

Cleaning Up Nuisance Properties

At some point in every community's life there will be a push to clean up the town. Unfortunately there is usually a minority that has to be motivated by the force of law to be good neighbors and residents. As discussed in the previous section, Utah law gives cities and towns the power to regulate the abatement of noxious weeds, garbage, refuse or any unsightly or deleterious objects or structures.¹ To do this, a city or town should first set some standards by ordinance. These should be reasonable and related to the health, safety, and welfare of the community. You should make sure that they are measurable standards and that you have the will to enforce them. The key is to have good definitions and descriptions of what is expected. I think a good ordinance is one that anyone can read and immediately know what is expected. A bad ordinance is one that a person cannot tell whether he or she is in compliance until the inspector tells them so.

The ordinance should establish the position of city inspector.² This person does not need to be a new employee. It can be an existing employee such as the building inspector or ordinance enforcement officer or could even be a member of the council in the smaller towns. The duties of the inspector will be to inspect the town for the existence of conditions that violate the ordinance, to determine who owns the property, to and to give notice in writing to clean up the problem.³

Obviously this person must know and understand the ordinances and be more of a diplomat than a policeman. Remember what one man sees as junk, another man may consider a collection of fine antiques.

The notice must be in writing and can be served either personally or by mail to the last known address as shown by the county assessor's list of property owners. The notice must give a minimum of 10 days to clean up the property. The inspector can give more time than the 10 days and probably should work with people as long as they show a willingness to comply. The inspector cannot give people less than the 10 days to clean up if the city or town wants to use the enforcement mechanisms of this state law. If there is a serious health or safety problem that must be taken care of immediately, there are other procedures the city or town can follow. Examples of these are the fire codes and health codes.

If the owner or occupant does not comply with the notice, the inspector can make a proof of service of the notice, under oath, to the office of the county treasurer. The inspector can then cause the clean up to be done at the city's or town's expense. After the cleanup is completed, the inspector itemizes the costs and mails a demand for payment to the last known address of the property owner. This demand must be by registered mail and give at least 30 days for payment. If the owner fails to make the payment, the city or town can collect through either of two means. The city or town can sue for reimbursement

¹ Utah Code 10-11-1.

² Utah Code 10-11-2.

³ Utah Code 10-11-2.

including costs and attorney's fees, or the city or town can refer the amount to the county treasurer for collection through with the property taxes.⁴

If the city or town decides to let the county treasurer collect the clean up costs, it must follow the procedure outlined in state law. The inspector must send three copies of the itemized statement of costs of a cleanup to the county treasurer within 10 days after completion of the work. Once the county treasurer receives the three copies of the statement, he or she is to send one copy to the owner of the land along with a notice that the owner has 30 days to object to the statement. The notice must inform the owner that the objection must be filed with the county legislative body.⁵ The county treasurer is to also send one copy of the statement to the county clerk.⁶

If an objection to the statement is filed, the county legislative body is to set a date and time for a hearing. The purpose of the hearing is for the county legislative body to decide what the actual costs of the clean up were. It is not a hearing to challenge the city or town's right to do the cleanup. After the hearing, the county legislative body reports their findings to the county treasurer.

After the hearing or if no objection is filed, the county treasurer is to enter the statement amount or the county-approved amount (if there was a hearing) on the tax rolls for the property. The amount will be added to the official tax notice and collected by the county treasurer along with the owners property taxes and becomes a lien on the property.

Obviously this can be a very heavy handed way to clean up a community. It has its downside. It can be adversarial. It requires the city or town to go out of pocket and front the cleanup costs. My advice is that a city or town try to get voluntary compliance before resorting to this type of forced cleanup. Nevertheless, sometimes it is necessary to use the stick is as well as the carrot. This procedure is a good stick to have at those times.

⁴ Utah Code 10-11-3

⁵ The county legislative body is the county commission except for a couple of counties, which have a county council.

⁶ Utah Code 10-11-4.