

ORDINANCE NO. 11- 02

AN ORDINANCE AMENDING THE ASTORIA CITY CODE CHAPTER 5 CONCERNING PROPERTY MAINTENANCE, VACANT BUILDING, AND DERELICT BUILDING ORDINANCE INCLUDING STANDARDS, ENFORCEMENT, AND FEES.

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Sections 5.670 to 5.680, adopting a Property Maintenance, Vacant Building, and Derelict Building Ordinance, is hereby added to read as follows:

**“PROPERTY MAINTENANCE, VACANT BUILDING, AND DERELICT BUILDING
ORDINANCE**

5.670 Purpose.

The purpose of this Ordinance is to establish an enforcement program to address the problem of derelict, abandoned, and vacant commercial and residential buildings and property within the City in order to protect the public health, safety, and welfare of the community through the required maintenance of unkempt, unsightly, unsafe, unsanitary, and otherwise improperly maintained premises and structures.

The program is intended to protect the City from blight, deterioration, and decay as a result of properties in a condition or state that potentially would have an adverse effect on the value, utility, and habitability of property within the City. In addition to the obvious hazards which these conditions pose to the public health, safety, and welfare, they specifically cause damage to adjoining and nearby properties. A property which is merely unkempt or vacant for long periods may reduce the value of adjoining and nearby property, and the habitability and economic well-being of the City may be materially and adversely affected.

The goal of this Ordinance is as follows:

1. To supplement the City Nuisance Ordinance and further define as public nuisances those conditions which constitute visual blight and which could result in conditions which are harmful or deleterious to the public health, safety and welfare; and
2. To develop regulations that will promote the sound maintenance of property, enhance the livability, community appearance, and the social, economic, and environmental conditions of the community; and
3. To establish guidelines for the correction of property maintenance violations and nuisances that afford due process and procedural guarantees to affected property owners; and
4. To support responsible environmental practices with the repair and reuse of existing structures in lieu of demolition of buildings that are able to be repaired.

5. To prevent demolition by neglect of historic properties within the City as they are deemed to be an economic resource of the City.

5.672 Administration.

1. The Community Development Department shall be responsible for administering a program for identifying and monitoring the condition of buildings and properties within the City.
2. The City may take appropriate steps to gain entry into or upon the property to investigate and/or cause the removal of a nuisance.

5.674 Derelict Buildings or Property.

A structure or property in violation of the standards identified in the Property Maintenance, Vacant Building, and Derelict Building Ordinance shall be declared a derelict building/property and a nuisance. Derelict buildings or properties are subject to the requirements for Abatement of Nuisances, Housing Receivership, and/or other methods of enforcement available to the City. Derelict buildings may include demolition by neglect of historic buildings.

Determination of whether a building or property is in violation of the Property Maintenance, Vacant Building, and Derelict Building Ordinance shall be made by the Community Development Director. The Director should consult with the Building Official, Police Chief, Fire Marshal, Health Officer, or City Engineer, as necessary, in making this determination. The decision of the Community Development Director may be appealed to the City Council in accordance with City Code Section 1.070.

Minor infractions of the Property Maintenance, Vacant Building, and Derelict Building Ordinance may be determined by the Community Development Director to be reasonable maintenance deficiencies and not be declared as a nuisance depending on the degree or intensity of the infraction.

5.676 Exceptions.

The Property Maintenance, Vacant Building, and Derelict Building Ordinance shall not apply to a building and/or properties that are actively undergoing construction or repair as indicated by a valid building permit and appearance that the person in charge is progressing diligently to complete the repair or construction. This exception does not apply to requirements relevant to public safety or health concerns.

5.678 Property Maintenance Standards.

No person in charge of a property shall maintain or permit to be maintained any property which does not comply with the requirements of this Chapter and is deemed to be a nuisance and detrimental to the City. All property shall be maintained to the building code requirements in effect at the time of construction, alteration, or repair, and shall meet the minimum requirements described in this Chapter.

A. Accessory Structures.

All accessory structures, including sheds, trellises, awnings, fences, and other similar features, shall be maintained structurally safe and sound, and in good repair. Exterior steps and walkways shall be maintained free of unsafe obstructions or hazardous conditions.

B. Roofs.

The roof shall be structurally sound, tight, and have no defects which might admit rain. Roof drainage shall be adequate to prevent rainwater from causing dampness in the walls or interior portion of the building. Roof drains, gutters, and downspouts shall be maintained in good repair and free from obstructions and shall channel rainwater into approved receivers.

C. Chimneys and Towers.

All chimneys, cooling towers, smoke stacks, towers, and similar appurtenances / attachments shall be maintained so as to be structurally safe and sound, and in good repair. They shall remain adequately supported and free from obstructions and shall be maintained in a condition which ensures there will be no leakage or back-up of noxious gases. They shall be reasonably plumb. Loose bricks or blocks shall be rebonded. Loose or missing mortar shall be replaced. Unused openings into the interior of the structure must be permanently sealed using approved materials.

