



**BOARD OF COMMISSIONERS WORK SESSION MEETING
12/5/2023**

**117 South Main Street, Monticello, Utah 84535. Commission Chambers
December 05, 2023 at 9:00 AM**

AGENDA

The public will be able to view the meeting on San Juan County's Facebook live and Youtube channel

CALL TO ORDER

ROLL CALL

AGENDA ITEMS

1. Presentation by Kigalia Fine Arts Council, Ellen Williams
2. Nuisance and Sound Ordinance Discussion

ADJOURNMENT

The Board of San Juan County Commissioners can call a closed meeting at any time during the Regular Session if necessary, for reasons permitted under UCA 52-4-205

All agenda items shall be considered as having potential Commission action components and may be completed by an electronic method **In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the San Juan County Clerk's Office: 117 South Main, Monticello or telephone 435-587-3223, giving reasonable notice**



KIGALIA FINE ARTS

Imagine a world Without---

▶ MUSIC

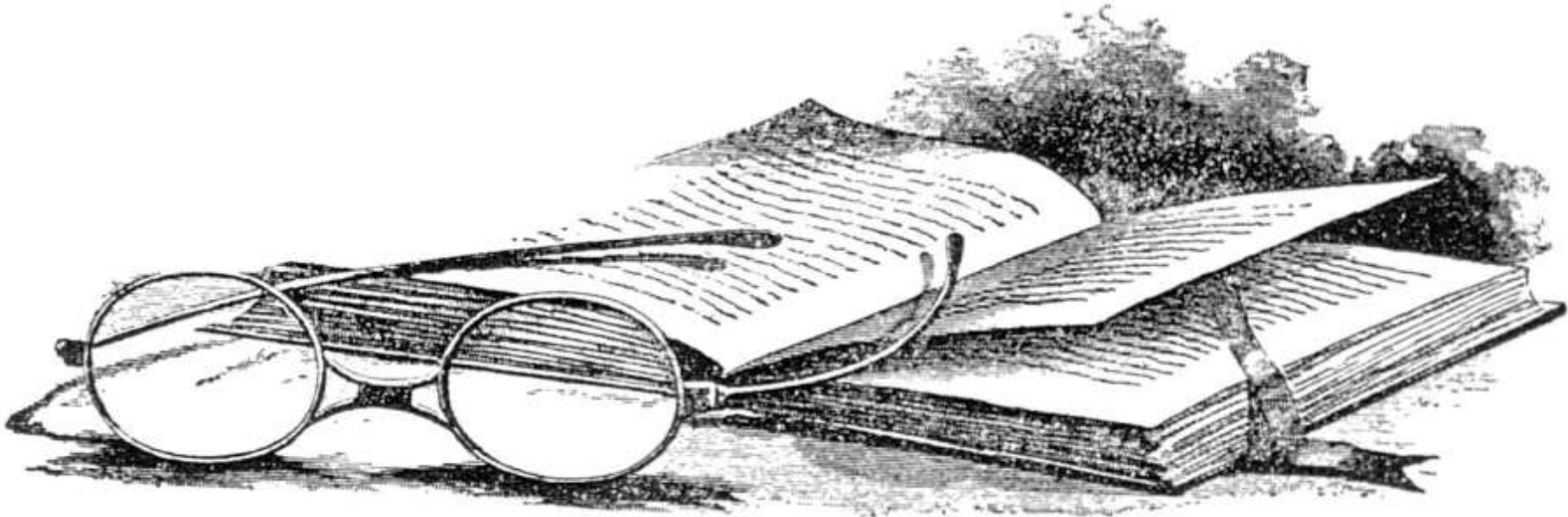


A world Without --

▶ ART



A World Without Literature or poetry



A World without actors or theaters---



Without dancers and choreographers



Challenges of a small rural town--

▶ 1. Distance



©DESIGNALIKIE

Challenges of a small rural town--

- ▶ 1. Distance
- ▶ 2. Economic hardships



Challenges of a small rural town--

- ▶ 1. Distance
- ▶ 2. Economic hardships
- ▶ 3. Limited Resources



REMINDER

▶ A Child with even minimal arts education performs better academically and socially than their peers..

▶ NATIONAL LEAGUE OF CITIES



NOT JUST “NICE”

- ▶ Arts and Cultural goods/services added 4.3 percent directly to the nation’s GDP approaching \$9.97 billion.
- ▶ National Endowment for the Arts



FOR EVERY DOLLAR INVESTED

- ▶ \$6 in taxes are generated. It added greater value than construction, transportation, warehousing, and agriculture.

National Endowment for the Arts



CITIES WITH ARTS/CULTURE

- ▶ Are seen as SAFER by their residents, helping to bring residents closer together,
- ▶ and act as a bridge between community and police.
- ▶ National League of Cities



ARTS NOT ONLY GOOD FOR THE ECONOMY BUT ...



Good for our Souls!

