

**NOTICE OF PUBLIC MEETING**  
**CITY OF ALBANY**  
**CITY COUNCIL WORK SESSION**  
Municipal Court Room  
333 Broadalbin Street SW  
Monday, October 24, 2016  
4:00 p.m.



**OUR MISSION IS**

*"Providing quality public services  
for a better Albany community."*

**OUR VISION IS**

*"A vital and diversified community  
that promotes a high quality of life,  
great neighborhoods, balanced  
economic growth, and quality public  
services."*

**AGENDA**

Rules of Conduct for Public Meetings

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the meeting.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the meeting.

- 4:00 p.m. CALL TO ORDER
- 4:00 p.m. ROLL CALL
- 4:05 p.m. BUSINESS FROM THE PUBLIC
- 4:10 p.m. ALBANY MUNICIPAL CODE AMENDMENTS AND ADDITIONS – Mario Lattanzio and Kris Schendel.  
[Pages 2-32]  
*Action Requested:* Information, discussion, and direction.
- 5:15 p.m. CITY COUNCIL POLICIES WEB PAGE – Holly Roten and Matt Harrington. [Audiovisual]  
*Action Requested:* Information.
- 5:30 p.m. BUSINESS FROM THE COUNCIL
- 5:45 p.m. CITY MANAGER REPORT
- 6:00 p.m. ADJOURNMENT

City of Albany Web site: [www.cityofalbany.net](http://www.cityofalbany.net)

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*The location of the meeting/hearing is accessible to the disabled. If you have a disability that requires accommodation, advanced notice is requested by notifying the City Manager's Office at 541-917-7508, 541-704-2307, or 541-917-7519.*

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TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Mario Lattanzio, Chief of Police *ML*  
Kris Schendel, Code Compliance Officer  
DATE: October 13, 2016, for October 24, 2016, City Council Work Session  
SUBJECT: Amend Albany Municipal Code (AMC) Chapter 7.08, Disorderly Conduct  
Amend AMC Chapter 7.84, Public Nuisances  
Amend AMC Chapter 9.04, Maintenance of Property  
Amend AMC Chapter 18.30, Property Maintenance  
Add AMC Chapter 7.83, Derelict Structures  
Add AMC Chapter 7.85, Chronic Nuisance Property

RELATES TO STRATEGIC PLAN THEME: 

- An Effective Government
- A Safe City
- Great Neighborhoods

Action Requested:

Amend AMC Chapter 7.08, Disorderly Conduct, Chapter 7.84, Public Nuisances; Chapter 9.04, Maintenance of Property; and Chapter 18.30, Property Maintenance.

Add AMC Chapter 7.83, Derelict Structures and Chapter 7.85, Chronic Nuisance Property.

Discussion:

As part of the budget process for FY2016-2017, a Code Compliance Officer position was added so that the City could be proactive in finding solutions to reduce code compliance violations, address chronic nuisances and derelict structures, and improve neighborhood livability. Over the past few months, Code Compliance Officer Kris Schendel has been reviewing current AMC language and working closely on suggested changes and additions with City Attorney Sean Kidd, Public Works Engineering and Community Development Director Jeff Blaine, Building Official Gary Stutzman, City Manager Wes Hare, and Management Assistant/Public Information Officer Marilyn Smith. This process is part of a multi-department collaboration to address code compliance issues and reduce blighted properties within the City of Albany. Listed below, you will find a summary of the suggested AMC amendments and Chapter additions.

**Suggested AMC Amendments**

**AMC Chapter 7.08, Disorderly Conduct**

Remove Subsection 7.08.050(1) because it is addressed in AMC 6.10.040(2). This change will clear up any confusion that occurs when reading the two different AMC Chapters.

**AMC Chapter 7.84, Public Nuisances**

In Section 7.84.020, the language is being changed to reflect that the City Manager or his/her designee makes the determination if an imminent nuisance exists.

Subsection 7.84.030(2), is being replaced to reflect the timeline that violators must follow if they receive a citation, how they can resolve the problem(s), and the abatement procedures if a property owner doesn't resolve the nuisance.

Sections 7.84.060 – 7.84.090 and 7.84.180 are being removed and combined into 7.84.140 – 7.84.170 as the language has been clarified to address the abatement and appeals process. The language has been updated so that a violator would appear before the Municipal Court Judge instead of the City Council.

Sections 7.84.120 and 7.84.130 amendments will allow noxious vegetation, weeds, and tall grass to be considered a public nuisance year-round versus only during fire season and would result in a violation instead of a crime.

Subsection 7.84.200(3) has been amended to address signs in the public right-of-way.

**AMC Chapter 9.04, Maintenance and Property**

Section 9.04.045 is being added to address unsanitary conditions resulting from a dwelling not having permanent and potable running water from a domestic water supply for a period of 14 days or more.

**AMC Chapter 18.30, Property Maintenance**

The language in Section 18.30.105 is being amended to direct the reader to AMC 7.84.120 for information about noxious and excess vegetation.

**Suggested AMC Additions**

**AMC Chapter 7.83, Derelict Structures**

The addition of this Chapter will allow public safety personnel to better address derelict structures which will, in turn, reduce vandalism, squatting, theft, and other crime types associated with derelict structures. This Chapter would hold banks and other property owners accountable to ensure that they maintain their property in a safe manner. This Chapter also gives the City the power to contact the banks and give them a timeline of when they have to make the appropriate adjustments to be within City Code.

**AMC 7.85, Chronic Nuisance Property**

The addition of this Chapter is aimed at reducing the effect of crimes on residents living in the area of a chronic nuisance property. Chronic nuisance properties have a negative impact to the livability of neighborhoods. This Chapter sets the process for addressing owners of a chronic nuisance property and outlines what they will need to do to mitigate or correct the problem.

**Budget Impact:**

None.

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AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 7.08, DISORDERLY CONDUCT, BY DELETING SUBSECTION 7.08.050(1).

WHEREAS, the City of Albany is deleting AMC Subsection 7.08.050(1), Unnecessary Noise, Keeping of Any Animal; and

WHEREAS, the language in AMC Subsection 7.08.050(1) is addressed in AMC Chapter 6.10, Keeping of Animals, Subsection 6.10.040(2).

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

Section 1. Amending AMC Title 7, Public Peace, Morals, and Safety. AMC Chapter 7.08, Section 7.08.050 is hereby amended as follows:

**7.08.050 Unnecessary noise.**

It is unlawful for any person to create, assist in creating, permit, continue, or permit the continuance of any loud, disturbing, or unnecessary noise in the City. The following acts are declared to be violations of this section, but such enumerations are not deemed to be exclusive:

~~(1) The keeping of any animal which by frequent or loud continued noise disturbs the comfort and repose of any person in the vicinity;~~

~~(2) The use of any automobile, motorcycle, streetcar, or other vehicle, any engine, stationary or moving instrument, device, or thing so out of repair, so loaded, or operated in such manner as to create loud or unnecessary grating, grinding, rattling, or other noises;~~

~~(3) The sounding of any horn or signal device on any automobile, motorcycle, streetcar, or other vehicle on any street or public place of the City, except as a necessary warning or danger to property or person;~~

~~(4) The use of any mechanical device operated by compressed air, steam, or otherwise, unless the noise created thereby is effectively muffled;~~

~~(5) The erection, including excavation, demolition, alteration, or repair of any building, other than between the hours of 7:00 a.m. and 6:00 p.m., except upon special permit granted by the Common Council;~~

~~(6) Construction and activities ancillary to construction, not regulated under subsection (5) of this section or the Albany Standard Construction Specifications, including, but not limited to, preparation of materials, staging of construction equipment and apparatus, processing, preparing, or moving construction vehicles, equipment, or material, which generate sounds audible at any residentially zoned property; and which generate sounds for 30 minutes or more in any three-hour period between the hours of 6:00 p.m. and 7:00 a.m. This subsection does not apply to construction related activities performed by the City of Albany or pursuant to a City of Albany contract or those activities otherwise permitted by the Common Council;~~

~~(7) The use of any gong or siren upon any vehicle other than police, fire, or other emergency vehicle;~~

~~(8) The operation of any gasoline engine without having the same equipped with and using thereupon a muffler;~~

~~(9) The use of "muffler cutout" on any motor vehicle upon any street;~~

(910) The use or operation of any automatic or electric piano, phonograph, radio, loudspeaker, or any sound amplifying device so loudly as to disturb persons in the vicinity thereof or in such manner as renders the same a public nuisance; provided, however, that upon application to the City Manager permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches, or general entertainment;

(1011) The conducting, operating, or maintaining of any garage within 100 feet of any building used as a private residence, apartment house, rooming house, or hotel in such a manner as to cause loud or offensive noises to be emitted therefrom between the hours of 10:00 p.m. and 7:00 a.m. The foregoing acts are declared nuisances and any person violating any of the provisions of this section shall be deemed guilty of an offense. (Ord. 5761 § 1, 2011; Ord. 4937 § 1, 1990; Ord. 3873 § 1, 1975; Ord. 2823 § 43, 1958).