D. Foundations And Structural Members.

1. Foundation elements shall adequately support the building and shall be free of rot, crumbling elements, or similar deterioration.
2. The supporting structural members in every structure shall be maintained so as to be structurally sound, showing no evidence of deterioration or decay which would substantially impair their ability to carry imposed loads.

E. Exterior Walls And Exposed Surfaces.

1. Exterior wall and weather-exposed exterior surface or attachment shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or dampness to the interior portions of the walls or the occupied spaces of the building.
2. Exterior wood surfaces shall be made substantially impervious to the adverse effects of weather by periodic application of an approved protective coating of weather-resistant preservative, paint, or other approved coating, and be maintained in good condition.
3. Exterior metal surfaces shall be protected from rust and corrosion of an extent

that would substantially impair its ability to carry imposed loads.

4. Exterior brick, stone, masonry, or other veneer shall be maintained so as to be structurally sound and be adequately supported and tied back to its supporting structure.
5. Cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
6. Overhang extensions, including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition.

F. Stairs And Porches.

1. Stair, porch, deck, balcony, and appurtenances / attachments attached thereto, shall be constructed and maintained so as to be safe to use and capable of supporting the loads to which they are subjected and shall be kept in sound condition and good repair, including replacement as necessary of flooring, treads, risers, and stringers that evidence excessive wear and are broken, warped, or loose.

G. Handrails And Guardrails.

Handrail and guardrail shall be firmly fastened, and shall be maintained in good condition, and capable of supporting the loads to which they are subjected.

H. Windows.

Each window shall be substantially weather-tight, shall be kept in sound condition and repair for its intended use, and shall comply with the following:

1. Window sash shall be fully supplied with glass window panes or an approved substitute without open cracks and holes.
2. Window sash shall be in good condition and fit weather-tight within its frames.
3. Window frame shall be constructed and maintained in relation to the adjacent wall construction so as to exclude rain as completely as possible and to substantially exclude wind from entering the structure.

I. Doors.

Exterior doors, door assemblies, and hardware shall be maintained in good condition, be weather-tight, and substantially exclude wind and rain from entering the structure.

J. Hazardous Materials.

1. Residential property shall be free of dangerous levels of hazardous materials, contamination by toxic chemicals, or other circumstances that would render the property unsafe.
2. No residential property shall be used as a place for the storage and handling of highly combustible or explosive materials or any articles which may be dangerous or detrimental to life or health. No residential property shall be used for the storage or sale of paints, varnishes, or oils used in the making of paints and varnishes, except as needed to maintain the dwelling.
3. Residential property shall be kept free of friable asbestos.

K. Exterior Facilities and Equipment.

In addition to other requirements for maintenance described in this Chapter, all exterior facilities and equipment, such as heat pumps, generators, etc. shall comply with the following:

1. All required facilities on the exterior of a structure shall be constructed and maintained to properly and safely perform their intended function.
2. All non-required facilities or equipment on the exterior of a structure shall be maintained to prevent structural damage to the building, or hazards of health, sanitation, or fire.

L. Exterior Property.

All properties, including vacant properties, shall comply with the following:

1. Debris.

Property shall be kept free of debris, trash, building materials, or the storage of other goods which are visible from the street or adjacent properties.

Debris shall include, but not be limited to: tires, lumber, household appliances, inoperable or excess vehicles, furniture, sinks, toilets, cabinets, other household fixtures, equipment, rubbish, garbage, debris, salvage materials, or parts thereof which constitute a fire hazard and/or are stored or accumulated in such a manner as to be visible from a public street, alley or adjoining property;

2. Junk.

An owner or person in charge of junk shall comply with the following:

- a. No person may keep junk outdoors on a street, lot, or other premises or in a building that is not wholly or entirely enclosed except for doors used

for ingress and egress.

- b. No person may park, store, or abandon junk, litter, or rubbish on property owned by the City outside the City limits without the permission of the City Manager.
- c. This section does not apply to junk kept in a licensed junk yard or automobile wrecking yard.
- d. All property removed and held by the City under the provisions of this section shall be disposed of according to the provisions of Section 6.400 governing abandoned vehicles and Sections 1.475 to 1.495 governing personal property sale procedures.

3. Weeds and Noxious Vegetation.

Weeds or other noxious vegetation shall be cut down or destroyed, or otherwise prevented from becoming unsightly, from becoming a fire hazard, or from maturing or going to seed.

