

AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE (AMC) TITLE 7 BY THE CREATION OF SECTION 7 82 TITLED BOARDING UP STRUCTURES

WHEREAS, the City of Albany is adding AMC Chapter 7.82, Boarding Up Structures, to address unsecured properties within the City; and

WHEREAS, unsecured properties are an attractive nuisance and contribute to neighborhood blight; and

WHEREAS, blight lowers real property values, leads to deteriorating housing conditions, undermines the quality of neighborhood life, affects the public health, safety, and general welfare; and

WHEREAS, creating reasonable regulations for boarded up structures will reduce their detrimental effects to the City of Albany’s neighborhoods and residents.

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

Creating AMC Title 7.82, titled Boarding Up Structures:

Sections:

- 7.82.010 Definitions
- 7.82.020 Unsecure Real property
- 7.82.030 Boarding Material
- 7.82.040 Real property Board-up Standard
- 7.82.050 Alternative Board-up Variance
- 7.82.060 Joint and Several Obligations
- 7.82.070 Failure to Comply
- 7.82.080 ~~Imminent Nuisance Abatement~~ ^{Public}
- 7.82.090 ~~Abatement~~
- 7.82.110 ~~Costs to Become a Lien~~

7.82.010 Definitions.

- (1) “Financial Institution” means a lender, bank, or servicer engaged in the financial services business and any of their successors or assigns that own, hold, service and/or serve as trustee of a secured interest in a real property by way of a mortgage or otherwise. “Engaged in the financial services business” applicable to a financial institution means to engage in underwriting, originating or making loans secured by a mortgage or real ~~real~~ property; or servicing loans secured by a mortgage on real ~~real~~ property in any respect, including, but not limited to collection of payments, creation and administration of escrow and insurance accounts, assessment of late-payment charges, management of loss mitigation, securing and managing foreclosed real ~~real~~ property or real ~~real~~ property undergoing foreclosure on behalf of a mortgage holder; and engaging in the preservation and maintenance of real ~~real~~ property secured by a mortgage on such real ~~real~~ property that has become unoccupied and unsecured.
- (2) “Real property” (business or residence) means any building or structure or any separate part, unit or portion thereof whether or not permanent. If one or more individual dwellings in an apartment, condominium or row house complex is unoccupied and unsecure, such dwellings shall be subject to the requirements of this Chapter
- (3) “Unoccupied” as used herein means.
 - (a) No trade or business is present by the owner or any person having a leasehold interest or record in the real property or other lawful occupancy;
 - (b) Uninhabited with no visible signs or active indications, upon casual observation, that the real

At 5/21/10

property is undergoing improvements as evidenced by an unexpired building or improvement permit, an unexpired application for such permit or other facts indicating the real property is undergoing ongoing improvements,

- (c) One or more utility connections including water, sewer, natural gas or electric connections are no longer servicing the real property, or one or more of such utility connections are not actively being billed by such utility provider to the real property (water service is exempt if real property has an active well);
 - (d) The real property has been boarded up or otherwise sealed in order to prevent it from becoming unsecure or because such boarding up or sealing was ordered by the political subdivision pursuant to its applicable municipal, county, state or federal police powers; or
 - (e) The real property is condemned or otherwise declared a violation by ~~such~~ the City of Albany
- (4) "Unsecure" or "unsecured" or "unsecure real property" means an unoccupied real property that is open, compromised or breached in such a way as to allow unauthorized physical access to the interior space of the real property by persons. Such unsecure real property includes but is not limited to broken windows, doors, crawl spaces or any other opening in the real property
- (5) "Owner" means the legal or equitable owner of real property, including a land contract vendee, tenant or lessee of the real property under a lease term of one year or more, a mortgagee in possession of a real property and any financial institution acquiring legal or equitable ownership in a real property. A financial institution in favor of which a foreclosure, receivership, quiet title or other transfer decree has been ordered by a board or court of competent jurisdiction with respect to real property shall be deemed an owner. In the case of multiple legal or equitable owners of a real property including a mortgagee in possession, each such owner shall be considered an owner of a real property, and subject to the requirements in this Chapter

7.82.020 Unsecure Real property

(1) Owners.