Passed by Council: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 7.84, PUBLIC NUISANCES.

WHEREAS, the City of Albany is amending AMC Chapter 7.84, Public Nuisances; and

WHEREAS, language is being added to Section 7.84.020 to clarify that the City Manager or his/her designee is responsible for making the determination if an imminent nuisance exists; and

WHEREAS, Section 7.84.030(2) has been rewritten to clarify how long a property owner or person in charge of property has to abate a nuisance; and

WHEREAS, Sections 7.84.060 – 7.84.090 are being removed because the language is duplicated in Sections 7.84.140 – 7.84.170; and

WHEREAS, Sections 7.84.140 – 7.84.170 reflect the appeals process and clarify that the violator would appear before the Municipal Court Judge instead of the City Council; and

WHEREAS, Sections 7.84.120 and 7.84.130, has been amended to be in effect year-round.

WHEREAS, Section 7.84.200(3) adds clarifying language that signs shall not be in the public right-of-way.

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

Section 1. Amending AMC Title 7, Public Peace, Morals and Safety. The Albany Municipal Code Chapter 7.84, Public Nuisances, is hereby amended as follows:

**7.84.010 Definitions.**

For the purpose of the Albany Municipal Code, the following definitions apply:

- (1) “Debris” means the remains of something broken down or destroyed including, but not limited to: scrap metal, scrap paper, scrap plastic or scrap wood; pieces of asphalt, concrete, lumber or other building supplies; or yard clippings or cuttings of plant material.
- (2) “Garbage” means food waste, animal and vegetable waste, dead animal carcasses, refuse, rubbish, trash, or other useless or discarded material.
- (3) “Junk” means all inoperable motor vehicles, in which multiple major components are defective or removed for more than 30 consecutive days; any motor vehicle which has been unlicensed for more than 30 consecutive days; defective motor vehicle parts, abandoned automobiles, used tires, inoperable and defective machinery, or parts thereof, inoperable and defective appliances and parts thereof, metal portions of inoperable machinery, broken glass, empty glass, plastic or metal containers, scrap lumber, broken furniture, other wastes and/or discarded materials.
- (4) “Person in charge of property” means an owner, agent, contract purchaser, lessee, occupant, or other person having possession or control of real property.
- (5) “Place” or “property” means any premises, room, house, building or structure, or any separate part or portion thereof, whether permanent or not, or the real property itself.
- (6) “Public sidewalk” means a paved walkway within the public right-of-way or on publicly owned property.

- (7) "Street" means the portion of a road ordinarily used for vehicular travel, including the shoulder, and all public street right-of-way regardless of whether improved or unimproved.
- (8) "Imminent nuisance" means the existence of debris, garbage, or junk on real property that is detrimental to public health, safety, or welfare, and causes imminent danger to human life, safety, or to property. (Ord. 5211 § 1, 1995).

**7.84.020 Imminent nuisance.**

No person in charge of property may permit, or no person may cause to exist, any-thing, substance, or act that is an imminent threat to public health, safety, or welfare. An imminent nuisance is unlawful and may be summarily abated as provided in AMC 7.84.150070. Determination of a condition, substance, act, or other occurrence constituting an imminent nuisance shall be made by the City Manager or his/her designee. (Ord. 5211 § 1, 1995).

**7.84.030 Debris, garbage, and junk deemed nuisance.**

- (1) It is hereby determined and declared that the keeping of any debris, garbage or junk out of doors on any street, public sidewalk, lot, or premises within the City, or in any building that is not wholly or entirely enclosed except doors for use of ingress and egress, is a nuisance and is unlawful.

~~(2) Determination of the existence of a nuisance caused by the presence of debris, garbage or junk shall be determined by the City Manager or his/her designee. However, it shall be prima facie evidence of the existence of a public nuisance caused by debris, garbage or junk should three or more persons in charge of adjacent, adjoining, or other properties within 300 feet sign a petition and submit said petition to the City Manager or his/her designee complaining of a nuisance caused by the existence of debris, garbage or junk. In such case, the three or more persons signing the petition must all complain of the same nuisance arising from the existence of debris, garbage, junk on the property in question. Upon receipt of said petition from three or more persons, the City Manager or his/her designee shall within 30 days review the petition as well as inspect the place or property and make a determination as to whether abatement is presently appropriate. The City Manager or his/her designee may then either proceed under this chapter with enforcement, or shall notify the petitioners in writing that the nuisance does not qualify for enforcement. (Ord. 5211 § 1, 1995)~~

(2) When it is determined that a nuisance caused by the presence of debris, garbage or junk exist and there is no imminent danger to human life, safety or to property, the City Manager or his/her designee shall issue a citation to the owner or person in charge of property.

(a) Upon the first offense, a 30-day notice shall be issued, with the citation, to allow the owner or person in charge of the property to abate the nuisance. If the owner or person in charge of the property completes abatement of the nuisance within the 30-days, the courts shall dismiss the citation.

(b) If special circumstances exist; a one time, up to 30-day extension may be granted to abate the nuisance.

(c) Any additional offenses by an owner or person in charge of a property shall remove the possibility of citation dismissal and abatement extension.

(d) When an owner or person in charge of property does not abate the nuisance, as defined in subsection (a),(b) or (c), the City Manager or his/her designee should proceed with abatement as set forth in AMC 7.84.140.

**7.84.040 Prohibited.**

It is unlawful for any person, or any agent or employees of any person to keep any debris, garbage or junk out of doors on any street, public sidewalk, lot, or premises within the City, or in any building that is not wholly or entirely enclosed except doors for use of ingress and egress. Violation of any provision of this chapter shall be punishable subject to penalties set forth in AMC 1.04.010. (Ord. 5211 § 1, 1995).

**7.84.050 Exception.**

The provisions of AMC 7.84.010 through 7.84.030 do not apply to junk kept at a duly licensed junk yard or automobile wrecking house. (Ord. 5211 § 1, 1995).

**7.84.060 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. (Ord. 5211 § 1, 1995).

**7.84.070 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 his/her 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 his/her 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 7.84.080. (Ord. 5211 § 1, 1995).

**7.84.080 Regular abatement.**

Where there is no imminent danger to human life, safety, or to property but a nuisance is found to exist the following abatement 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 person occupying the property abate the situation.

(2) At the time of posting, the City Manager or his/her designee shall send a copy of the notice by certified mail and first class 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) If prior notice of abatement was sent to the owner or person in charge of the property within the preceding 12 months, and ownership or control of the property has not changed and the prior notice was returned as undeliverable or the delivery was refused, then notice can be provided via publication in a newspaper of general circulation at least 10 days before abatement action is taken.

(4) The notice to abate 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 will be charged to the owner;

(e) A statement that the owner or person in charge of the property may protest the abatement by giving written notice to the City Manager or his/her 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.

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

(6) 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.

(7) Within 10 days after the posting and mailing of the notice, the owner or person in charge of the property shall abate the condition, substance, act, or nuisance specified in the notice, or appeal the City Manager's decision to the City Council as specified in subsection (8) of this section.

~~(8) Any person who shall receive a notice described in subsection (4) of this section may appeal the City Manager's decision by filing a notice of appeal with the City Manager or his/her designee within 10 days after the posting and mailing of the notice. The appeal must specify the basis therefore.~~

~~(9) The appeal shall be referred to the City Council for a hearing.~~

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

~~(11) If the nuisance has not been abated within the time allowed, the City Manager or his/her 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.~~

~~(12) 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. (Ord. 5211 § 1, 1995).~~

#### **7.84.090- 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 Council 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. (Ord. 5211 § 1, 1995).~~

#### **7.84.060100 Attractive nuisances.**

It is unlawful for any owner, lessee, occupant, or any person having control or custody or management of any premises to suffer or permit to remain unguarded upon such premises any machinery, equipment, or other device having the characteristics of an attractive nuisance or which is liable to attract children. It is further unlawful for any such owner, lessee, occupant, or person having control or custody or management of any such premises to suffer or permit to remain unguarded upon the premises any pit, quarry, cistern, well, or other excavation. (Ord. 5211 § 1, 1995).

