

AN ORDINANCE ENACTING NEW SECTIONS 1480.04, 1480.05 AND 1480.99 AND REPEALING CHAPTER 1442 OF THE CODIFIED ORDINANCES OF THE CITY OF HUDSON REGARDING NUISANCE ABATEMENT PROCEDURES AND DECLARING AN EMERGENCY

WHEREAS, due to the City's aging housing stock and other factors beyond the City's control, property maintenance is an increasing problem as more properties fall into disrepair requiring the City to use considerable staff time and resources for inspections, securing administrative search warrants, issuing violation notices, and, in the most severe cases, convening the City's Board of Nuisance Abatement to hold an evidentiary hearing in an attempt to have a property declared a public nuisance and to seek abatement of the nuisance through rehabilitation and repair and/or demolition; and

WHEREAS, existing Chapter 1442, "Public Nuisance" of the Codified Ordinances of the City of Hudson provides that a property may only be declared a public nuisance by the Board of Nuisance Abatement after conducting an evidentiary hearing; and

WHEREAS, Chapter 1, Section 110, "Demolition," of the International Property Maintenance Code, adopted by Council in Chapter 1480 of the Codified Ordinances of the City of Hudson, permits the Code Enforcement Officer to determine that a structure is "so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure" and to require such a structure to be demolished, but these provisions do not permit the Code Enforcement Officer to declare a property a public nuisance; and

WHEREAS, the Board of Nuisance Abatement process is cumbersome and creates an unnecessary additional step in the nuisance abatement process because the City's Board of Zoning and Building Appeals is already tasked with hearing appeals of decisions made by City officials pursuant to the Building Code; and

WHEREAS, the City Manager and the Community Development Director have recommended that the Codified Ordinances be amended to streamline the City's nuisance abatement process while ensuring the provision of sufficient due process to property owners by giving the City Manager the authority to declare properties a public nuisance, subject to the right of appeal to the Board of Zoning Appeals; and

WHEREAS, Council believes that it is in the best interest of the health, safety and welfare of the City to amend the Codified Ordinances of the City of Hudson as set forth herein.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Hudson, County of Summit, State of Ohio, that:

Section 1. Chapter 1480, "International Property Maintenance Code," of the Codified Ordinances of the City of Hudson is hereby amended to read as follows:

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1480.04 ADDITIONAL PROVISIONS; PUBLIC NUISANCES; WEEDS OR TALL GRASS.

(a) DEFINITIONS. For purposes of this Section, the following definitions shall apply:

- (1) “Public Nuisance” means any garage, shed, barn, house, building or other structure, which, by reason of the condition in which it is permitted to be or remain, shall or may endanger the health, life, limb or property of any person, or cause any hurt, harm, damage, injury or loss to any person, in any one or more of the following ways, means or particulars:
 - A. By reason of being dilapidated, decayed, unsafe or unsanitary, it is detrimental to the health, morals, safety, public welfare and well-being of the City, endangers life or property or is conducive to ill health, delinquency and crime;
 - B. It is a fire hazard; or
 - C. By reason of the conditions which require its continued vacancy, the structure and its surrounding grounds are not reasonably or adequately maintained, thereby causing deterioration and creating a blighting influence or condition on nearby properties and thereby depreciating the value, use and enjoyment of such properties to such an extent that the structure and its surrounding properties are harmful to the public health, welfare, morals and safety and the economic stability of the area, community or neighborhood in which such structure is located.
- (2) “Owner means the owner or owners of record as shown on the tax records of the Summit County Fiscal Office, and also includes any purchaser or purchasers who are buying under a land contract which is recorded in the records of Summit County.

(b) DETERMINATION OF PUBLIC NUISANCE BY CITY MANAGER.

- (1) Whenever the City Manager, or the City Manager’s designee, suspects the existence of a public nuisance at a property as defined in Section 1480.04(a)(1), he or she shall promptly cause such suspected public nuisance to be inspected by the Code Enforcement Officer. Following such inspection, the City Manager, or the City Manager’s designee, shall determine whether a public nuisance exists at the subject property.
- (2) The City Manager, or the City Manager’s designee, may hire a certified building official to inspect the property to assist in determining whether the subject property is a public nuisance.
- (3) If the City Manager, or the City Manager’s designee, determines that a public nuisance exists at the subject property, he or she shall cause a written order declaring the property a public nuisance to be served on the owner of the subject property, in accordance with the provisions in Section 1480.04(c)(1), stating his or her findings with respect to the existence of a