- (a) Within 30 days of any real property becoming an unsecured real property or within 30 days of an owner acquiring an unsecure real property, any owner of the real property shall secure the real property and shall secure it pursuant to the requirements of Section 7.82.040-7.82.050
- (b) Within 30 days of receiving notice from the City of Albany or any other political subdivision that a real property is an unsecured real property, any owner of the real property shall secure the unsecured real property and shall secure it pursuant to the requirements of Section 7.82.040-7.82.050

(2) Financial Institutions:

- (a) Voluntary Action. A financial institution that is not the owner of the unsecured real property, but that holds, owns, or services a mortgage on the unsecured real property, may board up and secure a real property in order to preserve it from the elements, vandalism, deterioration, criminal activity, unauthorized access and such other purposes deemed necessary to secure the collateral. Such financial institution shall secure the real property and shall secure it pursuant to Section 7.82.040-7.82.050.
- (b) Upon Order of City of Albany Within 30 days of receiving notice from the City of Albany, via certified mail or in person, that a real property not owned by a financial institution, but for which it holds, owns or services a mortgage on the real property, is unsecured real property, the financial institution shall secure the real property and shall secure it pursuant to the requirements of Section 7.82.040-7.82.050.

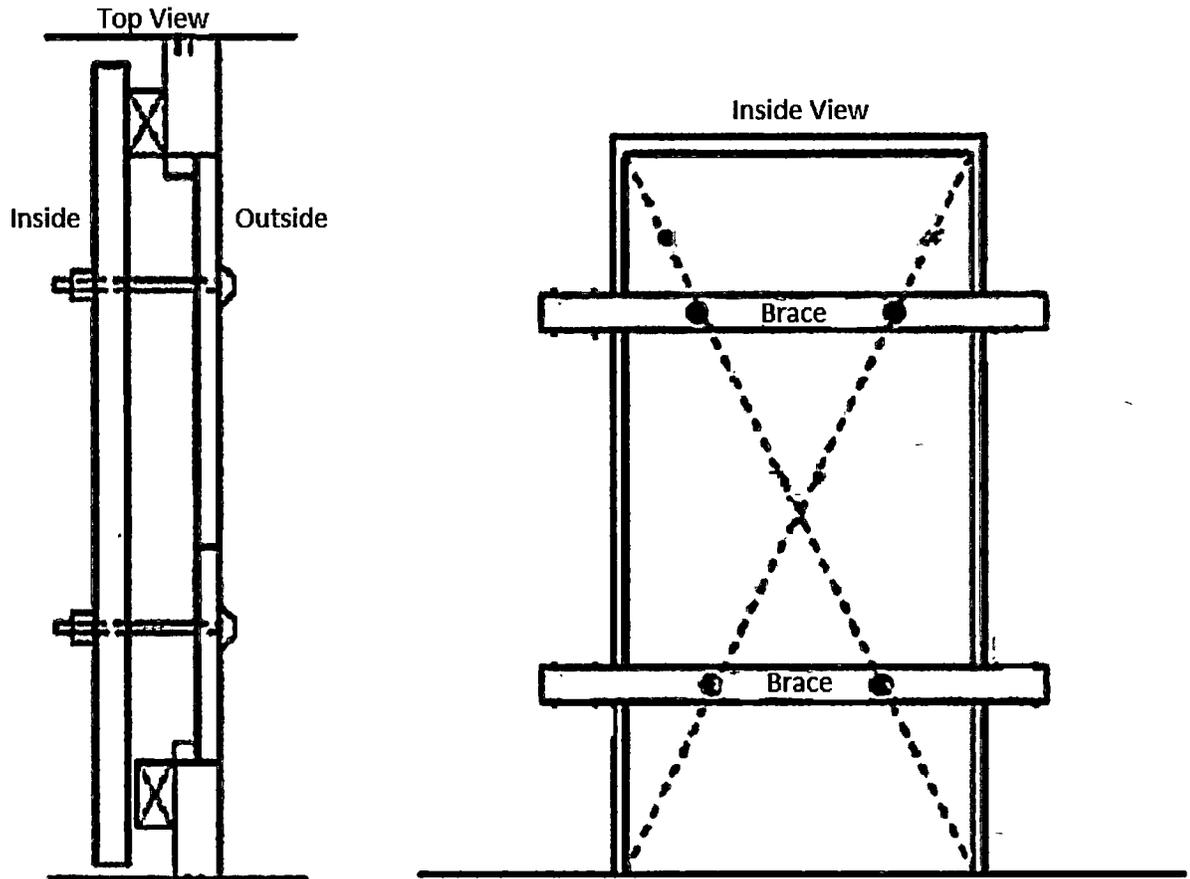
- (c) In all instances, a financial institution shall be required to comply with this Chapter from the date that it gives the owner notice of a default under the terms of the mortgage which secures the real property, or files a notice of *lis pendens*, whichever occurs first, and shall so continue to comply until such time as the subject real property is sold or transferred to a new owner at auction or otherwise. If the financial institution acquires the real property at foreclosure auction, it shall comply with this Chapter as an owner
- (d) A financial institution that is not the owner of an unsecured real property, but that holds, owns, or services a mortgage on the unsecured real property and that secures the real property as prescribed in Section 7.82.040, shall not be deemed an owner, mortgagee-in-possession, or exercising dominion or control for the real property, and shall not be liable in trespass, or unauthorized entry onto the real property as a result of securing the real property pursuant to the requirements of Section 7.82.040-7.82.050.