Entrepreneur Magazine

NOTHING IS FREE

There's a price to be paid



FOR EXAMPLE

- ▶ DALLYN BAYLES, Broadway Star, coming April 19, 2024 at SJ HS
- ▶ Base fee \$3,500
- ▶ Auditorium rental \$300
- ▶ Advertisement \$350

WISH

▶ BYU VOCAL POINT/NOTEWORTHY – Spring '25

- ▶ Base fee. \$ 8,500
- ▶ Meals \$1,000
- ▶ Auditorium \$ 300
- Advertising \$ 350

FREE TO YOU BUT NOT TO Eofs

▶ JULY 4TH MELODRAMA

▶ 5 NIGHTS

▶ Blanding advertises with their schedule of Events

▶ **BUT IT'S NOT FREE!**

July 4th MELODRAMA

- ▶ ROYALTIES
- ▶ FEE plus @ performance \$500

Costumes? Props? Scenery?

▶ Kigalia Fine Arts
covered the costs of
the royalty fees
\$500

UTAH SYMPHONY – JAN 25, 2024



UTAH SYMPHONY

- ▶ 2 Concerts for Blanding Schools only
- ▶ Requested a 3rd concert and was approved
- ▶ Bussing in outlying school who want to come
- ▶ Kigalia FAC will pay for the buses/lunch

UTAH POET LAUREATE – LISA BICKMORE

- ▶ March 2024 invited Lisa Bickmore,
- ▶ Utah Poet Laureate,
- ▶ co-sponsored by SJSD,
Hurst Foundation,
and Kigalia FAC



UTAH POET LAUREATE – LISA BICKMORE

- ▶ Lisa will visit Monument Valley, Montezuma Creek, Blanding, Monticello
- ▶ Focus on 6th grade since benefits will last longer in San Juan
- ▶ Hope to broadcast to Navajo Mountain
- ▶ Public events Thursday, March 7 at the Hogan at USU Campus

RETENTION AND VIABILITY

- ▶ **Placemaking** plays a significant role in **attracting and retaining talent.**
 - ▶ Mark Wyckoff,
 - ▶ a leading researcher

Public Art and Creative Activities

- ▶ *...are where people and businesses want to be. They are active, unique locations, interesting, visually attractive, often with **public art and creative activities..***
- ▶ *Economic Development Research Partners, Live, Work, and Play.*

2023-2024 SEASON SCHEDULE

Sept 9 Ute Cultural Night
Featuring Aida Ketchum, Beer, Dance, and Vendors.
USU Amphitheater at White Rock, 5:30-7:30 pm

Sept 30 Square Dance*
In conjunction with Blasting a Fall Festival
Central Hall Pavilion, 6 pm

Nov 2 Taiko Drummers
SJSU Gym, 7 pm

Dec 1-2 Edge of Seater's Play

Dec 10 43rd Annual Messiah*

Jan 13 Karaoke
San Juan Theater, 3 pm

**Feb 14 Cellist Patricia Kudzia
accompanied by Russell Pincock**
USU Arts and Events Center, 7 pm

Mar 7 Utah Poet Laureate
Bradford Lee Building of USU, 7 pm

April 19 Dallyn Bayles
SJSU Auditorium, 7 pm

May 3-30 Art Show
Edge of Cedars Museum

***Free Event**

Season Tickets:
\$68 Immediate Family
\$40 Individual
Individual events will range from \$10-15 per person

Season tickets can be purchased at any of our events or in person with Venmo at San Juan Pharmacy or Pick-A-Sitch.

For more info visit Kigalia Fine Arts on Facebook

~VIBRANCY

~LIVABILITY

~QUALITY OF LIFE

KIGALIA FINE ARTS

▶ A forty year tradition managed by an all-volunteer council



IN RETURN WE ASK

- ▶ Be aware of our activities
and
- ▶ Acknowledge our contributions

Kigalia FAC

- ▶ We are building a vibrant
- ▶ San Juan County TOGETHER!



▶ THANK YOU!!

SAN JUAN COUNTY, UTAH
ORDINANCE NO. 2023 - _____

(SOUND POLLUTION)

AN ORDINANCE ADDING CHAPTER 91 TO TITLE IX, OF THE SAN JUAN COUNTY, CODE OF ORDINANCES WITH THE FOLLOWING PROVISIONS DEALING WITH SOUND POLLUTION.

