

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 7.84.0380 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 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.~~

~~(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).~~

7.84.060-100 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).

7.84.070-110 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).

7.84.080-120 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 10 inches.
 - i. Exceptions can be granted for parcels of land used for agricultural purposes.

~~(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.
- (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 Municipal Court for a hearing.

- (10) 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.
- (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).
- (13) 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: Nov 9, 2016

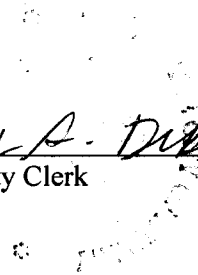
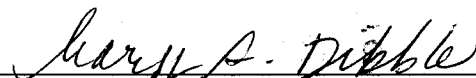
Approved by Mayor: Nov 9, 2016

Effective Date: Dec 9, 2016



Mayor

ATTEST:

City Clerk