7.82.030 Boarding Material.

- (1) As used herein polycarbonate material means a minimum of 3/16-inch thick clear shatter proof polycarbonate material with a strength capable of sustaining impact without breaking or shattering, absent excessive force. For example, such polycarbonate material shall be capable of sustaining a human propelled brick without breaking or shattering. Example of such sheeting strength yields would include strength yields equal or greater than American Society for Testing and Materials (ASDM) D638 Tensile Strength, Yield value of 8000 psi. When this sheeting is installed it shall be installed in a manner intended to provide an appearance approximating glass in the window casing, and consistent in appearance with the surrounding surface in the case of all other openings that require securing.
- (2) As used herein plywood material means a minimum of 1/2-inch thick exterior grade or better plywood which can maintain its tensile strength through long exposure to moisture.
- (3) As used herein cross-beam means a minimum of 1.5 x 3.5-inch thick piece of solid wood material or stronger
- (4) Unless otherwise granted a variance by the City of Albany from strict compliance herewith, material such as particle board, wafer board, masonite or other similar material shall not be used for boarding up real property

7.82.040 Real property Board-Up Standard.

- (1) **General Requirement.** Unless otherwise provided in this Chapter, all real property that is unsecure shall be secured by boarding unsecure windows, doors, and other openings with sheeting material in accordance with Section 7.82.030.
- (2) When real property board-up is required all street, alley, sidewalk, and public facing sides of the structure shall have polycarbonate material used. All other sides of the structure can use plywood or polycarbonate material as described in Section 7.82.030.
- (3) **Boarding Standard – Windows.**
 - (a) **Internal Compression Method.** Windows with broken, missing, or removed glass, or that are otherwise unsecure, shall be boarded as follows;
 - (i) All remaining broken glass shall be removed from the window opening including damaged frames as to provide a clean opening;
 - (ii) The sheeting material shall be cut to match the dimensions of the inside of the window casing so that when installed, the sheeting will fit tightly and not permit a tool to be placed behind it;



7.82.050 Alternative Board-up Variance.

- (1) The City Manager or designee may grant a variance allowing all sides of a house to be boarded up using plywood material described in 7.82.030 for up to 60 days.
- (2) After the 60-day variance period has expired, all street, alley, sidewalk, and public facing sides of the structure shall be boarded up using polycarbonate material described in 7.82.030.

7.82.060 Joint and Several Obligations.

A financial institution that is not an owner of the unsecured real property to which an order to secure such real property is issued by the City of Albany, shall be required to comply with any such orders as prescribed herein.

However, nothing herein shall absolve or diminish the owners' obligation to comply with the requirements of this Chapter regardless of the issuance of any order to financial institution. A financial institution not in ownership of the unsecured real property and any owner shall be jointly and severally liable to comply with this Chapter, and shall be jointly and severally liable for all civil penalties and charges levied against them for non-compliance with any portion of this Chapter

7.82.070 Failure to Comply

Any owner or financial institution that fails to comply with the requirements of this Ordinance, upon notice of non-compliance from the City of Albany, shall jointly and severally be subject to a civil penalty of \$500 for each violation of this Chapter. Failure to comply with any portion of this Chapter within 30 days of such notice, received via certified mail or in person, shall result in a civil penalty of an additional \$500 per day for each day thereafter that such owner or financial institution remains in non-compliance with this Chapter. In addition to the fine imposed herein, the City of Albany may, but is not required, to secure the unsecured real property itself or through any authorized third party or agent as described in Section 7.82.080.7.82

7.82.080 Public Nuisance – Abatement.

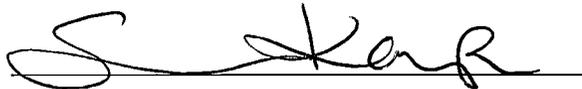
Real properties not secured within 30 days of notice as required under Section 7.82.020 are hereby declared a public nuisance and are subject to abatement and subsequent liens as described in AMC 7.84.150 through 7.84.170.

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Passed by Council. March 14, 2018

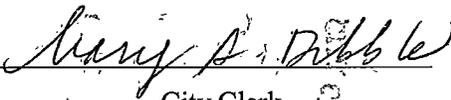
Approved by Mayor. March 14, 2018

Effective Date: April 13, 2018



Mayor

ATTEST



City Clerk