WHEREAS, San Juan County (“County”) does not currently have a SOUND POLLUTION ORDINANCE;

WHEREAS, the Board of Commissioners for San Juan County (the Board) believe it to be in the best interests of the County to adopt an ordinance to identify and define SOUND POLLUTION, and to identify certain conditions which constitute unacceptable level of sound, together with enforcement provisions available to the County;

WHEREAS, the County desires to establish minimum standards to:

- A. Reduce the making and creation of excessive or unusual noises in the unincorporated areas of San Juan County; and
- B. Prevent excessive or unusual noises that are prolonged or unreasonable in their time, place, or use, that affect and are a detriment to public health, comfort, convenience, safety, or welfare of the residents of and visitors to the unincorporated areas of San Juan County; and
- C. Secure and promote the public health, comfort, convenience, safety, welfare and the peace and quiet of the residents of and visitors to the unincorporated areas of San Juan County.
- D. Protect and preserve the County’s residential areas and Community Zones from avoidable noise impacts caused by excessive or unusual noises; and
- E. Balance the natural quiet of the surrounding mountain, canyon and desert landscape, while promoting a tourist based economy that depends on a variety of users and recreational experiences including mountain bikers, motorized Jeep/4x4 users, hikers, equestrians, hunters, boaters, fishermen, climbers, dirt bikers, motorcyclists, bird watchers, road bikers, and adventure athletes such as rock climbers, base jumpers and slackliners.

NOW, THEREFORE, THE BOARD OF SAN JUAN COUNTY COMMISSIONERS ORDAINS THE FOLLOWING:

TITLE IX, CHAPTER 91: SOUND POLLUTION

CHAPTER 91.01 GENERAL PROHIBITION OF NOISE.

Chapter §91.01.010: General Prohibition of Noise. It is unlawful for any person to produce, continue, or cause to be produced or continued, any Excessive or Unusual Noise during any hours or Loud Noise during Restricted Hours within the unincorporated areas of San Juan County that violates this Title.

Chapter §91.01.020: Powers and Duties. The Sheriff, County Attorney, Commission Administrator, and Planning and Zoning Administrator shall be responsible for the administration of these rules and regulations and any other powers vested in them by law and shall make inspections of any premises and issue orders as necessary to effect the purposes of these regulations, and do any and all acts permitted by law that are necessary for the successful enforcement of these regulations.

Chapter 91.02 DEFINITIONS

Chapter §91.02.001 Definitions

“ATV” means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Utah Code Annotated §41-6a-1509 to operate on highways in the state in accordance with Utah Code Annotated §41-6a-1509.

“Commercial Zones” means Neighborhood Commercial, General Business, Highway Commercial, Resort Commercial and Resort Special and associated permissible overlays established by the San Juan County Land Use Code. Commercial Zones shall not include the Heavy or Light Industrial Zones.

“County” means San Juan County or its designee, and all such references to a County employee or elected officer shall include their designee;

“dBA” means the sound pressure level using the “A” frequency weighting and the fast response setting on a Sound Level Meter, unless otherwise noted or required by testing standards established by the County.

“Device” means any mechanism that is intended to produce, or that actually produces noise when operated or handled.

“Domestic Power Tools and Equipment” means any device powered mechanically, by electricity, by gasoline, by diesel fuel or by any other fuel, which is intended to be used, or is actually used for residential construction, repair, and maintenance.

“Emergency” means a situation or occurrence which may present an imminent threat to the health, safety or welfare of any person, place or property.

“Excessive or Unusual Noise” means any Sound or Noise that exceeds the “Maximum Sound Pressure Levels, dBA, during all hours” set forth in Chapter §91.05 when measured at the distances provided therein as measured on a Sound Level Meter.

“Loud Noise” means any Sound or Noise that annoys or disturbs a reasonable person(s) with normal sensitivities or that injures or endangers the comfort, repose, health, hearing, peace or safety of another person(s), including any Sound or Noise that exceeds the “Maximum Sound Pressure Levels, dBA, during Restricted Hours” set forth in Chapter §91.05 when measured at the distances provided therein as measured on a Sound Level Meter.

“Motorcycle” means a motor vehicle, other than a tractor, having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, or an auticycle, including an off-road motorcycle, as defined in Utah Code § 41-1a-102(42).

“Motor Vehicle” means a self-propelled vehicle intended primarily for use and operation on the highways, as defined in Utah Code § 41-1a-102, including ATVs and Motorcycles. Motor Vehicle and Vehicle may be used interchangeably herein.

“Muffler” means an apparatus consisting of a series of chambers or baffle plates designed to transmit gases while reducing sound, or as otherwise defined by Utah law.

“Noise” means any sound that is harmful to the health, well-being, or quality of life of humans or animals.

“Noise Disturbance” means any sound in an environment which is (a) harmful to the health, well-being, or quality of life of humans or animals; (b) unreasonably annoys or disturbs a reasonable person of normal sensitivities; or (c) endangers or injures personal or real property. Noise Disturbance constitutes noise pollution.

“Off-Highway Motorcycle” means any motorcycle that is not an On- Highway Motorcycle.

“Off-Highway Vehicle” means every all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle as defined in Utah Code § 41-22-2, including street-legal all-terrain vehicles as defined in and regulated by Utah Code § 41-6a-1509.

