

ORDINANCE 2020-03

**AN ORDINANCE OF THE SOUTH WEBER CITY COUNCIL
AMENDING CITY CODE TITLE 4 PUBLIC HEALTH AND SAFETY**

WHEREAS, the state of Utah adopted legislation limiting the powers of municipalities in enforcing city nuisance codes; and

WHEREAS, the city wishes to amend codes which apply to an individual's pet or use of an individual's property to comply with state regulations; and

WHEREAS, code enforcement officers are not authorized to issue citations per state law necessitating change to the criminal procedure regarding code violations; and

WHEREAS, staff made recommendations to amend Title 4 Chapters 2 and 3 to align with state law; and

WHEREAS, council has reviewed the recommendations and finds it in the best interests of the city to amend City Code Title 4 Public Health and Safety;

NOW, THEREFORE, BE IT ORDAINED by the city council of South Weber City, state of Utah:

Section 1. Chapter amended: Title 4 Public Health and Safety shall be hereby amended as follows:

SWC Code 4-2-11: ALTERNATE NOTICE PROCEDURE—CRIMINAL PROSECUTION: shall read as included in Exhibit 1

SWC Code 4-3-4: Penalty shall be amended to read:


4-3-4: PENALTY:

- A. Any persons violating any of the provision of this chapter, unless involving an individual's pet or use of an individual's residence, shall be deemed guilty of a class C misdemeanor and subject to penalty as provided in section 1-9-1 of this code. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.
- B. Violations that involve an individual's pet or use of an individual's residence shall be deemed infractions and ongoing violations may be cited every 14-days until compliant. Multiple violations for the same offense may be cited as class C misdemeanors and result in increased fine amounts.


Section 2. General Repealer. Ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 3. Effective Date. The City Council of South Weber City, State of Utah, has determined that the public health, safety, and welfare requires that this ordinance take effect immediately. Therefore, this ordinance shall become effective immediately upon passage and publication as required by law.

PASSED AND ADOPTED by the City Council of South Weber, Davis County, on the 21st day of July 2020.



MAYOR: Jo Sjoblom



ATTEST: City Recorder, Lisa Smith

Roll call vote is as follows:		
Council Member Alberts	<input checked="" type="radio"/> FOR	AGAINST
Council Member Halverson	<input checked="" type="radio"/> FOR	AGAINST
Council Member Petty	<input checked="" type="radio"/> FOR	AGAINST
Council Member Soderquist	<input checked="" type="radio"/> FOR	AGAINST
Council Member Winsor	<input checked="" type="radio"/> FOR	AGAINST

CERTIFICATE OF POSTING

I hereby certify that Ordinance 2020-03 was passed and adopted the 21st day of July 2020 and that complete copies of the ordinance were posted in the following locations within the city this 22nd day of July 2020.

1. South Weber Family Activity Center, 1181 E. Lester Drive
2. South Weber City Building, 1600 E. South Weber Drive



Lisa Smith, City Recorder

EXHIBIT 1
CODE AMENDMENT 4-2-11

4-2-11: ALTERNATE NOTICE PROCEDURE - CRIMINAL PROSECUTION:

A. If the code enforcement officer determines that a nuisance exists in violation of this chapter, the code enforcement officer may, as an alternate to the notice, hearing, and abatement provisions of sections 4-2-8 and 4-2-9 of this chapter:

1. Ascertain the names of the owners and occupants of the premises where such object and condition exist, together with a description of the premises; and
2. Issue a Criminal Procedure Notice to the owner or occupant of the property through either personal service to the owner or occupant, or through certified mail addressed to the owner or occupant at their last known address as disclosed by the records of the county recorder or as otherwise ascertained. In the event the code enforcement officer elects to mail the notice, it shall be deemed served when it is sent by certified mail.

B. The notice shall:

1. Require the person to whom it is sent to correct the violation within such time as the code enforcement officer shall designate, which shall not be less than ten (10) nor greater than twenty (20) days and shall be known as the correction period, with the time given to remedy the violation beginning the day following the day on which the notice is issued;
2. Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists;
3. Inform the person to whom the notice is issued that after the correction period, if the violation has not been fully remedied, the matter will be referred for criminal prosecution;
4. Inform the person that in the event criminal prosecution is pursued, the prosecution shall be for a misdemeanor except regarding an individual's pet or use of the individual's residence which shall be an infraction unless:
 - a. A fine has been imposed for a violation involving the same residence or pet on three previous occasions within the past 12- month period;
 - b. Violation is a nuisance as defined in state code 78B-6-1101(1);
 - c. Violation threatens the health, safety, or welfare of the individual or an identifiable third party; or
 - d. Violation is of building or fire code

C. In the event the person complies with the notice, the person shall notify the code enforcement officer of their compliance. Within five (5) days of receiving notice of compliance, the code enforcement officer shall again inspect the property.

1. If the property complies with this chapter, the code enforcement officer shall notify any other offices or persons who have received notice of the violation of compliance and no criminal action shall be brought.

2. In the event the property still does not comply with the provisions of this chapter, the code enforcement officer shall issue a Final Criminal Procedure Notice, clearly stating the reasons the property is still considered in violation of this chapter.

3. In the event a final notice is issued for the same violation and the person again asks for inspection and the violation is still not corrected to the satisfaction of the code enforcement officer, the matter shall be referred to the city prosecutor for criminal prosecution. In no case shall the code enforcement officer issue more than one criminal procedure notices for the same violation within a 14-day period.

D. In the event the person to whom the notice was issued fails or neglects to correct the violation, the code enforcement officer shall refer the matter to the city prosecutor for prosecution.

E. The commencement of criminal proceedings for the purpose of imposing penalties for violations of this chapter shall not be conditioned upon prior issuance of any notification or the granting to the defendant an opportunity to abate or remove the nuisance.

F. The provisions of this chapter relating to notice and abatement and criminal procedure notice shall be deemed merely alternative and additional methods of securing conformity to the provisions of this chapter.

G. Any owner, occupant, or person having an interest in property subject to this chapter who shall fail to comply with the notice given pursuant to this section shall be guilty of a misdemeanor except for violations pertaining to an individual's pet or use of residence which shall be infractions. (Ord. 19-07, 3-12-2019)