#### **7.84.070110 Injurious substances on street.**

It is unlawful for any person, firm, or corporation to permit to accumulate in or upon any yard, lot, or place, or premises on any street, alley, or sidewalk adjacent to or abutting upon any lot, block, place, or premises owned or controlled by him/her, any stagnant water or filth of any kind or to suffer or permit such premises to be or remain in such condition as to cause or produce or create noisome or offensive smell. (Ord. 5211 § 1, 1995).

#### **7.84.080120 Animal carcasses.**

It is unlawful for any person to suffer or permit the carcass of any animal owned by him/her to remain upon the public streets or ways, and no person who is the owner or occupant of any property shall suffer or permit the carcass of any animal to remain thereon. It shall be the duty of such owner or occupant forthwith to cause the carcass to be buried or other disposition made of the same. (Ord. 5211 § 1, 1995).

**7.84.090130 Deposit of offensive substances.**

It is unlawful for any person to put any animal carcass or part thereof, or any excrement, or any putrid, nauseous, decaying, deleterious, or offensive substances in any stream, well, spring, brook, ditch, pond, or other inland waters within the corporate limits of the City, or to place any such substance in such position that high water or natural seepage will carry the same into any such waters. (Ord. 5211 § 1, 1995).

**7.84.10040 Drainage of surface waters.**

It is unlawful for the owner, lessee, or occupant of any building or structure to suffer or permit rainwater, ice, or snow to fall from any such building or structure upon any street or sidewalk or to flow across any such sidewalk, and every such owner, lessee, or occupant shall at all times keep and maintain in a proper state of repair adequate drainpipes or a drainage system sufficient to carry to the street, or other approved drainage facility, any overflow water accumulating on the roof or about such building. (Ord. 5841 § 2, 2014; Ord. 5211 § 1, 1995).

**7.84.11050 Creating a hazard.**

A person commits the crime of creating a hazard if:

- (1) He/she intentionally maintains or leaves in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside; or
- (2) Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation or other hole of a depth of four feet or more and a top width of 12 inches or more and he/she intentionally fails or refuses to cover or fence it with a suitable protective construction. (Ord. 5211 § 1, 1995).

**7.84.12060 Noxious vegetation, weeds, and tall grass. ~~which constitute a fire hazard or vision clearance hazard are declared a nuisance.~~**

- (1) It is hereby determined and declared that weeds, tall grass, or other noxious vegetation are a public nuisance under any of the following conditions:
  - (a) When excess vegetation is determined by the Fire Chief or his/her designee to be a fire hazard, as defined under the provisions of the Oregon Fire Code;
  - (b) When a property contains plants that are poisonous to the touch (including, but not limited to, poison ivy, poison oak, and poison sumac);
  - (c) When rampantly growing plants (including blackberries, bamboo, etc.)
    - i. Cross property lines;
    - ii. cause damage to fences or structures; or
    - iii. cross onto the public right-of-way or impede travel on any part of a street or sidewalk;
  - (d) When vegetation creates a public safety concern such as blocking the view of oncoming traffic or blocking vision clearance areas around intersections and driveways; or
  - (e) When grass is in excess of 12 inches.

~~(1) It is hereby determined and declared that weeds, grass, or other noxious vegetation when determined by the Fire Chief or his/her designee to be a fire hazard, as defined under the provisions of the Uniform Fire Code, are a public nuisance.~~

~~(2) It is hereby determined and declared that weeds, grass, or other noxious vegetation over 15 inches in height are determined to be a vision clearance hazard and a public nuisance whenever they are at any of the locations set forth below:~~

- ~~(a) Within 50 feet of the facing edge of the curb of any improved street or road; or~~
- ~~(b) Within 50 feet of the edge of the pavement on any paved, but not fully improved, street or road; or~~
- ~~(c) Within 50 feet of the traveled way on any unimproved dirt or gravel street or road.~~

- (2) It is unlawful for the owner or any person in possession or control of any lot or premises within the city to maintain a lot or premises which is determined to be a fire hazard or ~~safety vision clearance~~ hazard as defined in ~~subsections (1) or (2) above.~~ (Ord. 5540 § 1, 2002; Ord. 5250 § 1, 1996; Ord. 5211 § 1, 1995).

(3) Violation of this section shall be an infraction.

#### **7.84.13070 Notice to property owner for noxious vegetation, weeds, and tall grass.**

Unless abated as an ~~imminent nuisance summary~~ abatement as provided in AMC ~~7.84.150 -7.84.180~~, the Fire Chief ~~City Manager or his/her designee, in the case of abatement due to a fire hazard, or the Public Works Director City Manager or his/her designee, in the case of abatement of a~~ ~~safety vision clearance~~ hazard, shall notify the owner or person in possession or control of the premises on which the nuisance is located of the presence of the nuisance.

- (1) Notice shall be sufficient if it is mailed to any person at the same address that person receives notice of taxes due upon the real property in question. Said notice shall be by ~~first class certified mail or delivered in person.~~ ~~and this notice shall be sufficient to apply the provisions of the abatement process contained in AMC 7.84.180.~~ (Ord. 5250 § 2, 1996; Ord. 5211 § 1, 1995).

(2) 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 14 calendar days;
- (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 if the condition is not abated within the time frame specified a citation could be issued.

#### **7.84.140 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. (Ord. 5211 § 1, 1995).

#### **7.84.150 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 his/her 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 his/her 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 ~~7.84.160~~ and ~~7.84.170~~. (Ord. 5211 § 1, 1995).

**7.84.160 Regular abatement.**

Where there is no imminent danger to human life, safety, or to property but a nuisance is found to exist, the following abatement 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 person occupying the property abate the situation.
- (2) At the time of posting, the City Manager or his/her designee shall hand deliver or send a copy of the notice by certified mail and first class 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) If prior notice of abatement was sent to the owner or person in charge of the property within the preceding 12 months, and ownership or control of the property has not changed and the prior notice was returned as undeliverable or the delivery was refused, then notice can be provided via publication in a newspaper of general circulation at least 10 days before abatement action is taken.
- (4) The notice to abate 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 protest the abatement by giving written notice to the City Manager or his/her 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.
- (5) 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 his/her designee stating the date and place of delivering/ mailing and posting.
- (6) 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.
- (7) Within 10 days after the posting and delivering/ mailing of the notice, the owner or person in charge of the property shall abate the condition, substance, act, or nuisance specified in the notice, or appeal the City Manager's decision to the Municipal Court as specified in subsection (8) of this section.
- (9) Any person who shall receive a notice described in subsection (4) of this section may appeal the City Manager's decision by filing a notice of appeal with the City Manager or his/her designee within 10 days after the posting and mailing of the notice. The appeal must specify the basis therefore.
- (10) The appeal shall be referred to the Municipal Court for a hearing.

- (11) 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.
- (12) If the nuisance has not been abated within the time allowed, the City Manger or his/her 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.
- (13) 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. (Ord. 5211 § 1, 1995).
- (14) Remedies Nonexclusive. The procedures provided by this chapter are not exclusive, but are in addition to abatement procedures and other remedies provided by other laws and ordinances. (Ord. 5250 § 3, 1996; Ord. 5211 § 1, 1995).