“On-Highway Motorcycle” means any motorcycle that: (a) is capable of achieving a maximum speed of at least 25 mph over a level paved surface and is equipped with features customarily associated with practical street or highway use, such features including but not limited to any of the following: stoplight, horn, rear view mirror, turn signals; or (b) has an engine displacement less than 50 cubic centimeters; produces no more than two brake horsepower; and cannot exceed 30 mph over a level paved surface.

“Plainly Audible” means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

“Property Boundary” means an imaginary line at the ground surface, and its vertical extension that separates the real property owned by one person from that property owned by another person.

“Residential Property” shall mean any property used for living or dwelling by individuals.

“Residential Zones” shall mean the Small Lot Residential, Large Lot Residential, Rural Residential and Multi-Family Residential Zones and associated permissible overlays established by the San Juan County Land Use Code. As used herein, Residential Zone does not include the Range and Grazing Zone.

“Restricted Hours” are from 9 pm to 7 am (and 9 pm to 9 am on Sunday), except during the summer months, defined as May through September, when the Restricted Hours are from 10 pm to 6 am.

“Sound” means a temporal and spatial oscillation in pressure, or other physical quantity with interval forces that cause compression or rarefaction of the medium, and that propagates at finite speed to distant points.

“Sound Level Meter” or “SLM” means a sound level meter meeting the ANSI S1.4 Type 1 or Type 2 standard for sound level meters, or the IEC 61672 Class 1 or Class 2 standard for sound level meters.

“Vehicle” means all Motor Vehicles and Off-Highway Vehicles as defined by Utah Code, Title 41, including street-legal all-terrain vehicles as defined in and regulated by Utah Code § 41-6a-1509. Vehicle and Motor Vehicle may be used interchangeably herein.

CHAPTER 91.03: GENERAL NOISE DISTURBANCE PROHIBITED

§91.03.010. General Noise Disturbance Prohibited. No person shall make, continue, or cause to be made or continued any Noise Disturbance.

CHAPTER 91.04: SPECIFIC NOISE PROHIBITIONS

§91.04.010. Specific Noise Prohibitions During Restricted Hours.

Regardless of the Maximum Sound Pressure Level, the following Noise is expressly prohibited outdoors during the Restricted Hours, unless permitted by San Juan County:

Radios, Receivers, Televisions, Stereos, Speakers, Musical Instruments and Similar Devices for the production or reproduction of Sound if Plainly Audible one hundred feet (100') from the Emitting Property Boundary or fifty feet (50') from the source of the Sound if on public property;

Public Loudspeakers or sound amplifying equipment in a fixed or moveable position or mounted upon any sound vehicle on any public or private property for the purposes of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmission of music to any persons or assemblages of persons;

Animals that make frequent or habitual Noise, which prohibition shall apply to all private and public facilities, including any animal facilities that hold or treat animals;

Loading Operations within five hundred feet (500') of Residential Property, except as necessary for the collection of garbage, waste, refuse or recyclables by an operator approved by San Juan County;

Domestic Power Tools and Equipment;

Fireworks, Explosives, Guns or other Explosive Devices;

Powered Model Mechanical Devices powered by internal combustion engines, whether tethered or remote-controlled, or a model rocket vehicle, drone or other similar noise-producing devices; and

Bells and Alarms including but not limited to, bells, chimes, or clocks in schools, houses of religious worship or governmental buildings for longer than five (5) minutes in any hour except in the event of emergency or natural disaster.

CHAPTER 91.05: NOISE LEVELS

§91.05.010 Noise Levels. Except as expressly provided herein, no person shall make Noise which creates Excessive or Unusual Noise during any hours or Loud Noise during the Restricted Hours, as set forth in Tables 1, 2 and 3 below.

**Table 1
Motor Vehicles (Stationary/Equipment Test) Maximum Sound Pressure
Levels, dBA Emitted by Source**

Measured at a distance of 20" from Exhaust Outlet at an Angle of 45 degrees		
Motor Vehicle Type	Stationary Test (Equipment Test)	Maximum Sound Pressure Levels during All Hours
ATVs	SAE J1287	92 dBA
All Other Motor Vehicles with a manufacturer's gross vehicle weight rating of less than 9,000 pounds	SAE J1492	92 dBA
Motorcycles	N/A	See Section §91.06.030

**Table 2
Motor Vehicles (Moving/Operational Test) Maximum Sound Pressure Levels,
dBA Emitted by Source**

Measured at a Distance of 25' from Centerline of Lane of Travel on County B Roads		
Motor Vehicle Type	Maximum Sound Pressure Level, dBA	Maximum Sound Pressure Level, dBA, during Restricted Hours

Motorcycles and motor vehicles with a manufacturer's gross vehicle weight rating of less than 9,000 pounds.	80 dBA	78 dBA
Measured at a Distance of 50' from Centerline of Lane of Travel on County B Roads		
Motor Vehicle Type	Maximum Sound Pressure Level, dBA	Maximum Sound Pressure Level, dBA, during Restricted Hours
Motorcycles and motor vehicles with a manufacturer's gross vehicle weight rating of less than 9,000 pounds.	74 dBA	72 dBA

**Table 3 Land Uses
Maximum Sound Pressure Levels, dBA Emitted by Source Measured at Nearest Property Boundary**

	Maximum Sound Pressure Level, dBA	Maximum Sound Pressure Level, dBA, during Restricted Hours
All Noise Impacting Residential Property, unless prohibited in Section §91.04.010	60 dBA	55 dBA
All Noise Impacting Residential and Nonresidential Property, unless prohibited in Section §91.04.010	65 dBA	60 dBA

CHAPTER 91.06: MOTOR VEHICLES

§91.06.010 Motor Vehicle Regulations.

