

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.

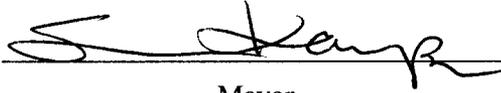
**7.83.120 Costs to become a lien.**

- (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.

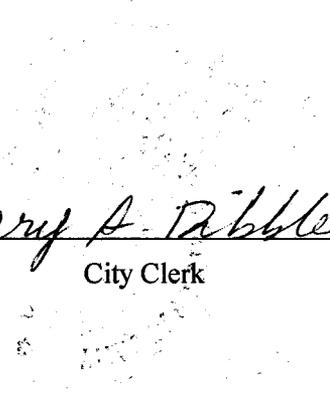
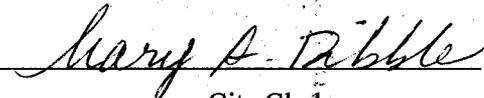
Passed by Council: Nov 9, 2016

Approved by Mayor: Nov 9, 2016

Effective Date: Dec 9, 2016

  
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Mayor

ATTEST:

  
  
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City Clerk