**7.84.170 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. (Ord. 5211 § 1, 1995).

**7.84.180 Abatement.**

~~(1) Right to Appeal Fire Hazard Determination. If the owner or person in possession or control of the real property that is determined to be a fire hazard, as provided in AMC 7.84.160, wishes to contest the decision of the Fire Chief or his/her designee concerning the presence of a fire hazard on the subject premises, such appeal must be perfected as follows:~~

~~(a) Written notice of appeal must be actually received by the office of the Albany Fire Chief within 10 days of appellant's receipt of the notice described in AMC 7.84.170.~~

~~(b) The notice of appeal must name all owners of the real property in question and all persons in possession and control thereof. The notice shall also set forth the addresses and telephone numbers of all such persons. The notice shall also set forth the particulars by which the appellant disagrees with the determination of the Fire Chief or his/her designee.~~

~~(c) Upon receipt of a notice of appeal as subscribed above, a hearing shall be held before the Building Board of Appeals. Notice of the hearing shall be mailed to the appellant at the address set forth in the notice of appeal. Failure of the appellant to attend the hearing shall constitute an abandonment of the appeal.~~

~~(d) The Building Board of Appeals may affirm, reverse, or modify the decision of the Fire Chief or his/her designee.~~

~~(e) The decision of the Building Board of Appeals shall be made in writing and shall be mailed to the appellant at the address set forth in the notice of appeal. The decision of the Building Board of Appeals shall be final.~~

~~(2) Time to Abate Nuisance. Except in the case of summary abatement, a person who receives a notice advising them of the existence of noxious vegetation, weeds, and grasses upon property subject to their ownership, possession, or control shall have 10 days from the receipt of such notice to cut or otherwise remove the vegetation in accordance with the direction contained within the notification. In the event that the nuisance exists as a result of a fire hazard, the time for abatement shall be extended in the event of an appeal. Such extension shall end 10 days following resolution of the appeal or at such other time as the Building Board of Appeals may specifically provide. In the event that the nuisance has not been abated within these time lines, the City may proceed to abate the nuisance as further provided in this section.~~

~~(3) Cutting and Removal by City. The City Manager or his/her designee may cause to be cut any weeds, grass, or other noxious vegetation which have been determined to be a public nuisance. The cost of removal of said weeds, grass, and other noxious vegetation shall be a fee sufficient to cover the direct cost of removal, plus 30 percent for administrative overhead; and this total cost and fees shall be charged to owner of the property and will become a lien against the property.~~

~~(4) Right to Enter. In the event it becomes necessary for the City Manager or his/her designee to undertake the cutting and removal of the grass, weeds, and other noxious vegetation from any premises within the city, the designate of the City Manager shall have the right at reasonable times to enter into or upon said property to cut said grass, weeds, and other noxious vegetation.~~

~~(5) Cost to Become a Lien. Upon completion of clearing of any real property under the provisions of this section, and in the event the fee is not paid within 30 days thereafter, the City Manager or his/her designee shall file with the City Recorder and thereafter present to the City Council and itemized statement of the cost thereof as specified in this section. After providing the notice and hearing set forth below, the City Council shall, by ordinance, determine the reasonableness of said statement of costs and adjust the same if necessary and thereupon the amount of such statements as approved by the City Council shall be an obligation owed to the City of Albany by the owner or owners of the real property involved; and the City shall have a lien upon said real property for such sum and the lien shall be entered in the lien docket and enforced against said property in the same matter provided for the enforcement of City liens.~~

~~(6) Notice and Hearing. Prior to the adoption of the ordinance referred above, the City Manager or his/her designee shall cause a notice to be mailed by registered or certified mail, postage prepaid, to the record owner or owners of any real property upon which the City proposes to impose a lien for the costs of clearing of any real property under this section. This notice shall be mailed to the owner or owners of the real property in question at the address designated in the County Real Property Tax Assessment Rolls. An error in the name of the property owner or owners shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void. Any lien imposed pursuant to this section shall be a valid lien against the property. The notice shall contain a summary of the costs which are proposed to be assessed against the owner's property and shall advise of the City's intent to assess said costs against the real property upon which the work was performed and shall further advise the owner or owners of their right to hearing before the City Council concerning the proposed assessment and the date and time of said hearing.~~

~~(7) Summary Abatement. Should the Fire Chief or his/her designee determine, in the case of a nuisance based upon a fire hazard, or the Public Works Director or his/her designee determine, in the event of a nuisance due to vision clearance hazard, that the nuisance in question constitutes a serious and immediate life safety hazard, the City may summarily abate the nuisance, either through the use of City personnel or third persons contracted for that purpose, without prior notice to the property owner or persons in possession or control of the premises. As soon as practicable following such abatement, the applicable City official shall cause a notice describing the abatement to be mailed to the property owner by certified mail at the address to which such person would have been entitled to receive notice pursuant to a nonsummary abatement. If the summary abatement was undertaken as a result of a fire hazard, the property owner may appeal the City's actions in the same manner as that provided for a nonsummary abatement and the Building Board of Appeals shall determine whether or not circumstances justifying summary abatement existed. In the event that the Building Board of Appeals determines that summary abatement was warranted, the costs of such abatement, together with the administrative charge, shall become a lien upon the property in the same manner as a nonsummary abatement. In the event that the Building Board of Appeals determines that summary abatement was not required, the costs of the abatement shall not be charged against the property. The costs incurred in the abatement of a vision clearance hazard, including the administrative charge, shall be charged against the property and become a lien in the same manner as in nonsummary abatement.~~

~~(8) Remedies Nonexclusive. The procedures provided by this chapter are not exclusive, but are in addition to abatement procedures and other remedies provided by other laws and ordinances. (Ord. 5250 § 3, 1996; Ord. 5211 § 1, 1995).~~

**7.84.180190 Ongoing sale of household items (garage sales) deemed a nuisance.**

- (1) It is unlawful to offer, from a residential address, household items for sale to the general public more than three times per calendar year and in excess of three consecutive days per event.
- (2) Items offered for sale shall not be displayed or stored in the public right-of-way, in a clear vision area, or on another's property without the owner's permission.
- (3) Signs advertising garage sales shall not exceed two on-premises and two off-premises signs measuring no more than four square feet per face and four feet in height. ~~Signs shall not be erected in the public right-of-way.~~ Signs shall be erected no more than one day prior to the event and shall be removed not later than one day after.
- (4) The prohibitions set forth above shall apply jointly and severally to each owner or occupant of the real property used in the commission of the violation and/or any person who offers goods for sale.
- (5) Violation of this section shall be an infraction. (Ord. 5211 § 1, 1995).

**7.84.190210 Requirements for shopping cart providers.**

A person that supplies shopping carts for public use at the person's business shall:

- (1) Post signs in sufficient number to give notice to members of the public entering onto or leaving the business premises that unauthorized appropriation of a shopping cart is a crime under ORS 164.015 and provide a toll-free or local telephone number that members of the public may use to report abandoned shopping carts.
- (2) Identify the person's business on each shopping cart and post a sign on the shopping cart that:
  - (a) Notifies any member of the public using the shopping cart that unauthorized appropriation of a shopping cart is a crime under ORS 164.015;
  - (b) Provides a toll-free or local telephone number for use in reporting an abandoned shopping cart.
- (3) Establish, maintain, and make available to the public, at the person's own expense, a toll-free or local telephone line for the purpose of reporting abandoned shopping carts. The person shall forward each report the person receives concerning an abandoned shopping cart to the owner of the shopping carts and to the Albany Police Department Community Resource Unit.
- (4) Retrieve abandoned shopping carts. (Ord. 5694 § 1, 2008).

**7.84.200220 Retrieval and disposal of carts – Fees.**

- (1) A person may agree with other persons to share and to pay expenses related to the toll-free or local telephone line described in AMC ~~7.84.190210(3)~~. The agreement shall provide that any person designated to operate the toll-free or local telephone line and receive reports concerning abandoned shopping carts must forward the reports in accordance with AMC ~~7.84.190210(3)~~.
- (2) A person shall retrieve a shopping cart that the person owns within 72 hours after receiving notification that the shopping cart has been abandoned.

- (3) If the City identifies, salvages, or reclaims an abandoned shopping cart, it shall use the toll-free or local telephone line described in AMC 7.84.190210(3) to report the existence and location of an abandoned shopping cart, if the owner is identifiable.
- (4) The City may take custody of an abandoned shopping cart and impose a fine of \$50.00 on the owner of the shopping cart if the owner does not retrieve the shopping cart within 72 hours after the City makes a report under subsection (3) of this section or after the owner receives a report under AMC 7.84.190210(3).
- (5) The City may release a shopping cart in the City of Albany's custody to the owner upon payment of the \$50.00 fine.
- (6) The City may take title to a shopping cart in the City of Albany's custody and dispose of the shopping cart as the City of Albany deems appropriate if the owner does not claim the cart within 30 days. (Ord. 5694 § 1, 2008).

Passed by Council: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 9.04, MAINTENANCE OF PROPERTY, BY CREATING A NEW SECTION 9.04.045, ENTITLED UNSANITARY CONDITIONS.

