the date of mailing if the bill is mailed. The term incidental expenses includes but is not limited to:
 - a. Personnel costs, both direct and indirect, including attorney's fees and costs;
 - b. Costs incurred in documented violation;
 - c. Hauling, storage and disposal expenses;
 - d. Actual expenses and costs for the City in preparing notices, specifications and contracts, and in accomplishing and contracting and inspecting the work; and
 - e. The cost of any required printing and mailing.
5. **Lien for Costs.** If the Responsible Person fails to pay any costs and expenses related to the nuisance abatement when due, the City may record a lien on the property or premises for the full amount of the unpaid costs and expenses.
6. **Costs Included in Tax Notice.** As authorized by Utah State Code Title 10 Chapter 11, if the Responsible Person fails to pay any costs and expenses related to the nuisance abatement, the City may request the County

Treasurer to enter this amount on the assessment and tax rolls of the County.

- D. Civil Actions.** Either the City or any private person directly affected by a nuisance may bring a civil action to abate or enjoin the nuisance, or for damages for causing or maintaining the nuisance (including the cost, if any, of cleaning the subject property). The civil action may be brought pursuant to this ordinance or pursuant to State law.
- E. Abatement by Eviction.** Whenever there is reason to believe that a nuisance under Section 25-3 (B) (1 - 6) is kept, maintained, or exists in the City, the City Attorney or any citizen(s) residing in the City, or any person or entity doing business in the City, in his or their own names, may maintain an action in a court of competent jurisdiction to abate the nuisance and obtain an order for the automatic eviction of the tenant of the property harboring the nuisance. The eviction shall take place as specified in Utah law.
- F. Non-exclusive Remedies.** The City may take any or all of the above-mentioned remedies (administrative, civil or criminal) to abate a nuisance and/or to punish any person or entity that creates, causes or allows a nuisance to exist. The abatement of a nuisance does not prejudice the right of the City or any person to recover damages or penalties for its past existence.

SECTION 25-9 Appeals.

- A. Grounds.** Any person receiving written notice of a nuisance may appeal the notice to the Hearing Officer. Only the following issues may be appealed to the Hearing Officer.
1. The person identified in the written notice as the Responsible Person, is not the Responsible Person as defined by this ordinance.
 2. The condition described is not a nuisance as defined by this ordinance.
 3. The time period given to abate the nuisance is unreasonable.
 4. The Code Enforcement Officer refused to approve a corrective action that met the agreed upon terms.
 5. The Responsible Person claims that the requirement(s) of the nuisance finding violates his/her constitutional rights.

B. Filing.

1. The person desiring to appeal the finding of a nuisance must file a notice of appeal at the City's Police Department within ten (10) days of being served with the written notice.
2. The notice of appeal shall clearly and concisely set forth all the reasons for the appeal. The Hearing Officer shall examine the notice of appeal to determine whether a valid appeal has been stated. If the appellant has not stated a valid cause for appeal as set forth in Section 25-9(A), or if the appellant has failed to show by a preponderance of the evidence, that he/she has an appealable issue, the appeal shall be denied and no hearing shall be held.
3. If the appellant has filed an appeal, the filing of such appeal will not prevent law enforcement officers from responding to the property on reports of new nuisance violations.

C. Hearing. The hearing before the Hearing Officer shall be informal according to rules and procedures established by the Hearing Officer. The appellant may, but is not required to, bring an attorney or other representative to assist him or her. The appellant and the Code Enforcement Officer may each call witnesses at the hearing. The Hearing Officer may, with or without the parties present, visit the site of the alleged nuisance. If the Hearing Officer allows the parties at the site visit, both parties must be given the opportunity to be present. The Hearing Officer shall schedule the hearing within thirty (30) days of when the notice of appeal is filed with the City. The City Attorney, or his designee, shall be present for the hearing and act as legal adviser for the Hearing Officer.

D. Burden of Proof.

1. In appellant's notice of appeal, the appellant shall have the initial burden of proof to demonstrate by a preponderance of the evidence that he/she has stated a legitimate ground for an appeal based upon reasons as set forth in Section 25-9(A).
2. If the appellant has timely filed his/her appeal and a hearing has been scheduled, the burden then shifts to the City to show by a preponderance of the evidence that a nuisance does exist.