A person shall not:

- a. Equip, maintain, or operate a Vehicle that creates or causes Excessive or Unusual Noise;

- b. Operate any Vehicle, except an electric vehicle without a spark arrestor device and a muffler or other effective noise suppressing system in good working order and in constant operation;
- c. Use a muffler cut-out, bypass, or similar device on a vehicle; or
- d. Use a compression brake system(s) except as necessary for an emergency stop.

Chapter 91.06.020: Certain Noises Prohibited on Public Rights-of-Way During All Hours.

The following Noise is declared to be Excessive or Unusual Noise and expressly prohibited during all hours on County B Roads and related public rights-of-ways in the unincorporated County:

- a. Horns and Signaling Devices on any Vehicle, except as a danger warning signal as provided by the Utah Vehicle Code;
- b. Racing Events unless such activity occurs during a permitted Special Event in San Juan County;
- c. Revving, aka rapid throttle advance, of an engine; and
- d. Any noise-creating device, including a Vehicle, operated for the purpose of drawing attention to the source of the noise.

Chapter 91.06.030: Motorcycles.

No person shall operate an On-Highway Motorcycle manufactured after December 31, 1985 not equipped with exhaust muffler bearing the Federal EPA required labeling applicable to the motorcycle's model year, stating that the exhaust system meets the 80 dBA standard at 50 feet, as set out in the Code of Federal Regulations Title 40, Volume 24, Part 205, Subpart D and Subpart E.

No person shall operate an Off-Highway Motorcycle manufactured after December 31, 1985 not equipped with exhaust muffler bearing the Federal EPA required labeling applicable to the motorcycle's model year, stating that the exhaust system meets the 82 dBA standard at 50 feet, as set out in the Code of Federal Regulations Title 40, Volume 24, Part 205, Subpart D and Subpart E.

Chapter 91.07: EXEMPTIONS; EXCEPTIONS

Chapter §91.07.010 Exemptions

The following Noise shall be exempt from **Chapter §91.05:**

- a. Safety signals, warning devices and emergency pressure relief valves;
- b. That resulting from any emergency or natural disaster, including Noise created by authorized private and public emergency and private or public utilities when restoring service;
- c. Activities of a temporary nature during periods permitted by ordinance, policy, or permit by the County Council, Planning and Zoning Administrator, or Chair of the Special Events Committee or their official designees, including sporting and recreational activities;
- d. Agricultural and gardening operations where i) all reasonable efforts have been made to mitigate impact on surrounding properties; ii) any equipment is used according to the manufacturer's specifications and is in good working order; and iii) such operations do not occur during the Restricted Hours;
- e. Construction, fabrication, and property maintenance activities where i) all reasonable efforts have been made to mitigate impact on surrounding properties; ii) all equipment is used according to the manufacturer's specifications and is in good working order; iii) such activity does not occur during the Restricted Hours; and iv) such activity is not of unusual duration or occurrence;
- f. The unamplified human voice, except as limited by Utah Statute § 76-9-102 (Disorderly Conduct); and
- g. Snow removal.

Chapter §91.07.020: Exceptions.

On or before July 31, 2021, the owner of any residential, commercial or industrial source of sound may apply to the Planning and Zoning Administrator (or designee) for an exception in order to provide time to comply with the maximum sound pressure levels set forth in Table 3 of Section §91.05.010 above. The Planning and Zoning Administrator shall have the authority, consistent with this Section, to grant an exception, not to exceed 365 days from the date of such application unless extended by the Planning and Zoning Administrator for good cause.

Any person seeking an exception in time to comply shall file an application with the Planning and Zoning Administrator. The application shall contain information which demonstrates that bringing the source of sound or activity for which the exception is sought into compliance with this Chapter prior to the date requested in the application would constitute an unreasonable hardship on the applicant, on the community, or on other persons. The applicant shall mail notice of the application for an exception in time to all neighbors within one hundred feet (100') of the source of the sound and shall file an affidavit of mailing with the Planning and Zoning Administrator. Any individual who claims to be adversely affected by allowance of the exception in time to comply may file a statement with the Planning and Zoning Administrator containing any information to support their claim. If the Planning and Zoning Administrator finds that a sufficient controversy exists regarding an application, a public hearing may be held.