WHEREAS, the City of Albany is creating AMC Section 9.04.045, Unsanitary Conditions, to improve the livability of the community and to promote safe neighborhoods; and

WHEREAS, unsanitary conditions occur in dwellings that do not have permanent and potable running water from a domestic water supply; and

WHEREAS, it is in the public's best interest to include this Section in AMC Chapter 9.04 Maintenance of Property.

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

Section 1. Amending AMC Chapter Title 9, Building Code Administration and Property Maintenance.  
AMC Chapter 9.04 is hereby amended as follows:

**9.04.010 Maintenance required Responsibility.**

Any person who is the owner or in control of, or the agent for, any lot, parcel of land or premises in the City shall be required to maintain such premises in a fashion conducive to good sanitation such that no menace to the public health or well-being shall be created nor made likely to be created by any conditions which may exist or come to exist upon such premises. (Ord. 4129 § 1, 1978).

**9.04.020 Extent of menace – Appeal.**

- (1) The Health Officer as designated by the City Council and/or the Public Works Director shall be empowered to determine the extent to which any particular situation is a menace to the public health or well-being, and shall be further authorized to determine the appropriate measures to be taken and the time allowed for the removal of such menace, and the person who is the owner of, or the agent for the affected property, shall be required to take the prescribed measures in the time allowed.
- (2) Should the ruling of the Public Works Director and/or Health Officer appear to be overly harsh or unjust, the affected party may appeal to the City Council in writing and within seven days from the ruling by the Public Works Director and/or Health Officer. At the first regular meeting following receipt of said appeal, the Mayor shall appoint a committee of at least three disinterested persons, including at least one doctor of medicine who shall investigate the particular situation and ruling and make recommendations concerning the same. The Public Works Director and/or Health Officer shall then be bound to comply with such recommendations. (Ord. 4129 § 2, 1978).

**9.04.030 Definitions.**

For the purposes of this chapter, the following words, phrases, abbreviations, terms and their derivatives shall be construed as specified in this section. Words used in the singular shall include the plural and the plural the singular.

- (1) "Domestic water supply" means any water supply system which serves potable water including wells.
- (2) "Potable water" means water which is sufficiently free from biological, chemical, physical or radiological impurities so that users thereof will not be exposed to or threatened with exposure to disease or harmful physiological effects and which has such other physical properties as to be palatable to humans for drinking purposes.

- (3) "Privy" means a detached building used by humans for the purposes of defecation or urination and lacking a means of automatic discharge of the matter deposited; pit toilet. This definition shall not include properly serviced and maintained chemical toilets used on a temporary basis at construction sites or to service periodic or irregularly scheduled short term activities. Such temporary use shall not exceed 90 days without approval of the Director of Public Works. (Ord. 5026 § 1, 1993; Ord. 4129 § 3, 1978).

**9.04.040 Minimum requirements.**

Minimum requirements for good sanitation shall include at least the following:

- (1) No privy, water closet or plumbing connected indirectly to a domestic water supply not connected to a sanitary sewer of the City shall be constructed, maintained or used. Exceptions to this requirement for the connection to a sanitary sewer shall be allowed only by consent of the City Council which shall be done in the form of the City waste nonconnection permit. Application for a City waste nonconnection permit shall be made to the City Council setting forth a description of the property involved with reasons that a sewage nonconnection permit should be granted. Sewage nonconnection permits shall be issued for a period not to exceed one year and will expire one year from date of issue. Requests for renewal of sewage nonconnection permits will be made in the same manner as an application for an original sewage waste nonconnection permit.
- (2) No human excreta, kitchen wastes, laundry water, sink water or toilet wastes should be allowed to discharge or flow upon the surface of the ground or into any ditch, gutter, street, roadway or public place, nor shall such wastes discharge onto any private property so as to create a nuisance or health hazard.
- (4) No abandoned or deep well shall be used for the disposal of sewage or household or industrial wastes. No privy vault, cesspool or septic tank, allowed under a City waste nonconnection permit shall be used unless the same is watertight and shall be located in any water-bearing stratum, nor shall any privy vault, cesspool or septic tank be located so that the same may pollute any domestic water supply. (Ord. 4129 § 4, 1978).

**9.04.045 Unsanitary Conditions**

It shall be *prima facie* evidence that unsanitary conditions exist in a dwelling which does not have permanent and potable running water from a domestic water supply for a period of 14 days or more.

**9.04.050 Failure to comply with regulations.**

Failure to comply with the rules and regulations governing sanitation issued by the Oregon State Board of Health shall be prima facie evidence of violation of this chapter. (Ord. 4129 § 5, 1978).

**9.04.055 Human waste.\***

No person shall deposit or discharge any human waste on public property upon any street, alley, public grounds, building, or place open and available to the general public. (Ord. 5820 § 1, 2013).

\*Code reviser's note: Ordinance 5820 adds the provisions of this section as Section 9.04.050. The section has been editorially renumbered to prevent duplication of numbering.

**9.04.060 Penalty for violation.**

Any person violating any of the provisions of Section 9.04.010 or failing to meet the minimum requirements in Section 9.04.040 or failing to comply with the provisions of Section 9.04.045 or 9.04.050 shall be deemed guilty of a misdemeanor and shall be subjected to those penalties provided in Section 1.04.010 of this code. (Ord. 4129 § 6, 1978).

Passed by Council: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 18.30, PROPERTY MAINTENANCE, SECTION 18.30.105, EXCESSIVE VEGETATION.

WHEREAS, the City of Albany is amending AMC Chapter 18.30, Property Maintenance, to update Section 18.30.105, Excessive Vegetation, to be aligned with AMC Chapter 7.84, Public Nuisances, Section 7.84.120, Noxious vegetation, weeds, and tall grass; and

WHEREAS, both AMC Chapters 18.30 and 7.84 address excessive vegetation; and

WHEREAS, it is in the public's best interest to remove duplicate language in AMC 18.30.105.

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

Section 1. Amending AMC Title 18, Building Code Administration and Property Maintenance. AMC Chapter 18.30, Section 18.30.105 is hereby amended as follows:

**18.30.105 Excess vegetation.**

~~All weeds and grass that are located in lawn areas and have a prevailing height in excess of 15 inches should be cut and removed and kept cut and removed. (Ord. 5647 § 1 (Exh. C), 2006).~~ Shall comply with AMC 7.84.120.

Passed by Council: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE (AMC) TITLE 7 BY ADDING A NEW CHAPTER 7.83 TITLED DERELICT STRUCTURES.

WHEREAS, the City of Albany is adding AMC Chapter 7.83, Derelict Structures, to improve the livability of the community and to promote safe neighborhoods; and

WHEREAS, derelict structures pose a safety hazard to residents and are an attractive nuisance; and

WHEREAS, AMC Chapter 7.83 will allow public safety personnel to better address derelict structures; and

WHEREAS, vandalism, squatting, theft, and other crime types associated with derelict structures will be reduced.

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

Section 1. Amending AMC Title 7, Public Peace, Morals, and Safety. AMC Title 7 is hereby amended to add Chapter 7.83 titled Derelict Structures:

Sections:

- 7.83.010 Derelict Structures Prohibited.
- 7.83.020 Definition.
- 7.83.030 Order to Vacate Building or Structures.
- 7.83.040 Prohibited Habitation.
- 7.83.050 Removal of Placard Prohibited.
- 7.83.060 Temporary Safeguards.
- 7.83.070 Derelict Structure Registration.
- 7.83.080 Derelict Structure Fees.
- 7.83.090 Refund of Derelict Structure Fees.
- 7.83.100 Abatement.
- 7.83.110 Interference with abatement personnel prohibited.
- 7.83.120 Costs to become a lien.

**7.83.010 Derelict Structures Prohibited.**

Derelict buildings or structures on any property are hereby declared to be unlawful.

**7.83.020 Definition.**

A derelict building or structure, as a result of disuse and neglect, exists if the building or structure is unfit for human habitation, or poses an incipient hazard, or is detrimental to public health, safety or welfare, as a result of one of the following conditions. The Police Chief or his/her designee, at his/her sole discretion, shall determine a building or structure derelict based on the number and extent of the following factors:

- (1) Unoccupied and unsecured;
- (2) Partially constructed;
- (3) Abandoned structure or attractive nuisance;
- (4) Dilapidation (in a state of disrepair due to misuse or neglect);
- (5) Structural defects noted by the Building Official or his/her designee;
- (6) Identification as a dangerous building or structure per AMC 18.28;
- (7) Defects increasing the hazard of fire, accident, or other calamity;
- (8) Infestation of pests; and
- (9) No utility service(s) to maintain sanitary conditions.