- E. **Order.** The Hearing Officer shall issue a written Order to the appellant and the City notifying them of his/her decision. The Order shall include the Hearing Officer's findings of fact and ultimate decision. The Hearing Officer shall mail a copy of the Order to the appellant and the City within five (5) working days of the close of the hearing.

- F. **Appeal to District Court.** Either the City or the appellant may appeal the Hearing Officer's Order by filing a petition for review of the Order. The petition must be filed in District Court within thirty (30) calendar days from the date the Hearing Officer's Order was mailed to the appellant. In the petition, the plaintiff may only allege that the Hearing Officer's order was arbitrary, capricious or illegal. The Hearing Officer shall transmit to the reviewing court the record of its proceedings, including any minutes, findings, orders and, if available a true and correct transcript of its proceedings. If, in the opinion of the District Court, there is a sufficient record to review the Hearing Officer's Order, the Court's review is limited to the record provided by the Hearing Officer. The District Court may not accept or consider any evidence outside of the Hearing Officer's record unless the evidence was offered to the Hearing Officer and the Court determines that it was improperly excluded by the Hearing Officer. If, in the opinion of the District Court, there is not a sufficient record to review the Hearing Officer's Order, the Court may call witnesses and take evidence. No petition or appeal may be filed in District Court unless the Responsible Person first appeals to the Hearing Officer pursuant to the terms set forth in this ordinance

ARTICLE II. WEEDS AND OFFENSIVE ACCUMULATIONS

Section 25-10	Inspection and Notice
Section 25-11	Compliance with the Notice
Section 25-12	Abatement by City
Section 25-13	Appeals

SECTION 25-10 Inspection and Notice

Developed or undeveloped lots which have weeds, grass or other growth which constitute an existing or potential fire hazard shall be abated by the owner of the property. Weed abatement compliance shall be accomplished by discing, plowing or mowing weeds within 4 inches of the ground. The City shall survey properties within the City and identify those needing abatement and then serve notice in writing upon the owner or occupant at the last known post office address as indicated by the records of the County Assessor. The notice shall require the owner or occupant as the case may be to abate the weeds by a specific time, which shall not be less than ten (10) days from the date of service of such notice. One notice shall be deemed sufficient on any lot or parcel

of property for the entire season of weed growth during that year. The City shall make proof of service of such notice.

SECTION 25-11 Compliance with the Notice

The failure of any person to comply with a notice issued pursuant to this article shall be unlawful.

SECTION 25-12 Abatement by City

If any owner or occupant of land fails or neglects to eradicate or destroy and remove weeds, or growth, in accordance with this ordinance, the City may employ the necessary assistance and cause such weeds to be removed or destroyed. As outlined in Section 25-10(A), the City may seek to be reimbursed for its costs and expenses to abate the nuisance.

SECTION 25-13 Appeals

Any person aggrieved by a weed abatement decision is entitled to a hearing by filing a request for such in the Police Department within ten (10) days of receiving notice from the City. The hearing shall be before the Hearing Officer. The Hearing Officer shall have the authority to uphold or overturn any decision properly before him or her regarding weed abatement under this article. Either the City or the appellant may appeal the Hearing Officers Order by filing a petition for review of the Order as outlined in Chapter 25-9.

ARTICLE III MISCELLANEOUS PROVISIONS

Section 25-14	Severability Clause
Section 25-15	Enforcement of Nuisances found elsewhere in City Ordinance in accordance with this chapter
Section 25-16	Repealing specific provisions of existing City Ordinance

Section 25-14 Severability Clause

Should a court of competent jurisdiction hold any portion of this Chapter, or the application of any provision of this Chapter to any person or circumstance invalid, then: (1) the invalid portion or application shall be severed; and (2) the remainder of this Chapter shall remain in effect without the invalid portion or application.

Section 25-15 Enforcement of Nuisances found elsewhere in City Ordinance in accordance with this chapter

Any activity or condition that is defined as a nuisance anywhere in Cedar City Ordinance shall be abated in accordance with the procedures set forth in this chapter.

Section 25-16 Repealing Specific Provisions of Existing City Ordinance

The passage of this ordinance shall serve to repeal the following provisions of existing Cedar City Ordinance, to wit:

- (A) All of Chapter 25, Nuisance
- (B) Section 26-105, Nuisance Abatement
- (C) Section 26-106, Nuisance Abatement
- (D) Section 26-107, Nuisance Abatement
- (E) Section 27-22, Weed Abatement

AMENDED BY ORDINANCE NUMBER 0111-17-1 and 0902-20.