4. Landscaping.

- a. Landscaping improvements shall be maintained in a healthy condition, trimmed and pruned to maintain adequate clearance over pedestrian and vehicular areas.
- b. Landscaping improvements designated on an approved landscape plan shall be retained and maintained as denoted on the approved plan unless otherwise approved by the City.

5. Walkways, Parking Areas, and Walls.

- a. Walls, driveways, walkways, parking areas, and retaining and/or decorative walls shall be maintained in such condition as to not become so defective, unsightly, or in such condition of deterioration or disrepair that the same causes potential depreciation of the values of surrounding property, or is materially detrimental to nearby properties and improvements.
- b. Maintenance and/or construction of walls, driveways, walkways, parking areas, and retaining and/or decorative walls located within the right-of-way shall be the responsibility of the adjacent property owner unless otherwise approved by a legally recorded easement or other legal document.

Vacant Buildings.**A. Purpose.**

Vacant buildings are a cause and source of blight in both residential and non-residential neighborhoods, especially when the person in charge of the building fails to actively maintain and manage the building to ensure that it does not become a liability to the neighborhood. Vacant buildings discourage economic development and retard appreciation of property values. Vacant buildings are potential fire hazards and can jeopardize the ability of owners of neighboring property from securing or maintaining affordable fire insurance. Vacant buildings cause increased need for police protection due to misuse of the property by persons not having permission or right to use the property. It is the responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare. One vacant building which is not actively and well maintained and managed can be the core and cause of spreading blight.

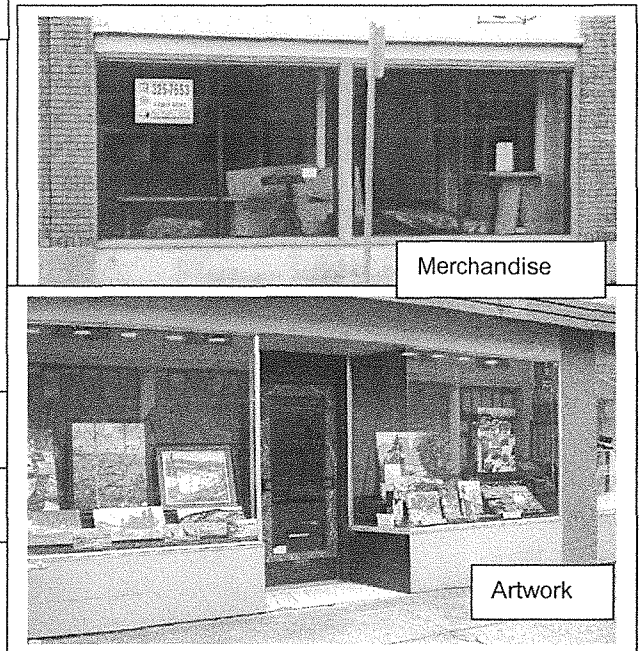
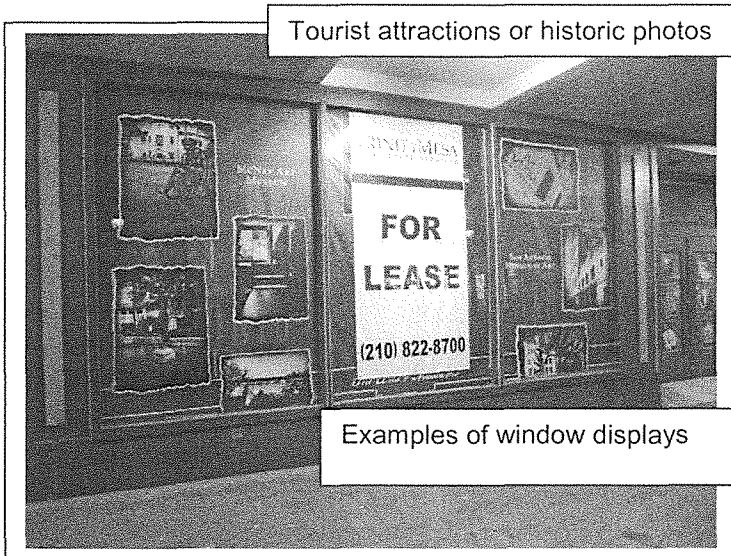
B. Maintenance and Security Requirements.