**7.83.030 Order to Vacate Building or Structures.**

- (1) If the Police Chief or his/her designee finds a building or structure in violation of AMC 7.83.010, the Police Chief or his/her designee shall order that a certified letter be mailed to the property owner and a placard be posted on the building or structure, ordering the building or structure vacated, and the owner to register the building or structure as provided in AMC 7.83.070 – 7.83.090.
- (2) The placard shall contain listed information:
  - (a) Description of the premises sufficient for identification;
  - (b) A statement of the reason or reasons why the location has been posted;
  - (c) Correction order allowing 30 days for the repairs and improvements required to bring the premises into compliance with the provisions of this Chapter. An alternate compliance schedule can be requested per AMC 7.83.070;
  - (d) Notice that the City may abate the nuisance pursuant to this Chapter and that the person(s) responsible shall be liable for the cost of such abatement.

**7.83.040 Prohibited Habitation.**

No person shall inhabit a derelict building or structure, and no owner shall allow any person to inhabit a derelict building or structure ordered vacated by the Police Chief or his/her designee.

**7.83.050 Removal of Placard Prohibited.**

- (1) The Police Chief or his/her designee shall remove a placard whenever the conditions that resulted in the order to vacate the building or structure have been eliminated.
- (2) No person shall deface a placard, and a placard shall not be removed without the approval of the Police Chief or his/her designee.

**7.83.060 Temporary Safeguards.**

Notwithstanding any other provision of this Chapter, whenever, as determined by the Police Chief or his/her designee, a building or structure poses an imminent hazard or incipient hazard as defined in 18.04.070(24). The Police Chief or his/her designee may order necessary work to be performed, including the boarding of openings, to render such building or structure temporarily safe and secure, whether or not proceedings to abate the hazard have been instituted; and shall cause such other action to be taken that the Police Chief or his/her designee deems necessary to meet such condition. All work shall be done in accordance with applicable federal, state, and local regulations and permit conditions.

**7.83.070 Derelict Structure Registration.**

If the Police Chief or his/her designee determines that a building or structure is a derelict structure, the owner shall be required to register the building or structure within ten (10) days of the Police Chief or his/her designee's issuance of an order to register. Registration shall be made on forms provided by the Police Chief or his/her designee, and shall include information relating to the location and ownership of the building or structure, the expected period of its vacancy, a plan for regular maintenance during the period of vacancy, and a plan for its re-occupancy and use, or its remediation or demolition. Any changes in the information required to be provided pursuant to this section shall be given to the Police Chief or his/her designee not more than 30 days of the date of such change. When all conditions making the building or structure a derelict structure have been corrected, the owner shall contact the Police Chief or his/her designee and request an inspection to determine compliance. Said inspections and determination of compliance are separate, and in addition to, those required to meet other regulatory requirements or to satisfy permit conditions.

As part of the registration process, the owner can submit a written request and supporting documentation for an extension of time to bring the derelict structure into compliance. The Police Chief and/or his designee will review the submittal and make determination within 10-days. Whether or not an extension will be granted, and for how long, is at the sole discretion of the Police Chief or his/her designee.

**7.83.080 Derelict Structure Fees.**

- (1) Derelict structure fees will be set by Council resolution.
- (2) Every owner who, after receipt of notice under AMC 7.83.070, fails to register the building or structure within the required time set forth in the notice, or registers the building or structure but allows the building or structure to remain in a derelict condition after timeline granted expires, shall pay a monthly fee as set by council resolution. All fees imposed under this section are to be paid prior to the issuance of any permit required for the demolition, alteration, or repair of the derelict building or structure.
- (3) The Police Chief or his/her designee may, upon a showing by the owner of undue economic hardship, defer payment of the fees imposed by AMC 7.83.080 on an owner-occupied residential building or structure deemed derelict under this Chapter. If the owner complies with AMC 7.83.090 (1), the fees shall be forgiven.

**7.83.090 Refund of Derelict Structure Fees.**

- (1) The Police Chief or his/her designee shall refund derelict building or structure fees imposed under AMC 7.83.080, if the following conditions are met:
  - (a) A timetable for the abatement of the conditions or demolition of the building or structure was submitted by the owner and approved by the Police Chief or his/her designee as provided for this Chapter; and
  - (b) All required permits and related inspections were obtained for the repair or demolition of the building or structure and all permit conditions have been satisfied; and
  - (c) The abatement of the conditions or demolition of the building or structure is completed in the time set forth in AMC 7.83.030, related permits, or any approved extension thereof; and
  - (d) The owner has provided written authorization for the City (within 90 days of notice) to enforce all applicable trespass and illegal camping ordinances and laws.

**7.83.100 Abatement.**

In addition to the penalties as provided for in other portions of this Chapter, the City may abate a derelict building or structure.

Where there is no imminent danger to human life, safety, or property but a derelict building or structure is found to exist, the following abatement procedures will apply:

- (1) Notice shall be posted on the premises where the nuisance exists, directing that the owner and person in charge of the property abate the situation.
- (2) At the time of posting, the Police Chief or his/her designee shall send a copy of the notice by certified mail and first class 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, if known, and if different from the owner.
- (3) If prior notice of abatement was sent to the owner or person in charge of the property within the preceding 12 months, and ownership or control of the property has not changed and the prior notice was returned as undeliverable or the delivery was refused, then notice can be provided via publication in a newspaper of general circulation at least ten (10) days before abatement action is taken.
- (4) The notice to abate 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 is removed, the City may abate the situation, and the cost of abatement shall be a fee sufficient to cover the direct cost of abatement, plus 30 percent for

- administrative overhead; and this total cost and fees shall be charged to the owner;
- (e) A statement that the owner or person in charge of the property may protest the abatement by giving written notice to the Police Chief or his/her designee within ten (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 and become a lien on the property.
- (5) After completion of the posting and mailing, the person posting and mailing the notice shall file this notice with the City Manager or his/her designee stating the date and place of mailing and posting.
  - (6) 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.
  - (7) Within ten (10) days after the posting and mailing of the notice to abate, the owner or person in charge of the property shall abate the nuisance specified in the notice, or appeal the Police Chief's decision to the Albany Municipal Court specified in subsection (8) of this section.
  - (8) Any person who receives a notice described in subsection (4) of this section may appeal the Police Chief's decision by filing a notice of appeal with the Police Chief or his/her designee within ten (10) days after the posting and mailing of the notice. The appeal must specify the basis there for.
  - (9) The appeal shall be referred to Albany Municipal Court for a hearing.
  - (10) If the 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 ten (10) days of the Judge's decision.
  - (11) If the nuisance has not been abated within the time allowed, the Police Chief or his/her 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.
  - (12) The person charged with the abatement of the nuisance shall have the right to enter upon the property to investigate or cause the removal of the situation.

**7.83.110 Interference with abatement personnel prohibited.**

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

**7.83.120 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.

Passed by Council: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Clerk

AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE (AMC) TITLE 7 BY ADDING A NEW CHAPTER 7.85 TITLED CHRONIC NUISANCE PROPERTY.

WHEREAS, the City of Albany is adding AMC Chapter 7.85, Chronic Nuisance Property, to address repeated unlawful activities occurring on certain real property; and

WHEREAS, a chronic nuisance property can create an unsafe condition in neighborhoods and impacts the livability of the community; and

WHEREAS, Chapter 7.85 will allow public safety personnel to address chronic nuisance properties; and

WHEREAS, civil regulation of chronic nuisance properties will promote and protect the public health, safety, and welfare of City of Albany residents.

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

Section 1. Amending AMC Title 7, Public Peace, Morals, and Safety. AMC Title 7 is hereby amended to add Chapter 7.85 titled Chronic Nuisance Property:

Sections:

- 7.85.010 Declaration of Purpose.
- 7.85.020 Chronic Nuisance Property.
- 7.85.030 Definitions.
- 7.85.040 Police Chief's Determination.
- 7.85.050 Determination of Hearing Officer.
- 7.85.060 Remedies.
- 7.85.070 Multi-Unit Property.
- 7.85.080 Civil Penalty.
- 7.85.090 Penalty and Costs of Review as Lien.
- 7.85.100 Closure of Property.
- 7.85.110 Entering Closed Property.
- 7.85.120 Liability.
- 7.85.130 Violation.

