

Introduced on: 11/16/2022
Public Hearing Date: 12/26/2022
Adopted on: __/__/2022

CITY OF SAXMAN, ALASKA
ORDINANCE# 22-04

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAXMAN
AMENDING CITY OF SAXMAN CODE CHAPTER 8.05 NUISANCES:
ADOPTING A NEW SECTION 8.05.030 - PROPERTY NUISANCE; ADOPTING A NEW
SECTION 8.05.040 - VACANT BUILDINGS AND ABANDONED REAL PROPERTY
REGISTRY; ADOPTING A NEW SECTION 8.15.050 - NUISANCE AND ABATEMENT
ENFORCEMENT; AND, PROVIDING FOR EFFECTIVE DATE.**

Whereas, the Saxman City Council finds that accumulation of objects, debris, and other materials in yards within the City of Saxman creates visual blight which is damaging to property values, injurious to tourism and other economic development and constitutes a public nuisance; and,

Whereas, the Saxman City Council finds that it is in the best interests of the City of Saxman and its residents to take steps to reduce or prevent the maintenance of property in a nuisance condition; and,

Whereas, the Saxman City Council finds that unmonitored or unsecured vacant buildings and abandoned real property poses a public safety and security risk from the potential for vandalism, fires, deterioration and unpermitted entry; and,

Whereas, the Saxman City Council finds that neighbors aware of an undesirable condition or adverse development at a vacant or abandoned building often lack an effective means of contacting the owner or person responsible for the vacant or abandoned building; and,

Whereas, the Saxman City Council finds that it is in the best interests of the City of Saxman and its residents to take steps to ensure that vacant or abandoned buildings are properly secured and monitored to reduce the risk of vandalism, unauthorized entry or other public safety risks; and,

Whereas, the Saxman City Council finds that the current provisions of the City of Saxman Code do not adequately address nuisance situations created when a property sits vacant or when the accumulation of objects or materials in a yard creates visual blight and a nuisance condition.

NOW, THEREFORE, BE IT ORDAINED BY THE SAXMAN CITY COUNCIL THAT:

Section 1: This ordinance is of permanent nature and shall become a part of the City of Saxman Code of Ordinances.

Section 2: That a new section 8.05.030, Property Nuisance, of the City of Saxman Code of Ordinances is enacted to read as follows:

08.05.030 Property Nuisance

(a) The City of Saxman declares that the following constitute a nuisance:

Public nuisance means any act or condition forbidden by any provision of this chapter and any act or condition that annoys, injures or endangers the safety, health, comfort or repose of the public. Public nuisance includes, but is not limited to the conditions described in subsection c of this section.

(b) No person shall allow, maintain or permit a public nuisance to exist or allow, maintain or permit recurrence of a public nuisance. Such existence, allowance, maintenance, permitting or recurrence of a public nuisance is a violation of this chapter.

(c) Public nuisances include, but are not limited, to the following acts and conditions:

(1) *Abandoned real property and vacant buildings.* Vacant buildings and abandoned real property, except those that have been registered and meet all requirements of Saxman Code Section 8.05.040.

(2) *Attractive nuisances.* Attractive nuisances dangerous to children in the form of abandoned or broken equipment, hazardous pools or ponds or excavations, neglected machinery or abandoned refrigerators, freezers, or other major appliances.

(3) *Unsightly premises.* Property including but not limited to building exteriors maintained in such condition as to become so defective or unsightly or in such condition of deterioration or disrepair that the property causes appreciable diminution of the property values of surrounding property or is materially detrimental to proximal properties and improvements. This includes but is not limited to the keeping or disposing of or the scattering over the property or premises of any waste, lumber, or unused objects of equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers; stagnant water or excavations; or, any device, decoration, design, fence, structure, clothesline or vegetation that is unsightly by reason of its condition or its inappropriate location.

(4) *Disposition and handling of solid or liquid waste.* For purposes of this section "*solid waste*" means garbage, litter, refuse, rubbish and other unwanted or discarded matter with insufficient liquid content to be free-flowing.

The following are public nuisances:

(i) The burning of solid or liquid waste, or the emission from any stack or chimney of any smoke, soot, particulate or gaseous matter in a manner that is noxious, harmful or abnormally bothersome to the public.

(ii) Discarding or placing any solid or liquid waste upon public property not set aside by law as a refuse disposal site or sanitary fill.

(iii) Discarding, placing or maintaining any junk or salvage upon any private property that is not an authorized junk or salvage yard in accordance with applicable federal, state and local law. The owner, lessee, agent or occupant of any private property not maintained as a junk or salvage yard in accordance with applicable federal, state and local law, shall not allow nor permit any junk or salvage to remain on the property, nor fail to maintain the property free of wastes, in a manner approved by the department.

(iv) Storage of garbage except in tightly covered, washable refuse containers or sealed garbage bags, or in the case of solid waste that can be further categorized as junk or salvage, storage in an unsecured manner. Containers shall be kept in a clean and sanitary condition by the owner.

(v) Storage or maintenance of refuse containers, excluding dumpsters, in front or side yards visible from public streets or alleys for unreasonable periods, seven days being prima facie evidence of an unreasonable period.

