

# HB0320S02 compared with HB0320

~~{Omitted text}~~ shows text that was in HB0320 but was omitted in HB0320S02

inserted text shows text that was not in HB0320 but was inserted into HB0320S02

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## Municipal Ordinance Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lisa Shepherd

Senate Sponsor: Wayne A. Harper

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### LONG TITLE

#### General Description:

This bill amends provisions relating to the imposition of a civil penalty for a municipal ordinance violation.

#### Highlighted Provisions:

This bill:

- allows a municipality to impose a civil fine that exceeds the maximum class B misdemeanor fine under Section 76-3-301 if:

- the fine is imposed for violation of an ordinance that regulates occupancy, the provision of off-street parking, or the operation of a rental dwelling or short-term rental;

- ~~{allows a municipality to impose a civil fine that exceeds the maximum Class B misdemeanor fine under Section 76-3-301 if}~~ the municipality has previously imposed a fine on the individual for the same violation three or more times within the past 12 months~~{.}~~ ; and

- the fine does not exceed the applicable maximum amount described in this bill.

#### Money Appropriated in this Bill:

None

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### Other Special Clauses:

None

### AMENDS:

**10-3-703** , as last amended by Laws of Utah 2020, Chapter 89 , as last amended by Laws of Utah 2020, Chapter 89

**10-11-2 , as last amended by Laws of Utah 2022, Chapter 432 , as last amended by Laws of Utah 2022, Chapter 432**

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **10-3-703** is amended to read:

**10-3-703. Criminal penalties for violation of ordinance -- Civil penalties prohibited -- Exceptions.**

(1) As used in this section:

(a) "Rental dwelling" means the same as that term is defined in Section 10-8-85.5.

(b) "Short-term rental" means the same as that term is defined in Section 10-8-85.4.

~~(1)~~ (2)

(a) The governing body of a municipality may impose a criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301, by a term of imprisonment up to six months, or by both the fine and term of imprisonment.

(b) Notwithstanding Subsection ~~(1)(a)~~ (2)(a), a municipality may not impose a criminal penalty greater than an infraction for a violation pertaining to an individual's pet, as defined in Section 4-12-102, or an individual's use of the individual's residence unless:

(i) the violation:

(A) is a nuisance as defined in Subsection 78B-6-1101(1); and

(B) threatens the health, safety, or welfare of the individual or an identifiable third party; or

(ii) the municipality has imposed a fine on the individual for a violation that involves the same residence or pet on three previous occasions within the past 12 months.

(c) Subsection ~~(1)(b)~~ (2)(b) does not apply to municipal enforcement of a building code or fire code ordinance in accordance with Title 15A, State Construction and Fire Codes Act.

~~(2)~~ (3)

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- ~~[(a)]~~ Except as provided in Subsection ~~[(2)(b)]~~ ~~{-and subject to Subsection (2)(c)}~~ (4) or (5), the governing body may prescribe a civil penalty for the violation of any municipal ordinance ~~{f by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301f}~~ .
- 44 ~~[(b)]~~ (4) A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.
- 46 ~~{(e)}~~ (5) ~~{A-}~~ Subject to Subsection (6), a civil penalty that is a fine ~~{under this Subsection (2) may not}~~ may exceed the maximum class B misdemeanor fine under Section 76-3-301, ~~{unless the municipality has previously imposed a civil or criminal fine on the individual for the same violation three or more times within the 12 months immediately preceding the violation.}~~ if:
- 50 ~~{(3)}~~
- ~~{(a)}~~ the penalty is for the violation of an ordinance that regulates occupancy, the provision of off-street parking, or the operation of a rental dwelling or short-term rental; and
- 60 (b)
- (i) except as provided in Subsection (5)(b)(ii):
- 61 (A) the municipality previously imposed a civil or criminal fine on the individual for the same violation three times within the 12 months immediately preceding the violation; and,
- 64 (B) the fine does not exceed \$2,500; or
- 65 (ii)
- (A) the municipality previously imposed a fine on the individual for the same violation four or more times within the 12 months immediately preceding the violation; and
- 68 (B) the fine does not exceed \$5,000.
- 69 (6) In calculating, under Subsection (5)(b), the total number of times an individual was previously fined, the municipality may only include times that are separated by at least 14 days of compliance.
- 72 ~~[(3)]~~ (7)
- (a) Except as provided in ~~Subsection (3)(b) or~~ Section 77-7-18, a municipal officer or official who is not a law enforcement officer described in Section 53-13-103 or a special function officer described in Section 53-13-105 may not issue a criminal citation for a violation that is punished as a misdemeanor.
- 54 (b) Notwithstanding Subsection ~~[(1) or (3)(a)]~~ (2) or (7)(a), the following may issue a criminal citation for a violation that is punished as a misdemeanor if the violation threatens the health and safety of an animal or the public:

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(i) a fire officer described in Section 53-7-102; or

(ii) an animal control officer described in Section 11-46-102.

~~(4)~~ (8) A municipality may not issue more than one infraction within a 14-day time period for a violation described in Subsection ~~(1)(b)~~ (2)(b) that is ongoing.

Section 2. Section 10-11-2 is amended to read:

### **10-11-2. Inspection of property -- Notice -- Penalties.**

(1)

(a) If a municipality adopts an ordinance describing the duties of a municipal inspector appointed under Section 10-11-1, the ordinance:

(i) may, subject to Subsection (1)(b), direct the inspector to examine and investigate real property for:

(A) the growth and spread of injurious and noxious weeds;

(B) garbage and refuse;

(C) a public nuisance;

(D) an illegal object or structure; or

(E) hazardous materials; and

(ii) if an inspector conducts an examination and investigation under Subsection (1)(a), shall direct the inspector to deliver written notice of the examination and investigation in accordance with Subsection (2).

(b) An ordinance described in Subsection (1)(a) may not direct an inspector or authorize a municipality to abate conditions solely associated with the interior of a structure, unless required:

(i) for the demolition and removal of the structure; or

(ii) to eliminate or remove hazardous materials within a structure that has been closed to occupancy or entry by a local health department or fire department.

(c) An ordinance described in Subsection (1)(a) may direct an inspector or authorize a municipality to issue an order limiting or restricting access to a structure and the real property appurtenant to the structure while the municipal inspector or a certified decontamination specialist destroys, removes, or abates hazardous materials within the structure.

(d) If a municipality has adopted an ordinance establishing an administrative proceeding process for the violation of a municipal ordinance in accordance with the requirements of Section 10-3-703.7, the

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municipality may adopt an ordinance imposing the following for a violation of an order issued under Subsection (1)(c):

- 112 (i) a civil penalty in accordance with [~~Subsection 10-3-703(2)~~] Subsections 10-3-703(3) and (4); or
- 114 (ii) in accordance with Subsection [~~10-3-703(1)~~] 10-3-703(2), a criminal penalty, including by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301, by a term of imprisonment up to six months, or by both the fine and term of imprisonment.
- 118 (e) An ordinance adopted in accordance with Subsection (1)(d) shall provide 180 days after the day on which the written notice from an inspector is delivered in person or the date the notice is post-marked for the recipient of the notice to:
  - 121 (i) abate the hazardous materials; or
  - 122 (ii) appeal the notice and begin the administrative proceeding process.
- 123 (2)
  - (a)
    - (i) The municipal inspector shall serve written notice to a property owner of record according to the records of the county recorder in accordance with Subsection (2)(b).
    - 126 (ii) The municipal inspector may serve written notice in accordance with Subsection (2)(b) to a non-owner occupant of the property or another person responsible for the property who is not the owner of record, including a manager or agent of the owner, if:
      - 130 (A) the property owner is not an occupant of the property; and
      - 131 (B) the municipality in which the property is located has adopted an ordinance imposing a duty to maintain the property on an occupant who is not the property owner of record or a person other than the property owner of record who is responsible for the property.
  - 135 (b) The municipal inspector may serve the written notice:
    - 136 (i) in person or by mail to the property owner of record as described in Subsection (2)(a)(i), if mailed to the last-known address of the owner according to the records of the county recorder; or
    - 139 (ii) in person or by mail to a non-owner occupant or another person responsible for the property who is not the owner of record as described in Subsection (2)(a)(ii), if mailed to the property address.
  - 142 (c) In the written notice described in Subsection (2)(a), the municipal inspector shall:
    - 143 (i) identify the property owner of record according to the records of the county recorder;
    - 145 (ii) describe the property and the nature and results of the examination and investigation conducted in accordance with Subsection (1)(a);

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- 147 (iii) identify the relevant regulation or ordinance at issue and describe the violation of the relevant  
regulation or ordinance;
- 149 (iv) describe each order, fine, or penalty that may be imposed;
- 150 (v) for a structure or any real property closed to occupancy or entry by a local health department  
because of hazardous materials, explain the right of a property owner, occupant, or, if applicable,  
another person responsible for the property to abate the hazardous materials or appeal the notice  
within 180 days after the day on which notice is delivered in person or the date the notice is post-  
marked; and
- 155 (vi) require the property owner, occupant, or, if applicable, another person responsible for the property  
to:
- 157 (A) eradicate or destroy and remove any identified item examined and investigated under Subsection  
(1)(a); and
- 159 (B) comply with Subsection (2)(c)(vi)(A) in a time period designated by the municipal inspector but no  
less than 10 days after the day on which notice is delivered in person or post-marked, or for a notice  
related to hazardous materials, no less than 180 days after the day on which notice is delivered in  
person or post-marked.
- 164 (d) For a notice of injurious and noxious weeds described in Subsection (2)(a), the municipal inspector  
is not required to make more than one notice for each annual season of weed growth for weeds  
growing on a property.
- 167 (e) The municipal inspector shall serve the notice required under Subsection (2)(a)(i) under penalty of  
perjury.
- 169 (f) For a structure or any real property closed to occupancy or entry by a local health department  
because of hazardous materials, unless an order issued by a court of competent jurisdiction states  
otherwise, a municipality may not impose a fine or penalty on a property owner, occupant, or  
another person responsible for the structure or real property, and may not authorize a municipal  
inspector or a certified decontamination specialist to begin abatement of the hazardous materials,  
until:
- 175 (i) the appeal and administrative proceeding process is completed; or
- 176 (ii) the property owner, occupant, or another person responsible for the property has missed the deadline  
for filing the appeal.

178 Section 3. **Effective date.**

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This bill takes effect on May 7, 2025.

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