In addition to the maintenance standards in Sections 5.670 to 5.678, the person in charge of a vacant property and/or building shall comply with the following maintenance and security requirements:

1. The building and/or property shall be kept free of any accumulation of newspapers, circulars or flyers, graffiti, discarded items including but not limited to furniture, clothing, appliances, or any other items that give the appearance that the property or building is vacant.
2. The building and/or property shall be secure so that it is not accessible to unauthorized persons, including but not limited to the closure and locking of windows and doors (walk through, sliding, and garage) and any other opening of such size that may allow a child to access the interior of a structure; chaining or padlocking gates, and repairing fencing.
3. Broken windows and/or doors shall be secured by means of reglazing with undamaged glass or other approved permanent material, and not by cardboard, plywood, or other temporary means except as necessary temporarily for not more than three months while awaiting reglazing.
4. If the person in charge of the property or building is an entity or does not reside within 50 miles of the City limits, the person in charge shall contract with or otherwise engage a person to provide property management to perform inspections to verify that all requirements of this ordinance, enforcement notice, and any other applicable laws are being met.
5. The property shall be posted with name and 24-hour contact phone number of the owner, person in charge, or a local property management representative. The posting shall be no larger than 18" X 24" and shall contain the words "THIS

PROPERTY MANAGED BY . . .” The posting shall be secured to the exterior of the building or placed in a location on the property so it is visible from the street.

6. Vegetation around the building shall be pruned back from the walls to allow good airflow and security visibility. Overhanging dead tree limbs and branches shall be removed.
7. Buildings located in commercial areas shall have some street presence by the display of goods in the storefront windows, interpretive displays, or some other activity that give the appearance of the building being occupied. Displays in vacant buildings shall be reviewed and approved by the Community Development Director prior to installation. Displays shall be reviewed for the following:
 - a. The goods and/or interpretive displays should encompass a minimum of approximately 25% of the window area.
 - b. The displays shall be maintained in good condition and not faded or deteriorated.
 - c. Content of the displays shall be in compliance with allowable uses within the zone.
 - d. Displays shall comply with the requirements of the Sign Code if applicable.



C. Long Term Vacant Buildings.

If a property is determined to be vacant for more than five years, the property may be subjected to a fee as established by Resolution.

1. A building is deemed to be a Long Term Vacant Building if the following has occurred for a period of five years or more, including the years prior to adoption of this Code as verified by City records or other documentation:
 - a. Utilities have been turned off or not in use; or
 - b. Building has been boarded up or secured against any regular use entry; or
 - c. Building is in disrepair to a state that is obviously not habitable; or
 - d. Building is not in compliance with the Maintenance and Security Requirements of Section 5.680.B above; or
 - e. Building has not been legally occupied, regardless of the condition of the building.
2. Exception.
 - a. The person in charge has obtained a building permit and is progressing diligently to repair the building for occupancy; or
 - b. The building meets all applicable codes, including the Property Maintenance Standards, and is actively being offered for sale, lease, or rent; or
 - c. The Community Development Director may approve an exception based on a written finding that there is a benefit to the community in the building remaining vacant such as, but not limited to, historical significance of the building interior that prevents current use of the building, use of the building that serves a current or future need of the business and/or property owner, etc. and provided that the building is maintained to the standards as identified in the Property Maintenance Code.

D. Enforcement and Fees.

After a determination that a building is deemed a Long Term Vacant Building, the City shall notify the person in charge of the property of the following requirements:

1. Repair and/or Use of Property.

The building shall be repaired to a useable condition and shall be offered for sale, lease, or rent, or shall be legally occupied; and

2. Fee Payment.

There is imposed upon the person in charge of a vacant building pursuant to this Code, an annual Vacant Building Fee in an amount as established by resolution. The fee shall be payable for any building vacant for more than five consecutive years. Regardless of an imposition of a fee, the building shall be repaired to a useable condition.

Payment shall be in accordance with the following procedures:

- a. Payment is due within 30 days of the date the City notifies the person in charge of the property of the Long Term Vacant Building determination. Payment for additional years shall be due on the same due date as the first year's determination.
- b. Failure to pay the fee by the due date shall result in a 10% per month penalty up to a maximum of double the fee each year. If payment is not received by the end of the year in which it is due, it may be turned over to a collection agency, become a lien on the property in accordance with this Chapter, or be subject to any other enforcement available to the City.

3. Waiver of Fee.

The Vacant Building Fee shall be waived if the person in charge of the property makes the necessary repairs and offers the building for sale, lease, or rent as follows:

- a. During the first year of imposition, the full amount of the fee may be waived; or
- b. During subsequent years of imposition, an amount equal to the cost of improvements may be waived upon submittal of a request to the Community Development Director with copies of receipts for work completed. The City may retain a portion of the fee for administrative costs."

Section 2. Effective Date. This ordinance and its amendment will be effective 30 days following its adoption and enactment by the City Council.

ADOPTED BY THE COMMON COUNCIL THIS 7TH DAY OF FEBRUARY, 2011.

APPROVED BY THE MAYOR THIS 7TH DAY OF FEBRUARY, 2011.



Mayor

ATTEST:


City Manager

ROLL CALL ON ADOPTION

	YEA	NAY	ABSENT
Councilor LaMear	X		
Roscoe			X
Mellin	X		
Warr	X		
Mayor Van Dusen			X