(vi) Storage or maintenance of packing boxes, junk or waste in front or side yards visible from public streets for unreasonable periods, seven days being prima facie evidence of an unreasonable period.

Section 3: That a new section 8.05.040, Vacant Buildings and Abandoned Real Property Registry, of the City of Saxman Code of Ordinances is enacted to read as follows:

8.05.040 Vacant Buildings and Abandoned Real Property Registry

(a) *Definitions.* For purposes of this section, the following words, terms and phrases shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning.

(1) "Abandoned Real Property" means real property that has been abandoned by all of its lawful owners.

(2) "Vacant Building" means a structure designed for residential or commercial use that has not been lawfully used for residential or commercial purposes for 180 days. Vacant does not include:

(i) vacation properties;

(ii) structures used only on a seasonal basis;

(iii) a building which has been vacant for less than 365 days, if the building has been continuously offered in good faith for sale, lease or rent since the 181st day it most recently ceased to be used for lawful residential or commercial purposes; or,

(iv) buildings for which there is:

(A) a valid current building permit or zoning permit for repair, rehabilitation, construction or demolition;

(B) such permitted repair, rehabilitation, construction or demolition is actively underway, and,

(C) such repair, rehabilitation, construction or demolition is completed within one year of the permit being issued.

(b) *Duty to register.* The owner of a vacant building or owner of an abandoned real property not registered pursuant to this section must file a complete registration statement within 30 days of the building becoming vacant or abandoned.

(c) *Contents of registration.* Registration statements shall be submitted in a manner and on a form prescribed by the City Administrator, and shall include:

(1) For each owner of the building, or abandoning owner of the real property, the owner's:

- (i) name,
- (ii) street address,
- (iii) mailing address,
- (iv) phone number,
- (v) facsimile number, if any,
- (vi) email address, and,

(vii) if the owner of a vacant building being registered is not also the owner of the real property upon which the building is situated, then include the same information listed above for the owner of the real property.

(2) For each agent authorized to act on an owner's behalf for the real property or building, the agent's:

- (i) name,
- (ii) street address,
- (iii) mailing address,
- (iv) phone number,
- (v) facsimile number, if any,
- (vi) email address,

(vii) the real property or building's street address, if any, and the tax parcel identification number of the real property or real property upon which the building is located, and,

(viii) an identification, by type and coverage levels, of any insurance policies covering the building or real property.

(3) For vacant buildings:

(i) the period of time the building is expected to remain vacant,

(ii) the current plan, with timetable, for returning the building to appropriate occupancy or for demolition, and,

(iii) for abandoned real property, a sworn statement from each owner that each abandoning owner has abandoned the real property to the municipality, together with an acknowledgment that abandonment of real property does not relieve any owner of any lawful liability, responsibility or obligation.

(d) *Annual fees.* The owner of a vacant building, and the former owner of an abandoned real property, shall pay an annual registration fee, which shall be deposited into the municipality's nuisance property abatement fund. Annual registration fees shall be as follows:

- (1) \$100.00 for the first year,
- (2) \$500.00 for the second year,
- (3) \$1,000.00 for the third year, and,
- (4) \$0.10 per the building's total gross floor area with a minimum of \$1,000.00 for the fourth and each subsequent year the property remains registered.

(e) *Obligation to update registration.* An owner shall notify the City Administrator within 30 days, of any change in the information provided in the registration statement by filing an updated registration statement. There shall be no fee associated with the filing of an updated registration statement.

(f) *Duty to sign.* No later than 31 days after a building becomes vacant or abandoned, the owner of the vacant or abandoned building, other than a residential property for which the City Administrator has waived in whole the requirements of subsection (g)(1), shall post a weather-proof and durable sign in a format approved by the City Administrator indicating:

- (1) name, mailing address, telephone number, and email address of the owner or abandoning owner,
- (2) name, mailing address, telephone number, and email address of any agent authorized to act for the owner or abandoning owner with respect to the property, or to accept notice or service of process related to the property,
- (3) stating that "No Trespassing" is permitted,
- (4) the sign of which is no smaller than 8.5 inches by 11 inches, and,
- (5) the sign to be placed at each entrance or former entrance to a vacant or abandoned building, unless obscured by fencing or other barrier, in which case a sign shall be conspicuously placed on each side of the fence or other barrier visible from a public street or sidewalk.

(g) *Duty to secure.* Vacant and abandoned buildings shall be secured so as to prevent ingress or egress, except by persons authorized by an owner, as follows:

- (1) All doors, windows, and other openings shall be closed, weather-tight, and secured against entry by animals and trespassers by means of plywood or commercial grade steel.

(2) The City Administrator may waive the requirements of section (g)(1), in whole or in part, for a door or window where the door or window is in good repair, can be closed and secured, is weather-tight, and is sufficient to prevent ingress or egress in the absence of a covering.

(3) The City Administrator may order the grounds on which the vacant or abandoned building is situated or to be fenced, using materials and of a perimeter deemed sufficient by the City Administrator, in order to prevent further unlawful activity, where the City Administrator determines there is good cause to believe:

(i) that a vacant or abandoned building has not, by means specified in subsection (g)(1), been sufficiently secured against unauthorized ingress or egress, or,

(ii) that the building or real property is the site of repeated unlawful activity.

(h) *Duty to maintain.*

(1) The real property where a vacant or abandoned building is situated shall be kept clean, sanitary and free from waste, trash, rubbish, debris, and excessive vegetation.

(2) Vacant and abandoned buildings shall:

(i) be kept in a condition that is structurally safe,

(ii) be kept clean, sanitary, and free from waste, trash, rubbish, debris, and animals,

(iii) be appropriately winterized,

(iv) be kept free of graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure, and,

(v) be kept free of unauthorized signs and posters.

(3) Adherence to this section does not relieve any person of any valid obligation set forth in any covenant, condition, restriction or homeowners' association rule or regulation, or any other requirement of this code that applies to the property.

(i) *Removal from registry.* The owner of a registered vacant or abandoned real property or building, or the agent of the owner, may apply to remove the registered real property or building from the registry if the real property or building is no longer vacant or abandoned. Application for removal from the registry shall be accompanied by corroborating documentation that the real property or building is no longer vacant or abandoned. The City Administrator shall approve or deny the application within 30 days. If denied, the City Administrator shall describe the reasons in a written decision. A denial of an application for removal from the registry may be appealed to the Superior Court for the State of Alaska at Ketchikan.

(j) *Government buildings.* The City Administrator may send a courtesy notice to a federal, state or local government agency advising if a building fails to satisfy the duties to sign, secure and maintain the building in accordance with this section.

(k) *Liens.* Unpaid registration fees, delinquent fines imposed for violations of this section, and costs incurred by the City of Saxman for enforcement and work performed to achieve compliance with this section become a lien upon the real property upon which the building or structure is or was located. The City Administrator shall cause to be recorded a claim of lien at the Ketchikan District Recorder's Office. The lien placed shall meet all Alaska Statutes and municipal codes, and may be foreclosed upon in accordance with AS 09.45.170 through 09.45.220 or similar statutes in substitution thereof.

Section 4: That a new Section 8.05.050, Nuisance Abatement and Enforcement, of the City of Saxman Code of Ordinances is enacted to read as follows:

8.05.050 Nuisance Abatement and Enforcement

(a) For purposes of public nuisance abatement, a responsible person means the record owner of the property and any tenant or person occupying the property with permission of the owner.

(b) In addition to all other lawful procedures, enforcement officers are authorized to serve notice of violation on a responsible person for conditions on real property violating the provisions of this chapter by delivering a citation to the responsible person directly or by posting in a secure manner to the property or residence where the violation occurred, or other methods allowed by statute. The citation, among other things, shall indicate briefly the charge, the name of the responsible person, and shall direct the responsible person to present the citation at the City Administrator's office or other designated place within five days or such other reasonable time as may be specified by the Saxman Code of Ordinances for the presentation of fines, or if the responsible person wishes to contest the citation, to submit a request for appeal to the City Administrator at the place and time indicated on the citation or in accordance with the Saxman Code of Ordinances.

The City Administrator may require that the Village Public Safety Officer use citation forms furnished by the Finance Department and that such citations be serially numbered, and may regulate the use and handling of citations tags.

(c) The City Administrator may enforce provisions of this chapter by injunctive relief. Any property or structure maintained as a public nuisance in violation of this chapter shall be declared to be unlawful, and the City Administrator may issue a notice and order directed to the record owner of the building, any tenant or other person responsible for the violation, directing the abatement of the nuisance. A person who neglects or refuses to abate the nuisance upon order of the City Administrator or designee is guilty of a violation, which violation is punishable by a fine of up to \$300.00 for each day of violation. In addition to the penalties set out in this Chapter and Saxman Code of Ordinances, Chapter 1.25, the court may assess damages against the defendant for the expenses of abating the nuisance, including full attorney fees.

(d) If the owner or responsible person fails to abate the nuisance within 30 days, the City Administrator may commence an action in the manner provided by law and shall apply to such court or courts as may have jurisdiction for injunctive relief to abate the nuisance. The City may obtain an order compelling the owner or other responsible person to abate the nuisance, and

may obtain an order permitting the City to abate the nuisance at the owner's expense and to record a lien for the costs of abatement, including the full costs and attorney fees incurred by the City in obtaining injunctive relief to abate the nuisance. All remedies provided for herein shall be cumulative and not exclusive.

Section 5. Severability. If any provision or section of this ordinance, or the application thereof to any person or circumstances is held invalid, the each of the remaining sections and the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Effective Date: This ordinance takes effect upon adoption. This ordinance will cease to be effective 60 days after adoption in accordance with Saxman Code of Ordinances, 1.20.050.

PASSED AND APPROVED by the Saxman City Council this _____ day of _____, 2022.

CITY OF SAXMAN

By: _____
Frank Seludo, Mayor

ATTEST:

By: _____
Lori Richmond, Clerk

VOTES:

Ayes:

Noes:

Absent:

