

AN ORDINANCE AMENDING SECTIONS 7.84.160, 7.84.170, AND 7.84.180 OF THE ALBANY MUNICIPAL CODE AS THE SAME PERTAINS TO VEGETATION CONSTITUTING A FIRE HAZARD OR VISION CLEARANCE HAZARD AND DECLARING AN EMERGENCY.

WHEREAS, Chapter 7.84 of the Albany Municipal Code sets forth nuisance regulations throughout the city of Albany; and

WHEREAS, weeds, grass, or other noxious vegetation that is allowed to grow over 15 inches may pose a threat to the health, safety, and welfare of Albany residents by either posing a fire hazard or by interfering with vision clearances on public streets and rights of way; and

WHEREAS, the City of Albany wishes to prohibit property owners from allowing weeds, grass, or other noxious vegetation from growing over 15 inches tall and to enforce this law and abate any potential fire hazard or vision clearance threats to public safety.

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

**Section 1: AMC Section 7.84.160. Noxious Vegetation, Weeds, and Grass which Constitute a Fire Hazard or Vision Clearance Hazard are Declared a Nuisance.**

- (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 15 feet of the facing edge of the curb of any improved street or road; or
  - (b) Within 15 feet of the edge of the pavement on any paved, but not fully improved street or road; or
  - (c) Within 15 feet of the traveled way on any unimproved dirt or gravel street or road.
- (3) 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 vision clearance hazard as defined in Sections 1 or 2 above.

**Section 2: AMC Section 7.84.170. Notice to Property Owner.** Unless abated as a summary abatement as provided in AMC Section 7.84.180, the Fire Chief or his/her designee, in the case of abatement due to a fire hazard, or the Public Works Director or his/her designee, in the case of abatement of a 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. 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 certified mail and this notice shall be sufficient to apply the provisions of the abatement process contained in Section 7.84.180 of the Albany Municipal Code.

**Section 3: AMC Section 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 Section 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 ten (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 ten (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 ten (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% 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 premise 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 AMC Section 7.84.180 hereof, 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 AMC Section 7.84.180. 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 owners 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.

Section 4: Emergency Clause. Whereas the peace, health, and safety of the citizens is affected by this ordinance, an emergency is hereby declared; and this ordinance shall become in full force and effect upon passage by the Council and approved by the Mayor.

Passed by the Council: June 26, 1996

Approved by the Mayor: June 26, 1996

Effective Date: June 26, 1996

  
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Mayor

ATTEST:

  
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City Recorder