In determining whether to grant or deny the application, the Planning and Zoning Administrator shall balance the hardship to the applicant, the community, and other persons of not granting the exception in time to comply, against the adverse impact on health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the exception. Applicants for exceptions in time to comply and persons contesting exceptions may be required to submit any information the Planning and Zoning Administrator may reasonably require. In granting or denying an application, the Planning and Zoning Administrator shall place on public file a copy of the decision and the reasons for denying or granting the exception in time to comply including a statement that the need for the extension or modification clearly outweighs any adverse impacts of granting the extension or modification.

The Planning and Zoning Administrator may grant or deny the application. If the application is granted, the Planning and Zoning Administrator may impose conditions, including a schedule for achieving compliance. Noncompliance with any condition of the exception shall terminate the exception and subject the person holding it to those provisions of this Chapter for which the exception was granted.

Appeals of an adverse decision of the Planning and Zoning Administrator shall be made to the Planning and Zoning. Review by the Planning and Zoning shall be limited to whether the decision is supported by substantial evidence.

CHAPTER 91.08: ENFORCEMENT

Chapter 91.08.010: Violation.

Any person who is found guilty of violating this Title IX, either by failing to do those acts required herein or by doing a prohibited act, is guilty of a Class B misdemeanor punishable by a maximum sentence of up to six months in jail and a maximum fine of \$1,000. Each day such violation is committed or permitted to continue shall constitute a separate violation unless limited by Utah law.

Chapter 91.08.020: Nuisance

As an additional remedy, the operation or maintenance of any device, instrument, Vehicle or machinery in violation of any provisions of this chapter, or which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in the area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement as provided by law.

Chapter 91.08.030: Enforcement

Any peace officer is authorized to enforce the provisions of this section; provided that the County Commission may by administrative order authorize other officers or employees of the County to enforce all or part of the provisions of this Title IX.

The County Attorney may initiate legal action, civil or criminal, to abate any condition that exists in violation of this Title IX. In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating this Title IX shall be liable for all expenses incurred by the County in removing or abating the Loud or Excessive Noise.

Chapter 91.08.040: Severability.

In case any provision of this Title IX shall be declared invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

PASSED AND ADOPTED by action of the Board of San Juan County Commissioners for San

Juan County in an open meeting this ____ day of _____ 20____.

Voting Aye: _____

Voting Nay: _____

ATTEST: SAN JUAN COUNTY BOARD OF COMMISSIONERS:

Lyman Duncan, Clerk/Auditor

Bruce Adams, Chair

SAN JUAN COUNTY, UTAH
ORDINANCE NO. 2023 - _____
(NUISANCE AND WEED CONTROL)

AN ORDINANCE AMENDING AND REPLACING IN ITS ENTIRETY TITLE IX, CHAPTER 90, OF THE SAN JUAN COUNTY, STATE OF UTAH, WITH THE FOLLOWING PROVISIONS DEALING WITH NUISANCES AND WEED CONTROL.

WHEREAS, San Juan County (“County”) does not currently have a nuisance ordinance;

WHEREAS, Presently, Chapter 90 of the San Juan County Code addresses the abatement of noxious weeds, together with related provisions;

WHEREAS, the Board of Commissioners for San Juan County (the Board) believe it to be in the best interests of the County to adopt an ordinance to identify and define nuisances, and to identify certain conditions which constitute a nuisance, together with enforcement provisions available to the County;

WHEREAS, the County desires to repeal the Noxious Weed Ordinance presently codified at Chapter 90 of the San Juan Code as of the effective date herein and to include the identification and abatement of noxious weeds as part of the new amended Chapter 90 of the Code, as of the date of adoption as set forth herein;

NOW, THEREFORE, THE BOARD OF SAN JUAN COUNTY COMMISSIONERS ORDAINS THE FOLLOWING:

Title IX CHAPTER 90: NUISANCE AND WEED CONTROL

Section

- 90.01 Purpose and intent**
- 90.02 Definitions**
- 90.03 Nuisances Declared**
- 90.04 Specific Conditions Constituting Nuisance**
- 90.05 Fire Prevention**
- 90.06 Inspections and Investigations**
- 90.07 Enforcement**
- 90.08 Criminal, Civil and Administrative Penalties**

CHAPTER 90.01: PURPOSE

The purpose of this Chapter is to identify with particularity actions constituting a nuisance so that property within the County may be maintained in a manner that:

1. Protects public health and safety.
2. Fosters neighborhood stability.
3. Preserves the appearance, character, and beauty of neighborhoods.
4. Reflects community pride and caring.
5. Protects property values.
6. Protects and encourages economic development.
7. Protects the general welfare of its residents.

CHAPTER 90.02: DEFINITIONS

ABATEMENT. The removal and stoppage of the spread of such noxious weeds, as defined under the State's Noxious Weed Act, UCA Title 4, Ch. 17, as amended, the administrative rules promulgated under that code, or any noxious weed as defined by the County's Weed Control Board, consistent with UCA Title 4, Ch. 17, § 107.

