

ORDINANCE NO. 4641

TITLE: An Ordinance Amending Chapter 10.08 of the Albany Municipal Code to Prescribe Procedures Whereby The Nonconnection of a Structure or Building to a Public Sewer is Deemed a Nuisance and May Be Abated as Such and Declaring an Emergency.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

SECTION 1: Chapter 10.08 of the Albany Municipal Code is amended by the addition of Sections 10.08.101, 10.08.102, 10.08.103 and 10.08.104 as follows:

10.08.101 - Nuisance

(1) A structure or building normally used or inhabited by people and located within 150 feet of a public sanitary sewer which is not connected to said sewer and for which a Nonconnection Permit has not been issued is declared a nuisance and may be abated as hereinafter set forth.

(2) The abatement procedures set forth herein are not exclusive, but are in addition to abatement procedures provided by other ordinances, statutes, and common law. Nor are these abatement procedures a penalty for violating this code. Rather, these procedures are a supplement to all existing penalties.

10.08.102 - Notice to Abate

(1) If the City Manager or his designate determines that a nuisance exists pursuant to Section 10.08.101(1) above, and, in the exercise of his discretion, that the nuisance should be abated, he shall cause a notice to be posted on the premises upon which said structure or building is located directing the property owner to abate said nuisance.

(2) At the time of posting, the City Manager or his designate shall cause a copy of the aforesaid notice to be forwarded by registered or certified mail, postage prepaid, to the record owner or owners of said property, or their agent at the address designated on the Linn County real property tax assessment roles.

(3) The notice to abate shall contain:

(a) A description of the real property, by street address or otherwise, upon which the nuisance exists.

(b) A direction to abate the nuisance by a specified time which may be set by the City Manager or his designate. Said time shall be at least 30 days and at most 180 days.

(c) A description of the nuisance.

(d) A statement that unless the nuisance is corrected, the City may abate the nuisance and the cost of abatement, including, but not limited to, the costs of all permits, connection fees, construction fees and material costs shall be assessed against the real property upon which the structure or building is located.

(4) Upon completion of the posting and mailing, the persons doing said posting and mailing shall execute and file certificates stating the date and place of mailing and posting respectively.

(5) An error in the name or address of the property owner/owners/agent shall not make the notice void and in such case the notice shall still be sufficient.

10.08.103 - Abatement Procedures

(1) In the event that the structure or building in question has not been lawfully connected to a public sanitary sewer nor obtained a nonconnection permit within the time specified in the notice of abatement, the City Manager or his designate may cause said structure or building to be connected to the public sewer.

(2) The aforesaid connection, may be completed by the City or by private contractors hired by the City for the completion of said work.

(3) The City, or the aforesaid private contractor and all authorized employees and agents thereof, shall have the right at reasonable times to enter into or upon the property in question as necessary to complete said connection.

(4) Notwithstanding the foregoing, if the City Manager or his designate finds that the structure or building has not been connected to the public sewer within the time specified in the notice but finds that the property owner/owners are making a good faith effort to complete said connection, the City Manager, or his designate, may grant one or more 30-day extensions upon the written request from the property owner/owners in question.

10.08.104 - Assessment of Costs

(1) Upon completion of the connection pursuant to the foregoing abatement procedures, the City Manager or his designate, shall prepare a recap of all costs incurred in construction of the sewer connection in question. Said costs shall include the costs of all permits and connection fees customarily charged by the City at the time of said connection. To this sum shall be added 15 percent to help defer the City's engineering, legal and administrative expenses incurred in the aforesaid connection.

(2) A summary of costs shall be mailed by registered or certified mail to the same person or persons to whom the notice of abatement was sent as per Section 10.08.102(2) above, or their successors in title, and shall advise of the City's intent to assess said costs against the real property upon which the structure or building is located and shall further advise the owner/owners of their right to a hearing before the City Council prior to assessment upon receipt by the City Manager, within 30 days of the date of mailing, of a written request for hearing.

(3) If the costs of abatement are not paid to the City within 30 days from the date of the mailing of the summary of costs, said summary shall be presented to the City Council and if the Council finds said costs to be reasonable the Council shall pass a resolution directing the amount of said costs be entered in the docket of City liens; and upon such entry being made, said costs shall constitute a lien upon the property in question. Prior to passing said resolution the Council will afford the property owner/owners a right to be heard by the Council if a written request for hearing has been received by the City Manager within 30 days of the date of mailing of the aforesaid summary of costs.

(4) The lien shall be enforced in the same manner as liens for street improvements and shall bear interest at a rate to be determined by the Council at the time of the resolution referred to above. The interest shall commence from the date of entry of the lien in the lien docket and shall have priority over all other liens and assessments to the maximum extent permitted by law.

(5) An error in the name of the property owner/owners/agents shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

SECTION 2: Inasmuch as it is necessary for the peace, health, safety and welfare of the citizens of Albany, Oregon that the above Ordinance take effect as soon as possible and an emergency is hereby declared to exist, this Ordinance shall become immediately effective upon its passage by the City Council and approval by the Mayor.

PASSED BY THE COUNCIL: August 8, 1984

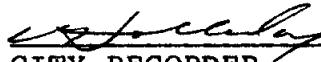
APPROVED BY THE MAYOR: August 10, 1984

EFFECTIVE DATE: August 8, 1984

ATTEST:



Mayor



CITY RECORDER