public nuisance. The order shall include: where abatement of the nuisance can be accomplished through repair and rehabilitation, a list of repair or rehabilitation specifications required to abate the public nuisance, otherwise, the notice shall require abatement through demolition; and a statement that unless the owner of the subject property causes the abatement of the public nuisance by repair, rehabilitation or demolition, the same will be abated by the City at the expense of the owner. Such abatement by the owner shall start within fifteen days after receipt of the notice order and shall be completed within forty-five days or, where abatement is to be accomplished through repair or rehabilitation, such additional time as the City Manager, or the City Manager's designee, may deem necessary to complete the abatement of the public nuisance.

- (4) A determination by the City Manager, or the City Manager's designee, that a public nuisance exists at a property and abatement of the public nuisance by the owner or the City by demolition shall supersede the Architectural and Historic Board of Review and Planning Commission review process set forth in Section 1205.12(a) of the Land Development Code which pertains to the demolition of historic structures in the Darrowville Commercial Corridor.

(c) SERVICE OF ORDER.

- (1) An order declaring a property a public nuisance and issued pursuant to Section 1480.04(b)(3) shall be served by mailing a copy to the owner, as defined in Section 1480.04(a)(2), by United States certified mail with return receipt requested, by commercial carrier service with signed receipt confirmation, by personally serving such owner or by leaving a copy at the usual place of residence of such owner. If service of the order cannot be perfected by any of the hereinbefore described methods, then the City Manager, or the City Manager's designee, shall cause such order to be published in a newspaper of general circulation in the City once each week for two consecutive weeks. However, such a published order shall not include a list of the repair or rehabilitation specifications mentioned in Section 1480.04(b)(3).

(d) APPEALS TO BOARD OF ZONING AND BUILDING APPEALS FROM DECISION OF CITY MANAGER.

- (1) The Board of Zoning and Building Appeals shall be and act as the appeal board for any appeals from the determination of the City Manager, or the City Manager's designee, regarding whether the subject property is a public nuisance and, using this section as a basis, shall have the power to confirm, reverse or modify any order of the City Manager, or the City Manager's designee, appealed to it. The Board of Zoning and Building Appeals may, in a proper case for good cause shown, grant an extension of time for repairs to be made not to exceed six months.

- (2) The owner may, within twenty days after service of the order of findings of the City Manager, or the City Manager's designee, as provided for in Section 1480.04(b)(3), that the subject property does constitute a public nuisance, make a demand in writing to the Board of Zoning and Building Appeals for an appeal on the question of whether in fact a public nuisance, as defined in Section 1480.04(a)(1), does exist.
- (3) The owner of the subject property, or his or her duly authorized representative or agent, shall be notified of the date, time and place of the appeal hearing in accordance with the provisions set forth in Section 1480.04(c), and shall be given an opportunity to appear in person, or through a duly authorized representative or agent, at such hearing, and present such evidence as may be pertinent to the question of the existence of the public nuisance.
- (4) The Board of Zoning and Building Appeals, after reviewing all of the inspection reports, and any pertinent evidence presented by the owner, or his or her duly authorized representative, shall determine whether a public nuisance, as defined in Section 1480.04(a)(1), does exist before enforcement of the abatement provisions of this section is carried out. A copy of the decision of the Board of Zoning and Building Appeals shall be promptly served upon the owner in the manner provided for in Section 1480.04(c).

(e) ABATEMENT OF NUISANCE OR DEMOLITION OF STRUCTURE
BY CITY.

- (1) Provided that thirty days' notice is given in accordance with the service requirements of Section 1480.04(c), should any public nuisance not be abated by the owner at the expiration of the time stated in the order of the City Manager, or the City Manager's designee, or such additional time as the Board of Zoning and Building Appeals may grant, the City Manager, or the City Manager's designee, shall be authorized, at any time thereafter, to cause entry upon such premises and the owner shall permit such entry to abate the public nuisance by demolition and removal of the structure.
- (2) In abating such public nuisance, the City Manager, or the City Manager's designee, shall obtain the abatement thereof by private contract and the costs of such private contract shall be paid for from City funds. The cost of such abatement action shall be recovered from the owner in the following manner:
 - A. The owner shall be billed for the cost of the abatement by mailing such bill to the owner, by United States certified mail with return receipt request; by commercial carrier service with signed receipt confirmation; by personally serving the owner with a copy of such bill or by leaving a copy of such bill at the usual place of residence of the owner. If service of such bill is not perfected by any of the hereinbefore described methods, then the billing notice shall be published in a newspaper of general circulation in the City once a week for two consecutive weeks.