ATTRACTIVE NUISANCE: Shall refer to a hazardous object or condition on the land that is likely to attract children who are unable to appreciate the risk posed by the object or condition.

NOXIOUS: Shall mean harmful to health.

NOXIOUS WEED: Any such noxious weed, as defined under the State's Noxious Weed Act, UCA Title 4, Ch. 17, as amended, the administrative rules promulgated under that code, or any noxious weed as defined by the County's Weed Control Board, consistent with UCA Title 4, Ch. 17, § 107.

NOXIOUS WEED NUISANCE: The presence of any such noxious weed, as defined under the State's Noxious Weed Act, UCA Title 4, Ch. 17, as amended, the administrative rules promulgated under that code, or any noxious weed as defined by the County's Weed Control Board, consistent with UCA Title 4, Ch. 17, § 107.

NUISANCE: A nuisance is any item, thing, manner, condition whatsoever that is dangerous to human life or health or renders soil, air, water, or food impure or unwholesome.

OCCUPANT: Any person who has, or has a right to, the physical occupancy or use of property.

OWNER: The person, firm or corporation in whose name property is listed in the records of the County Recorder's office.

PERSON: Any individual, public or private corporation and its officers, partnership, association, firm, trustee, executor of an estate, the state or its departments, institution, bureau, agency, municipal corporation, county, city, political subdivision, or any legal entity recognized by law.

PROPERTY: Any form of real property, including a habitable structure or any structure that is appurtenant thereto, object, or anything that is visible or tangible, specifically including, but not limited to, hedges, automobiles, etc. Property shall also include any sidewalks, park strips and gutters that border the property.

REFUSE: Shall mean the worthless or useless part of something; trash or garbage.

SOLID WASTE: Garbage, refuse, trash, rubbish, hazardous waste, dead animals, sludge, liquid or semiliquid waste, and other spent, useless, unsightly, worthless or discarded materials.

STRUCTURE: Anything constructed or erected which requires location on or below the ground, specifically including, but not limited to, fences, wells, poles, buildings, or sheds.

VEHICLE: A motor vehicle, trailer, semitrailer, off highway vehicle, manufactured home, or "mobile home", as defined by **Title 41-6A-601, U.C.A., as amended.**

CHAPTER 90.03: NUISANCES DECLARED: It shall be unlawful and declared a public nuisance for any person owning, renting, leasing, occupying, or having charge or possession of any property in the County to allow 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

CHAPTER 90.04: SPECIFIC CONDITIONS CONSTITUTING NUISANCE:

It shall be unlawful and declared a nuisance for any person owning, renting, leasing, occupying, or having charge or possession of any property in the County to allow any of the following conditions to exist on such property:

1. A condition that causes visual blight, is offensive to the senses, creates a harborage for rodents or pests, or detrimentally affects property in the surrounding neighborhood or community.
2. A condition that impairs the reasonable and lawful use of property.
3. A condition that unreasonably or unlawfully affects the health or safety of one or more persons or animals.
4. A fire hazard as defined in the Fire Code.
5. Emanation of noxious or unreasonable odors, fumes, gas, smoke, soot or cinders.
6. Noxious weeds located on vacant lots or other property, along public sidewalks or outer edge of any public street, or weeds in any other location which constitutes an unreasonable fire hazard or is contrary to the purpose of this Chapter.

7. Keeping or storing of any refuse and waste matter which interferes with the reasonable enjoyment of nearby property.
8. Polluted or stagnant water which constitutes an unhealthy or unsafe condition.
9. Accumulation of soil, litter, debris, plant trimmings, or trash, on sidewalks, in vestibules, doorways, passages, breezeways, parking areas or any public right-of-way or alley.
10. Accumulation of used or damaged lumber; junk; salvage materials; abandoned, discarded or unused furniture; stoves, sinks, toilets, cabinets, or other 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.
11. Any attractive nuisance dangerous to children and other persons including, but not limited to, abandoned, broken, or neglected household appliances, equipment and machinery, ponds, abandoned foundations or excavations, or improperly maintained pools.
12. 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.
13. Any front, rear, or side yard area which causes excessive dust, water run-off, off-site tracking, or sluffing onto the property of another due to non-maintenance or other cause, or which contains the accumulation of debris.
14. The keeping, storing, depositing or accumulating on the premises or in the public right-of-way for an unreasonable period of time dirt, sand, gravel, concrete, or other similar materials, or maintenance of such material on public rights-of-way.
15. The leaving of any garbage can or refuse container in the street, other than on collection day, for more than twenty four (24) hours after collection day.
16. Construction equipment or machinery of any type or description parked or stored on property when it is readily visible from 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.
17. Improper maintenance of a sign; or signs which advertise a business that is no longer operating on the property or advertising a product that is no longer sold on the property.
18. Improper storage of inoperative, unregistered, abandoned, wrecked or dismantled vehicles or vehicle parts, including recreational vehicles.
19. 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.