**7.85.010 Declaration of Purpose.**

- (1) Repeated unlawful activities (specifically enumerated in Section 7.85.030, below) occurring on, or resulting from the use of, certain real property within the City create unreasonable disruptions of the peace and may create unsafe condition in the neighborhoods where these real properties are located;
- (2) These repeated unlawful activates degrade neighborhoods;
- (3) Existing state criminal statutes and City ordinances are inadequate to address, control, or remedy the adverse impacts of chronic unlawful activity occurring at these specific real properties;
- (4) Civil regulation of these real properties will provide a remedy to the problems caused by these chronic behaviors and will promote and protect the public health, safety and welfare; and therefore,
- (5) Real properties where those chronic unlawful activities specifically enumerated in Section 7.85.030 below occur, or where those chronic unlawful activities result from the use of the real property, are hereby declared to be public nuisances, and are subject to the abatement procedures and other remedies set forth within this Chapter.

**7.85.020 Chronic Nuisance Property.**

- (1) Any property within the City that becomes a chronic nuisance property, as defined herein, is in violation of this Chapter and subject to its remedies.
- (2) Any person who permits property under his or her ownership or control to be a chronic nuisance property, as defined herein, shall be in violation of this Chapter and subject to its remedies.

**7.85.030 Definitions.**

- (1) "Abate" includes affirmative actions to remove, to stop, or to prevent a nuisance property but is not limited to:
  - (a) Restricting or limiting noise, loitering, parking, or access to the property, including posting the property with signs indicating such restrictions;
  - (b) Closing the property for not less than 30 days or more than 6 months; or
  - (c) Entering premises for purposes of removing, compelling the removal or destruction of the structure, thing, substance, condition, or property constituting a nuisance.
- (2) "Chronic Nuisance Property" is:
  - (a) Property upon which the owner permits three or more separate incidents listed below to occur within any 30-day period, or five or more separate incidents listed below within any 90-day period, in which at least one separate incident results in a citation or arrest;
  - (b) Property, the use of which has a causal relation to three or more separate incidents listed below occurring within any 30-day period, or five or more separate incidents listed below within any 90-day period, in which at least one incident results in a citation or arrest, and all of which occur within 100 feet of the boundary line of the subject property;
  - (c) Any combination of separate incidents as specified in Section 7.85.030(2) (a) or (b) which amounts to three or more separate incidents listed below occurring within any 30-day period or five or more separate incidents listed below within any 90-day period, in which at least one incident results in a citation or arrest; or
  - (d) For the purposes of 7.85.030(2) the following offenses shall constitute incidents which would support a finding of chronic nuisance property;
    - (1) Harassment as defined in ORS 166.065(1)(a),
    - (2) Intimidation as defined in ORS 166.155 through 166.165,
    - (3) Disorderly conduct as defined in ORS 166.025 and AMC 7.08,
    - (4) Assault or menacing as defined in ORS 163.160 through 163.190,
    - (5) Public indecency as defined in ORS 163.465,
    - (6) Prostitution or related offenses as defined in ORS 167.007 through 167.017,
    - (7) Provision of alcohol to a minor or to a person visibly intoxicated as defined in ORS 471.410,
    - (8) Offensive littering as defined in ORS 164.805,
    - (9) Criminal trespass as defined in ORS 164.245 through 164.265,
    - (10) Theft by receiving as defined in ORS 164.095,
    - (11) Arson or related offenses as defined in ORS 164.315 through 164.335,
    - (12) Possession, manufacturing, or delivery of a controlled substance or related offenses as defined in ORS 475.906 through 475.912 and 475.940 through 475.979,
    - (13) Illegal gambling as defined in ORS 167.122 through 167.127,
    - (14) Criminal mischief as defined in ORS 164.345 through 164.365,
    - (15) Firing or discharge of a firearm as defined in AMC 7.16.030,
    - (16) Unnecessary noise as defined in AMC 7.08.050,
    - (17) Sexual abuses as defined in ORS 163.415 through 163.427,
    - (18) Sexual misconduct as defined in ORS 163.445,
    - (19) Frequenting a place where controlled substances are used as defined in ORS 167.222,
    - (20) Keeping junk and trash as defined in AMC 7.84.030,
    - (21) Menacing as defined in ORS 163.190, 166.155, and 166.165,

- (22) Reckless endangering as defined in ORS 163.195,
  - (23) Any attempt to commit (as defined in ORS 161.405), and/or conspiracy to commit (as defined in ORS 161.450), any of the above activities, behaviors, or conduct.
- (3) "Control" means the ability to regulate, restrain, dominate, counteract or govern conduct that occurs on property.
  - (4) "Good cause" means circumstances beyond the ability of a person acting with reasonable care and diligence to control.
  - (5) "Incident" means an occurrence of one of the nuisance behaviors set forth in Section 7.85.030(2)(c) as described in:
    - (a) Personal observation of a law enforcement officer, or
    - (b) A determination by a law enforcement officer after an investigation that there are reasonable grounds to conclude that the alleged incident did, in fact, occur.
  - (6) "Owner" means any person, agent, firm, or corporation having a legal or equitable or management interest in a property. Owner includes, but is not limited to;
    - (a) A mortgagee in possession in whom is vested:
      - (1) All or part of the legal title to the property; or
      - (2) All or part of the beneficial ownership and a right to present use and enjoyment of the premises;or
    - (b) A person who has the legal authority to control or to obtain authority to control what occurs on that property.
  - (7) "Permit" means to suffer, allow, consent to, or acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.
  - (8) "Property" means any residential property including land and that which is affixed, incidental or appurtenant to land, including but not limited to any premises, room, house, building, or structure or any separate part or portion thereof, whether permanent or not.
  - (9) "Police Chief" means the official responsible for enforcement of State and City laws or departmental designee.
  - (10) "Structure" means that which is built or constructed, an edifice or building of any kind including units thereof or mobile homes, any of which is an addition to or a fixture on real property.

**7.85.040 Police Chief's Determination.**

- (1) If the Police Chief suspects that property may be a chronic nuisance, the Police Chief may notify the owner and the owner's registered agent, if known, in writing. In deciding whether to proceed, the Police Chief shall consider whether the owner has reported the incidents and otherwise acted responsibly and whether proceeding would discourage future reporting and cooperation in discouraging unlawful behavior. The notice shall contain the following information:
  - (a) The street address or description sufficient for identification of the property;
  - (b) That the Police Chief is considering whether the property is a chronic nuisance property together with a concise description of the information upon which the Police Chief is relying. If any of the incidents relied on occurred on property other than that which is subject of the notice, the notice may include a concise description of the location and the causal relationship between the subject property and the incident; and
  - (c) A direction that the owner has 15 days from the date of mailing the notice, to provide information to the Police Chief demonstrating that the property is not a chronic nuisance, inform the Police Chief of the actions the owner intends to take to address the allegations, or indicate good cause as to why the owner cannot do so.

- (2) If the owner fails to respond or to demonstrate to the Police Chief that further action should not be taken, the Police Chief may issue a determination of chronic nuisance and direct the owner to abate the nuisance within 30 days, or show good cause to the Police Chief why the owner cannot meet the deadline. The notice shall state that:
  - (a) If the nuisance is not abated within the 30-day period, and good cause for failure to abate is not shown, the Circuit Judge may order abatement or closure of the property with appropriate conditions. The Circuit Judge may also employ any other remedy deemed by the judge to be appropriate to abate the nuisance, including but not limited to authorizing a civil complaint in a court of competent jurisdiction;
  - (b) If the Circuit Judge orders the property owner to take some action to abate the nuisance, the owner may be required to pay to the City a civil penalty of \$250.00 a day for each day the owner fails to take action;
  - (c) If the Circuit Judge orders the owner to abate the nuisance, the owner may be required to pay a civil penalty of \$500.00 per incident for subsequent incidents, as defined by Section 7.85.030(2)(c), occurring on the property within six months of the order;
  - (d) Permitting chronic nuisance property is a violation of this Chapter; and
  - (e) The above remedies are in addition to those otherwise provided by law.
- (3) Service of the notice to the property owner provided for in this Chapter is completed upon delivery in person or upon mailing the notice by certified mail addressed to:
  - (a) The owner's registered agent, if any is known; or
  - (b) The owner at the address of the property believed to be a chronic nuisance property, or to such other address as shown on the tax rolls of the county in which the property is located or such other place which is believed to give the owner actual notice of the determination by the Police Chief.
- (4) A copy of the notice shall be served on occupants of the property, if different from the owner. Service shall be completed upon delivery in person or upon mailing the notice first class addressed to "occupant" of each unit of the property believed to be a chronic nuisance property.
- (5) In addition, a copy of the Police Chief's determination that the property is a chronic nuisance shall be posted on the main entrance of the property in a conspicuous manner.
- (6) The failure of any person or owner to receive actual notice of the determination by the Police Chief shall not invalidate or otherwise affect the proceedings under this Chapter.

