

# Mapleton City Planning Commission Staff Report

Meeting Date: July 14, 2011

**Item #:** 6

**Applicant:** Mapleton City

**Prepared by:** Cory Branch

**REQUEST:**

Mapleton City requests to amend Mapleton City Code Title 15, Buildings and Construction, in order to enact Chapter 15.06: Abatement of Dangerous Buildings as it relates to dangerous buildings which create an unjustifiable risk to the health, safety, and welfare of the public.

**FINDINGS OF FACT:**

Eric Johnson, Mapleton City Attorney is requesting an ordinance amendment in order to adopt by reference the Uniform Code for the Abatement of Dangerous Buildings (1997 Edition). The purpose of this ordinance is to designate and regulate the abatement of any unsightly and deleterious objects and structures, namely dangerous buildings. (see Attachment 1 – Proposed Ordinance Resolution)

**STAFF RECOMMENDATION:**

Staff recommends approval of the requested text amendment.

**ALTERNATIVE ACTIONS:**

1. The Planning Commission may recommend that the City Council deny the requested text amendment. This action would be a change from the Staff recommendation. If the Planning Commission recommends denial of the requested text amendment, new findings should be stated with the motion.
2. Continue to a Future Meeting Date: This action could be based upon findings that additional information is required prior to rendering a decision or to further consider information.

**ATTACHMENT:**

Proposed Ordinance Resolution



**MAPLETON CITY, UTAH**

**AN ORDINANCE ADOPTING BY REFERENCE THE  
UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS  
1997 EDITION**

**July \_\_, 2011**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ADOPTING BY REFERENCE THE UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS (1997 EDITION) AS PART OF THE MAPLETON CITY CODE.

WHEREAS, Section 10-11-1 of Utah Code Annotated 1953, as amended, authorizes municipalities to designate and regulate the abatement of any unsightly and deleterious objects or structures; and

WHEREAS, Mapleton City desires to designate and regulate the abatement of any unsightly and deleterious objects and structures, namely dangerous buildings, by adopting the Uniform Code for the Abatement of Dangerous Buildings 1997 Edition:

NOW THEREFORE, BE IT ORDAINED by the City Council of Mapleton City, Utah County, Utah, as follows:

Section 1. The City Council, finding that a compelling, countervailing public interest exists in that dangerous buildings create an unjustifiable risk to the public health, safety and welfare, declares its intent to adopt the Uniform Code for the Abatement of Dangerous Buildings (1997 Edition) printed as a code in book form by the International Conference of Building Officials (providing for a just, equitable and practicable method whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated, or demolished), three copies of which shall be filed for use and examination by the public in the office of the Recorder of the City.

Section 2. The Code as approved and adopted shall be known as the Abatement of Dangerous Buildings Code of this City.

Section 3. The provisions of the Abatement of Dangerous Buildings Code shall apply to all dangerous buildings as therein defined, which now exist or which may exist or hereafter be constructed in this City.

Section 4. All buildings or structures which are required to be repaired under the provisions of the Abatement of Dangerous Buildings Code shall be subject to the provisions of subsections \_\_\_\_\_ of Section \_\_\_\_ of the Uniform Building Code.

Section 5. All buildings or portions thereof which are determined after inspection by the Building Official to be dangerous, as defined in the Abatement of Dangerous Building Code, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with procedures specified in section \_\_\_ of the Abatement of Dangerous Buildings Code.

Section 6. In order to interpret provisions of the Abatement of Dangerous Buildings Code and to hear appeals provided for thereunder, there is hereby established an Abatement of Dangerous Building Board of Appeals consisting of five members who shall not be employees of the Municipality. The Building Official shall be an ex officio member of and shall act as secretary to the Board. The Board may adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the applicant with a copy to the Building Official. Appeals to the Board shall be processed in accordance with the provisions contained in the adopted codes. Copies of all rules and regulations adopted by the Board shall be delivered to the Building Official who shall make them accessible to the public without cost.

Section 7. All dangerous buildings within the terms of this part are hereby declared to be public nuisances and shall be vacated or demolished as hereinbefore and hereinafter provided.

Section 8. There is hereby established the position of Nuisance Inspector whose duties it shall be to enforce the provisions of this chapter. Until another person is designated, the Ordinance Enforcement Officer shall enforce the provisions of this chapter. More than one person may be appointed to act as inspector under this section.

Section 9. The Nuisance Inspector is authorized to:

Perform all functions necessary to enforce the provisions of this chapter.

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 this chapter.

If he concludes there exists an objectionable condition in violation of this chapter, the Inspector shall:

Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions exist.

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

Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.

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 City Council at a time and place to be set by the City Council. A written application for a hearing shall state the time within which the person must conform to the provisions of the notice.

Inform the person that in the event he fails or neglects to correct the objectionable condition, the City will correct the objectionable condition and will charge the costs of so correcting the objectionable condition to the person. If the City is required to collect the costs by court action the person will be assessed court costs together with reasonable cost of correcting the violation against the property as a tax.

In the event the owner or occupant makes such request for a hearing, the City Council shall set the time and place for hearing objections and the Recorder shall notify the owner, occupant, or other persons in writing of the time and place at which they may appear and 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.

Section 10. At the written request of an owner, occupant or other person having an interest in property which is the subject of notice to remove or abate weeds, objectionable conditions, or objects from the property, the City Council 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 this chapter. The City Council 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 City Council shall, over the signature of the Mayor or such other member of the City Council as it may designate, render its written decision, a copy of which shall be mailed or served upon the owner or other person to whom original notice was given by the Inspector.

In the event the decision of the City Council upholds the determination of the Inspector, the notice originally given by the Inspector as above provided 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 30 days, is authorized by the Inspector.

In the event that the decision of the City Council either overrules or modifies the determination of the Inspector, the written decision of the City Council shall apprise the owner or occupant of that 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 City Council 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 City Council.

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The Inspector shall file an amended notice and proof of service of notice and file the same in the office of the County Treasurer.

Section 11. 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 condition to be removed or destroyed at the expense of the City.

Section 12. 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.

Section 13. 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 City Treasurer within the 20 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 in this chapter.

Section 14. In the event collection of expenses of destruction and removal are pursued through the courts, the City shall sue for and receive judgment for all of said expenses of destruction and removal, together with reasonable attorneys' fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

Section 15. 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 cost of the work shall be pursued by the County Treasurer in accordance with the provisions of section 10-11-4, Utah Code Annotated 1953, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

Section 16. The commencement of criminal proceedings for the purpose of imposing penalties for violations of this chapter shall not be conditioned upon prior issuance 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 this chapter.

Section 17. Any owner, occupant or person having an interest in the property subject to this chapter who shall fail to comply with the notice or order given pursuant to this chapter shall be guilty of a Class C misdemeanor for each offense and further sum of \$25.00 for each and every day such failure to comply continues beyond the date fixed for compliance.

Section 18. 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.

Section 19. It is hereby declared that all parts of this Ordinance are severable, and if any section, clause or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, clause or provision shall not affect the remaining sections, clauses or provisions of this Ordinance.

Section 20. All ordinances, orders and regulations or parts thereof heretofore adopted or passed which are in conflict herewith are, to the extent of such conflict, hereby repealed. This repealer shall not be construed so as to revive any ordinance, order, regulation or part thereof heretofore repealed.

Section 21. Immediately after its adoption, this Ordinance shall be signed by the Mayor and City Recorder and shall be recorded in the ordinance book kept for that purpose. This Ordinance shall be published once in the Daily Herald, a newspaper published and having general circulation in the Issuer, and shall take effect immediately upon its passage and approval and publication as required by law.

