



## ORDINANCE NO. 5999

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) TITLE 8, BY THE CREATION OF CHAPTER 8.37 CITY ABATEMENT.

WHEREAS, the City of Albany is adding AMC Chapter 8.37, City Abatement, to allow individuals simplified access to the community livability codes; and

WHEREAS, community livability codes were found throughout multiple titles of the Albany Municipal Code; and

WHEREAS, reorganizing the code will allow for greater transparency.

NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. AMC 7.84.140, Abatement; 7.84.150, Imminent nuisance abatement; 7.84.160, Regular abatement; and 7.84.170, Costs to become a lien, are hereby repealed.

Section 2. Amending AMC Title 8, Community Livability. AMC Title 8 is hereby amended to add AMC Chapter 8.37 titled City Abatement:

### Chapter 8.37 CITY ABATEMENT

Sections:

- 8.37.010 Abatement.
- 8.37.020 Imminent nuisance abatement.
- 8.37.030 Notice of violation and abatement.
- 8.37.040 Costs to become a lien.
- 8.37.050 Interference with abatement personnel prohibited.
- 8.37.060 Obligations

#### **8.37.010 Abatement.**

In addition to the penalties as provided for in other portions of this code, the City may initiate abatement of a nuisance. Abatements are classified into two categories: imminent nuisance abatement and regular abatement.

#### **8.37.020 Imminent nuisance abatement.**

(1) If a condition, substance, act or nuisance exists that is detrimental to public health, safety or welfare, it may summarily be abated if after inspection of the premises by the City Manager or their designee it is found to exist, and there is imminent danger to human life, safety, or to property. Determination of a condition, substance, act, or other occurrence constituting an imminent nuisance shall be made by the City Manager or their designee.

(2) No notice to the property owner or person in control of the property is required.

(3) Costs of abatement may be assessed as provided in AMC 8.37.030 and 8.37.040.

#### **8.37.030 Notice of violation and abatement.**

Where there is no imminent danger to human life, safety, or to property but a violation(s) is found to exist, the following noticing procedures will apply:

(1) Notice shall be posted on the premises where the condition, substance, act, or nuisance exists, directing that the owner, person in charge and/or person occupying the property abate the situation.

(2) At the time of posting, the City Manager or their designee shall hand deliver or send a copy of the notice by first class mail to:

- (a) Owner at the last known address as listed in the county tax assessor's office; and
- (b) The person in charge of the property or occupant if different from the owner.

(3) The notice shall contain:

- (a) A description of the real property, by street address or otherwise, on which the condition, substance, act, or nuisance exists;
- (b) A description of the condition, substance, act, or nuisance which must be abated;
- (c) A direction to abate the condition, substance, act, or nuisance within a time specified on the notice;
- (d) A statement that unless the condition, substance, act, or nuisance is removed, the City may abate the situation, and the cost of abatement shall be a fee sufficient to cover the direct cost of removal, plus 30 percent for administrative overhead; and this total cost shall be charged to the owner;
- (e) A statement that the owner or person in charge of the property may appeal the abatement by giving written notice to the City Manager or their designee within 10 days from the date of the notice;
- (f) A statement that if the cost of abatement is not paid by the owner or person in charge of the property, the cost of abatement may be assessed to and become a lien on the property.

(4) After completion of the posting and delivering/ mailing, the person posting and delivering/ mailing the notice shall file this certificate with the City Manager or their designee stating the date and place of delivering/ mailing and posting.

(5) An error in the name or address of the owner or person in charge of the property or use of the name other than that of the owner or person in charge of the property shall not make the notice void, and in such case the posted notice shall be sufficient.

(6) The owner or person in charge of the property shall abate the condition, substance, act, or violation(s) specified in the notice within 10 days or as otherwise notated.

(7) Any person who shall receive a notice described in subsection (3) of this section may appeal the City Manager or their designee's decision by filing a notice of appeal, in writing, with the City Manager or their designee within 10 days after the posting and mailing of the notice. The appeal must specify the basis therefor.

(8) The appeal shall be referred to the Municipal Court for a hearing.

(9) If the Municipal Judge determines that the nuisance does exist, the owner or person in charge of the property shall abate the nuisance within such time as the Judge may grant or, if no specific period of time is granted, within 10 days of the Judge's decision.

(10) If the nuisance has not been abated within the time allowed, the City Manager or their designee may cause the nuisance to be abated. Within 30 days of the date that abatement is taken, the City shall provide the owner or person in charge of the property with an accounting for costs of abatement.

(11) The person charged with the abatement of the nuisance shall have the right at reasonable times to enter upon the property to investigate or cause the removal of the situation.

(12) Remedies Nonexclusive. The procedures provided by this chapter are not exclusive, but are in addition to abatement procedures, fines/fees, and other remedies provided by other laws and ordinances.

(13) The failure of any person or owner to receive actual notice from the City Manager or their designee shall not invalidate or otherwise affect the proceedings under this chapter.

#### **8.37.040 Costs to become a lien.**

(1) If costs of abatement are not paid within 30 days from:

(a) The date of the notice of costs; or

(b) If an appeal was timely filed, from the date of Judge's determination of the costs, an assessment of the costs shall be made by resolution and shall be entered in the docket of City liens and recorded with Linn County or Benton County as appropriate. When the entry is recorded in the City lien docket, the assessment shall constitute a lien upon the property subject to the abatement.

(2) The lien shall be enforced in the same manner as liens for assessment for local improvement districts and shall bear interest at judgment rate as determined by the Oregon Revised Statutes. The interest shall commence running on the date of entry of the lien in the City lien docket.

(3) An error in the name of the owner or person in charge of the property shall not void the assessment, nor shall a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

**8.37.050 Interference with abatement personnel prohibited.**

No person shall interfere with or deny access to any person authorized to enter premises and/or structure for the purposes of abatement.

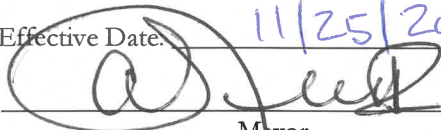
**8.37.060 Obligations.**

Under no circumstances shall this chapter obligate the City to undertake abatement. All provisions in this chapter which empower or authorize City action shall be permissive and not mandatory. The City, its officers, and employees shall be entitled to exercise discretion in determining the extent of which a hazard warrants a City response. Such considerations may include the apparent danger to public health, life, and property, financial resources available to the City for initiation of clean-up, other demands on City staff or financial resources, the likelihood that the costs of clean-up can be recovered from the owner of the premises or the responsible party, and the nature of the hazard. This enumeration is not exclusive and is intended only to illustrate the types of discretionary criteria the City may employ in determining whether or not a particular hazard warrants a City response.

Passed by the Council: 10/26/2022

Approved by the Mayor: 10/26/2022

Effective Date: 11/25/2022

  
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Mayor

ATTEST:

  
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City Clerk