**7.85.050 Determination of Hearing Officer.**

- (1) If the Police Chief determines that the owner has failed to abate the chronic nuisance or demonstrate good cause as to why the owner cannot do so, the Police Chief may refer the matter to the Circuit Judge for a hearing. The Circuit Judge may give notice of the hearing to the owner and occupants, if different from the owner, and post notice of the hearing on the main entrance of the property. At the time set for the hearing, the owner and occupants may appear and be heard. The Circuit Judge may determine *de novo* whether the property is a chronic nuisance property, whether the nuisance has been abated, and whether the owner has shown good cause or otherwise has a valid defense.
- (2) The City has the initial burden of showing by a preponderance of the evidence that the property is a chronic nuisance property. If the City is relying on an incident that occurred on property other than the property that is the subject of the chronic nuisance determination, the City shall demonstrate some causal relationship between activities occurring on the property and the incident. The activities must have contributed to, but need not be the sole or predominant cause of the incident. Evidence demonstrating a causal connection may include, but is not limited to:
  - (a) That the owner knew or reasonably should have known that the resident or other person associated with the property would engage in conduct listed in Section 7.85.030(2); or
  - (b) Activities on the subject property that encouraged, engendered, promoted, contributed to, or otherwise made the incident more likely to occur.

- (3) It shall be an affirmative defense to an action under this Chapter that the owner could not, in spite of the exercise of reasonable care and diligence, control the activities on the subject property that constituted the incident or made the incident more likely to occur or otherwise remedy the situation leading to the finding that the property is a chronic nuisance. The owner has the burden of proving this defense by a preponderance of the evidence. The action shall be dismissed if the Circuit Judge determines that the owner has proven this defense.
- (4) If the owner can prove by a preponderance of the evidence that the owner is unable to remedy the chronic nuisance within the time frames required by this Chapter, the Circuit Judge may elect to grant more time and continue its final determination as the Circuit Judge determines is just.

**7.85.060 Remedies.**

- (1) If the Circuit Judge determines that property is a chronic nuisance and the owner has not demonstrated a valid defense, the Judge may order that the nuisance be abated or close and secure the property against all use and occupancy for a period of not less than 30 days and not more than 6 months.
- (2) Prior to issuing any order of abatement or closure, a Circuit Judge may consider the following factors:
  - (a) The actions taken by the owner(s) to mitigate or correct the problem at the property;
  - (b) The financial position of the owner;
  - (c) Whether the problem at the property was repeated or continuous;
  - (d) The magnitude or gravity of the problem;
  - (e) The level of cooperation of the owner in addressing the problem, including whether the owner reported the incidents;
  - (f) The time and cost to the City in attempting to correct the problem; and
  - (g) Any other factor deemed relevant by the Circuit Judge. These factors are guidelines to inform the decision-making process, but the presence or absence of any factors shall not control the decision by the Circuit Judge.
- (3) The order may include conditions under which abatement or closure is to occur.
- (4) Upon a determination by the Circuit Judge that the property is a chronic nuisance, the Police Chief may file a notice of the proceedings to be placed with the county property records.
- (5) The remedies in this section are in addition to those otherwise provided by law. The City may also employ any other remedy deemed by it to be appropriate to abate the nuisance, including but not limited to authorizing a civil complaint in a court of competent jurisdiction.

**7.85.070 Multi-Unit Property.**

- (1) Except as provided in Section 7.85.070(2), in the case of multi-unit residential property, such as apartment complexes under one ownership, the chronic nuisance determination and closure remedy shall be directed only to the unit or units that are the source or location of the incidents.
- (2) A chronic nuisance determination and remedy may be applied to multiple units, up to and including the entire property, if the Circuit Judge determines that:
  - (a) The incident occurred in the common areas of the property or otherwise are not reasonably attributable to a particular unit;
  - (b) The nature or scope of the incidents is such that they cannot reasonably be attributed to a particular unit; or
  - (c) Incidents continue to occur despite previous imposition of remedies on specific units and the owner has demonstrated an inability or unwillingness to mitigate or correct the nuisance.

**7.85.080 Civil Penalty.**

- (1) If the Circuit Judge finds that a property is a chronic nuisance property and orders the owner to take some action to abate the nuisance, the Judge may impose upon the owner a civil penalty of up to \$250.00 per day, payable to the City, for each day after the deadline that the owner fails to take the action ordered.
- (2) If the Circuit Judge orders the owner to abate the nuisance, the Judge may impose upon the owner a civil penalty of \$500.00 per incident for subsequent incidents, as defined by Section 7.85.030(2), occurring on the property within six months of the order.
- (3) A civil penalty is assessed by issuing written notice of penalty to the owner of the chronic nuisance property and the owner's registered agent, if any is known. The notice shall contain the following information:
  - (a) The street address or description sufficient for identification of the property;
  - (b) That the Circuit Judge has found that the owner has failed to take the action required by the Judge, or that after an order to abate the nuisance, a subsequent nuisance activity has occurred, with a concise description of the conditions leading to the Judge's findings;
  - (c) That the owner may request a hearing on the validity of the assessment of the penalty by filing a request with the Circuit Judge within 14 days of the notice. The request must specifically state the grounds upon which the owner believes that the penalty is not valid;
  - (d) The penalty is final when 14 days have elapsed from the date of the notice if a request for hearing is not filed, or upon entry of an order upholding the penalty by the Circuit Judge after hearing.
- (4) The Circuit Judge shall not impose more than ten (10) days of civil penalties at a time. The Judge may impose additional civil penalties after ten (10) days by reissuing notice of imposition of penalties.

**7.85.090 Penalty and Costs of Review as Lien.**

- (1) The Police Chief may forward a statement of the assessments for penalties, cost of abatement and, if ordered by the Circuit Judge, hearing costs and attorney's fees to the Finance Director. The Finance Director shall notify the owner by mail of the sum of money due to the City. If the sum is not paid within 45 days from the billing date, the Director shall file with the Circuit Judge a statement of the sum due, plus an additional charge of thirty (30) percent to cover administrative expenses. The owner shall be notified by mail of the time and place the Circuit Judge will consider the statement of penalties and costs, and will be given a reasonable opportunity to be heard in objection thereto. The Judge will only determine if the statement of penalties and cost is correct, and will not reconsider the decision as to whether the penalties and costs of the hearing should be imposed. The Judge shall determine the correct amount of penalties and cost and shall declare the same to be a lien upon the property involved, to be entered in the minor lien docket and enforced against the property, in the same manner provided for enforcement of liens for street improvement.
- (2) Nothing in this Section shall be construed as restricting the authority of the City to enter into a settlement of the dispute, including waiving some or all amounts due to the City.

**7.85.100 Closure of Property.**

If the Circuit Judge's order of closure of a property is not appealed, or if the Judge upholds an appeal of an order which has been challenged, the City shall take steps to physically secure the property against all use, and post conspicuous notices that the property has been closed. All costs reasonably incurred by the City in securing the property shall be made an assessment lien upon the property in the manner described in AMC 7.85.100. Costs may include but are not limited to staff time and materials. Prior to physically closing the property, the City may, but is not required to, provide the owner with a brief opportunity to physically secure the property against all use at the owner's expense.

**7.85.110 Entering Closed Property.**

It is unlawful for any person to enter, use, or remain in or on property that has been ordered closed pursuant to this Chapter.

**7.85.120 Liability.**

Nothing herein shall be relied on or construed as establishing any City responsibility, obligation or liability to any third party, for damages or otherwise arising from the actions or inactions of the City in applying this Chapter. Nothing herein lessens or otherwise alters the property owner's responsibility to third parties arising from use and condition of the property.

**7.85.130 Violation.**

Violation of any of the provisions of this Chapter is a misdemeanor punishable as provided by AMC 1.04.010.

Passed by Council: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk