

ORDINANCE 21-04

WHEREAS, on January 6, 1994, the Hyrum City Council passed and posted an ordinance adopting the "Hyrum City Municipal Code", a recodification of municipal ordinances encompassing the "Revised Ordinances of Hyrum City" and ordinances adopted through July 15, 1993; and

WHEREAS, Title 8 of the Hyrum City Municipal Code is known as the Health and Safety Ordinance of Hyrum City and sets forth regulations governing issues that may cause a public safety issue within the municipal limits; and

WHEREAS, Chapter 8.24 Abatement of Nuisances establishes a position to enforce Nuisances and other Hyrum City Municipal Code violation; and

WHEREAS, the position of Nuisance Inspector is created in Chapter 8.24; and

WHEREAS, Hyrum City Staff is recommending including the position of Community Improvement Officer along with the Nuisance Inspector to enforce codes violations.

NOW, THEREFORE, the Hyrum City Council hereby adopts, passes, and publishes the following:

AN ORDINANCE AMENDING CHAPTER 8.24 (ABATEMENT OF NUISANCES) OF THE HYRUM CITY MUNICIPAL CODE TO FURTHER DEFINE THE ESTABLISHED POSITION OF NUISANCE INSPECTOR TO ALSO BE KNOWN AS COMMUNITY IMPROVEMENT OFFICER; AND MISCELLANEOUS HOUSEKEEPING ITEMS.

BE IT ORDAINED by the City Council of Hyrum City, Cache County, State of Utah, as follows:

1. Chapter 8.24 of Title 8 of the Hyrum City Municipal Code be amended to read as follow:

8.24 Abatement Of Nuisances

8.24.010 Nuisance Inspector-Position Established

8.24.020 Nuisance Inspector-Authority

8.24.030 Notice

8.24.040 Hearing-Proceedings

8.24.050 Hearing-Determination

8.24.060 Failure To Comply8.24.070 Abatement By City-Statement Of Expenses

8.24.080 Abatement By City-Failure To Reimburse For Expenses

- 8.24.090 Abatement By City-Collection Of Expenses By Lawsuit
- 8.24.100 Abatement By City-Collection Of Expenses Thorough Taxes
- 8.24.110 Criminal Proceedings
- 8.24.120 Violation-Penalty

8.24.010 Nuisance Inspector-Position Established

There is established the position of nuisance inspector / community improvement officer whose duties it shall be to enforce the provisions of the Hyrum City Municipal Code ~~HCC 2.44, HCC 8.16, HCC 8.20, HCC 8.24, HCC 10.24 and HCC 15.40~~. Until another person is designated, the chief of police shall enforce the provisions of ~~HCC 2.44, HCC 8.16, HCC 8.20, HCC 8.24, HCC 10.24 and HCC 15.40~~. More than one person may be appointed to act as inspector under this section. (Prior code § 10-351 (A))

8.24.020 Nuisance Inspector-Authority

The nuisance inspector is authorized to:

- A. Perform all functions necessary to enforce the provisions of HCC 2.44, HCC 8.16, HCC 8.20, HCC 8.24, HCC 10.24 and HCC 15.40;
- B. Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of Hyrum City Municipal Code. ~~HCC 2.44, HCC 8.16, HCC 8.20, HCC 8.24, HCC 10.24 and HCC 15.40~~. (Prior code § 10-351 (B))

8.24.030 Notice

If the nuisance inspector / community improvement officer concludes there exists an objectionable condition in violation of Hyrum City Municipal Code ~~HCC 2.44, HCC 8.16, HCC 8.20, HCC 8.24, HCC 10.24 and HCC 15.40~~, the inspector shall:

- A. Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions exist;
- B. Serve notice in writing upon the owner and occupant of such premises, either personally or by mailing notice, postage prepaid, addressed to the owner and occupant at their last known post office addresses as disclosed by the records of the county assessor or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the same within such time as the inspector may designate; provided, that any person notified pursuant to this subsection shall be given at least ten but not more than

twenty days, as determined by the inspector following the date of service of such notice, to correct the objectionable condition. The notice shall:

1. Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists,
 2. Inform the owner, occupant or other person that in the event he disagrees with the determination of the inspector and does not wish to comply with the provisions of the notice or that he objects to the factual or legal basis for the notice, he may request in writing a hearing before the governing body at a time and place to be set by the governing body. A written application for a hearing shall stay the time within which the person must conform to the provisions of the notice,
 3. Inform the person that in the event he fails or neglects to correct the objectionable condition, the municipality will correct the objectionable condition and will collect the costs of so correcting the objectionable condition by either a court action, in which case he will be assessed such costs together with reasonable attorney's fees and court costs, or will charge the costs of correcting the violation against the property as a tax.
- C. In the event the owner or occupant makes such request for a hearing, the governing body shall set the time and place for hearing objections and the recorder/clerk shall notify the owner, occupant, or other persons in writing of the time and place at which they may appear to be heard. The hearing shall not be heard within less than five days from the date of service or mailing of the notice of hearing. (Prior code § 10-351 (C))

8.24.040 Hearing-Proceedings

At the written request of an owner, occupant or other person having an interest in property which is the subject of a notice to remove or abate weeds, objectionable conditions, or objects from the property, the governing body shall conduct an informal hearing (which need not be reported) wherein such persons may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or

conditions is properly within the purview of Hyrum City Municipal Code ~~HCC 2.44, HCC 8.16, HCC 8.20, HCC 8.24, HCC 10.24 and HCC 15.40~~. The governing body shall also permit the presentation of evidence and argument by the inspector and other interested parties. Thereafter within not less than five nor more than ten days, the governing body shall over the signature of the mayor or such other member of the governing body as it may designate render its written decision, a copy of which shall be mailed to or served upon the owner or other person to whom the original notice was given by the inspector. (Prior code § 10-352 (A))

8.24.050 Hearing-Determination

- A. In the event the decision of the governing body upholds the determination of the inspector, the notice originally given by the inspector as herein shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and he shall have up to ten days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed thirty days, is authorized by the inspector.
- B. In the event that the decision of the governing body either overrules or modifies the determination of the inspector, the written decision of the governing body shall apprise the owner or occupant of the fact and set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the governing body within ten days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision of the inspector unless additional time is authorized by the governing body.
- C. The inspector shall file an amended notice and proof of service of notice and file the same in the office of the county assessor. (Prior code § 10-352 (B), (C), (D)).

8.24.060 Failure To Comply

If any owner, occupant or other person having an interest in land described in such notice or decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the eradication, destruction or removal of such weeds, garbage, refuse, objects or structures, the inspector shall employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the municipality. (Prior code § 10-353)

8.24.070 Abatement By City-Statement Of Expenses

The inspector shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant or both or to persons having an interest in the property, demanding payment within twenty days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail addressed to the last known address of the property owner, occupant, or person having an interest in the property. (Prior code § 10-354)

8.24.080 Abatement By City-Failure To Reimburse For Expenses

In the event the owner, occupant or person having an interest in the property, fails to make payment of the amount set forth in the statement to the municipal treasurer within the twenty days, the inspector either may cause suit to be brought in an appropriate court of law or may refer the matter to the county treasurer as provided herein. (Prior code § 10-355)

8.24.090 Abatement By City-Collection Of Expenses By Lawsuit

In the event collection of expenses of destruction and removal are pursued through the courts, the municipality shall sue for and receive judgment for all of the expenses of destruction and removal, together with reasonable attorney's fees, interest and court costs, and shall execute upon such judgment in the matter provided by law. (Prior code § 10-356)

8.24.100 Abatement By City-Collection Of Expenses Thorough Taxes

In the event that the inspector elects to refer the expenses of destruction or removal to the county treasurer for inclusion in the tax notice of the property owner, he shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver the three copies of the statement to the county treasurer within ten days after the completion of the work of destroying or removing such weeds, refuse, garbage, objects or structures. Thereupon, the costs of the work shall be pursued by the county treasurer in accordance with applicable provisions of the state, county and municipal law, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted. (Ord. 93-02 § 1 (part); prior code § 10-357)

8.24.110 Criminal Proceedings

The commencement of criminal proceedings for the purposes of imposing penalties for violations of Hyrum City Municipal Code HCC 2.44, HCC 8.16, HCC 8.20, HCC 8.24, HCC 10.24 and HCC 15.40 shall not be conditioned upon prior issuance of a notice or the granting to the defendant of an opportunity to abate or remove the nuisance. The provisions of this chapter relating to notice and abatement shall be deemed merely alternative and additional

methods of securing conformity to the provisions of Hyrum City Municipal Code ~~HCC 2.44, HCC 8.16, HCC 8.20, HCC 8.24, HCC 10.24 and HCC 15.40~~. (Prior code § 10-358)

8.24.120 Violation-Penalty

- A. Any owner, occupant or person having an interest in the property subject to Hyrum City Municipal Code ~~HCC 2.44, HCC 8.16, HCC 8.20, HCC 8.24, HCC 10.24 and HCC 15.40~~ who shall fail to comply with the notice or order given pursuant to Hyrum City Municipal Code ~~HCC 2.44, HCC 8.16, HCC 8.20, HCC 8.24, HCC 10.24 and HCC 15.40~~ shall be guilty of a class C misdemeanor for each offense and further sum of ninety-nine dollars for each and every day such failure to comply continues beyond the date fixed for compliance.
- B. Compliance by any owner, occupant or person to whom a notice has been given as provided in this chapter shall not be admissible in any criminal proceeding brought pursuant to this section. (Prior code § 10-359)

2. REPEALER. All ordinances, resolutions, and zoning maps of the city, or parts thereof inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.

3. DECLARATION OF SEVERABILITY. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Hyrum City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.

4. EFFECTIVE DATE. This ordinance shall become effective upon posting three (3) copies in three (3) public places within Hyrum City.

5. ADOPTION. This ordinance is hereby adopted and passed by the Hyrum City Council this 18th day of November, 2021.

HYRUM CITY

BY: _____
Stephanie Miller
Mayor

ATTEST:

Stephanie Fricke
City Recorder