20. Graffiti which remains on the exterior of any building, fence, sign or other structure and is visible from a public street.
21. 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;
 - b. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of San Juan County's Building Code and/or San Juan County's Land Use Ordinances.
 - 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 other conditions violate the building code(s) adopted by San Juan County.
 - 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;
 - 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;
 - f. Building exteriors, walls, fences, gates, driveways, sidewalks, walkways, signs or ornamentation, or alleys maintained in such condition as to violate this Chapter 90.004; and
 - g. Buildings or conditions that violate any Building, Electrical, Plumbing, Fire, Housing, or other Code adopted by San Juan County.
22. To fail to maintain the height of weeds less than six inches (6"), including on adjacent parking strip(s), alley(s), and street edge(s).
23. To fail to remove and lawfully dispose of all cuttings from weeds, solid waste, or objects or structures with anything injurious, or with the reasonable potential to become injurious, to the health, safety, or welfare of any persons or property.
24. To fail to effectively secure any vacant structure.
25. To fail to maintain or repair any objects or structures that are injurious, or with the reasonable potential to become injurious, to the health, safety, or welfare of any persons or property.
26. To fail to remove all weeds and noxious vegetation from such property and in front thereof to the curb line of the street and to keep the sidewalks in front of such property free from litter, snow, ice or obstructions.

27. To fail to remove, bury, or compost weeds that are rototilled or removed by root.

28. Any plants specified as weeds in the Utah Noxious Weed Act, Utah Code Annotated Title 4, as amended.

29. Any violation of this Code expressly declared to be a public nuisance.

CHAPTER 90.05: FIRE PREVENTION: It shall be unlawful for the owner of any land or property to allow accumulations of waste, paper, hay, grass, straw, weeds, litter or combustible or flammable waste or rubbish of any kind upon any roof or in any court, yard, vacant lot or open space, and all weeds, grass, vines or other growth when the same endangers property or is liable to be fired, shall be cut down and removed by the owner or occupant of the property. Violations of this subsection shall be punished as provided in Chapter 90.008 herein.

CHAPTER 90.06: INSPECTIONS AND INVESTIGATIONS:

To ensure compliance with this ordinance, the County has the authority to perform inspections, investigations, reviews, and other actions as necessary.

1. Authority for County to Enter Premises.

a. Regulated Commercial Premises. Upon presenting proper identification, authorized representatives of the County may enter upon the premises of properties regulated by the County to perform routine inspections to ensure compliance with rules, standards, regulations, and ordinances adopted by the County.

b. Private Dwellings. Inspections of private dwellings are made by consent of the owner or other party having legal authority or upon a court order.

CHAPTER 90.07: ENFORCEMENT:

Whenever an enforcement official finds that a violation of this Code has occurred or continues to exist, the enforcement official has the authority and power necessary to gain compliance with the provisions of this Code through the administrative procedures available to the County, or otherwise as permitted under State law. These powers include the power to commence administrative or criminal enforcement procedures, issue a notice of violation, inspect public and private property, abate violations upon private property, and use whatever judicial and administrative remedies are available under this Code and applicable State law.

1. Criminal Enforcement Actions. The County may pursue criminal prosecution for any violation of this Ordinance, either alone or in conjunction with civil enforcement. Criminal prosecutions for environmental violations of state or federal law may be filed by the County Attorney, District Attorney, Utah Attorney General, United States Department of Justice, or other enforcement entity.

2. Civil Enforcement Actions. The County may bring an action to restrain or enjoin actions in violation of public health, environmental laws, and other laws or abate conditions in violation of such laws.

3. Administrative Actions. The County may, at its discretion, issue a Notice of Violation pursuant to the San Juan County Zoning Ordinance 2011 and seek all those administrative remedies as set forth in Chapter 11: Administrative Citations and Hearings.

CHAPTER 90.08: CRIMINAL, CIVIL AND ADMINISTRATIVE PENALTIES:

1. Criminal Penalties. Any person who is found guilty by a court of violating any of the provisions of this ordinance, either by failing to do the acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor, pursuant to Section 26A-1-123, Utah Code Ann. Each day such violation is committed or permitted to continue shall constitute a separate violation.

2. Civil and Administrative Penalties. In addition to all those civil penalties and remedies available to the County through civil action in the state or federal court, any person who is found in violation of this code may be subject to all civil and administrative penalties as more fully set forth in THE San Juan County Appeals Ordinance as amended.

PASSED AND ADOPTED by action of the Board of San Juan County Commissioners for San Juan County in an open meeting this ____ day of _____ 20____.

Voting Aye: _____

Voting Nay: _____

ATTEST: SAN JUAN COUNTY BOARD OF COMMISSIONERS:

Lyman Duncan, Clerk/Auditor

Bruce Adams, Chair