B. If the owner fails to pay for the cost of such abatement within sixty days after receipt of the bill, after its delivery to his or her usual place of residence or after the publication of the second notice in the aforesaid newspaper, the City shall cause the cost of the abatement to be levied as an assessment against the property and recovered.

(f) REMEDIES NOT EXCLUSIVE.

(1) This section shall not be deemed to be a limitation or restriction on the authority of any department, division, official or employee of the City, but shall be deemed to be an enlargement of any authority existing by virtue of the statutes of Ohio or any ordinance heretofore enacted by Council.

(g) REMOVAL OF WEEDS OR TALL GRASS.

(1) The owner, occupant or person having the charge or management of any lot or parcel of land situated in a platted and improved subdivision within the City, whether the same be vacant or occupied, within five days of written or oral notice to do so, shall cut or destroy, or cause to be cut or destroyed, any noxious or poisonous weeds or tall grasses growing upon such lot or parcel of land, and prevent the same from blooming or going to seed, exceeding a height of eight inches, or spreading pollen which may be harmful to human health.

(2) If the owner, occupant or person having the charge or management of any lot or parcel of land in a platted and improved subdivision does not cut or destroy, or cause to be cut or destroyed, noxious weeds or tall grasses as provided herein, the City Manager, or the City Manager's designee, is authorized to cause to be cut or destroyed such noxious weeds or tall grasses.

(3) When any such noxious weeds or tall grasses are cut or destroyed by the City, as provided herein, then after such work is performed, the City shall give five days' notice by regular mail to the owner, occupant or person having the charge or management of such lot or parcel of land, at his or her known address, to pay the cost of such cutting or destroying of noxious weeds or tall grasses, which notice shall be accompanied by a statement of the amount of cost incurred. If the same is not paid within thirty days after the mailing of the notice, such amount may be certified to the County Fiscal Officer for collection as other taxes and assessments are collected or the City may seek recovery of such costs by civil action against the property owner involved.

(4) When it is deemed necessary to cut and destroy weeds or tall grasses on private property, in accordance with the provisions of this section, the owner shall be charged at the rate of seventy-five dollars (\$75.00) per hour or portion thereof, or the actual cost of such work, whichever is the larger. The minimum charge therefor shall be seventy-five dollars (\$75.00).

1480.05 REPEAL OF SECTIONS 110 AND 302.4 OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE.

The provisions in Section 1480.04 of this Chapter shall be used instead of and replace the provisions set forth in Section 110, “Demolitions,” and Section 302.4, “Weeds,” of the International Property Maintenance Code. Section 110, “Demolitions,” and Section 302.4, “Weeds,” of the International Property Maintenance Code are repealed.

1480.99 PENALTY; EQUITABLE REMEDIES.

(a) Whoever violates or fails to comply with any of the provisions and requirements of the International Property Maintenance Code, as adopted in Section 1480.01 or the Additional Provisions set forth in Section 1480.04, or fails to comply with any order made thereunder, or violates any detailed statement of specifications or plans submitted and approved thereunder, may, severally, for each and every such violation and noncompliance, respectively, be subject to the Municipal civil infraction provisions of Chapter 1424 of this Building and Housing Code. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The application of the penalty provided in subsection (a) hereof shall not be held to prevent the enforced removal of prohibited conditions.

(c) Whoever violates or fails to comply with any of the provisions and requirements of Section 1480.04, is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

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Section 2. Chapter 1442 “Public Nuisances” of the Codified Ordinances of the City of Hudson is hereby repealed.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, or otherwise in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. This Ordinance is determined to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and general welfare of the citizens of the City of Hudson and by reason of the necessity that this Ordinance is required to be immediately effective so that nuisance properties can be addressed pursuant the new process as soon as possible in the interest of the continued efficient and effective operation of the Community Development Department and other City departments; wherefore, this Ordinance shall be in effect immediately upon its passage provided it receives the affirmative vote of five (5) members of Council, except that six (6) affirmative votes shall be required if all members are present; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.”

PASSED: _____

William A. Currin, Mayor

ATTEST:

Elizabeth Slagle, Clerk of Council

I certify that the foregoing Ordinance was duly passed by the Council of said Municipality on _____, 2015.

Elizabeth Slagle, Clerk of Council