

CITY OF THORNE BAY
ORDINANCE INTRODUCTION SET FOR JUNE 18, 2019

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, ADOPTING
“BLIGHT” LAWS AND DEFINITION FOR THE CITY OF THORNE BAY; ADDING CHAPTER 17.05-
BLIGHTED PROPERTIES, TO TITLE 17-ZONING,

BE IT ENACTED BY THE CITY COUNCIL FOR THE CITY OF THORNE BAY ALASKA;

- Section 1.** Classification. This ordinance is of a general and permanent nature, the chapter and section hereby amended shall be added to the Thorne Bay Municipal Code.
- Section 2.** Severability. If any provisions of this ordinance or any application thereof to any person or circumstances is held invalid, the circumstances shall not be affected thereby.
- Section 3.** Amendment of Section. Amending Title 17-Zoning, Adding Chapter 17.05-Blighted Properties, Sections 17.05-010-130, is hereby adopted and added to the Thorne Bay Municipal Code.

Adding Chapter and Sections:

Chapter 17.05-Blighted Properties

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- Section 4.** Effective Date. This ordinance shall become effective upon adoption.

PASSED AND APPROVED: [July 2, 2019](#)

ATTEST:

Harvey McDonald, Mayor

Teri Feibel, CMC

[All of Chapter 17.05 Is an Addition to the Thorne Bay Municipal Code](#)

TBMC
TITLE 17 ZONING
ADDING CHAPTER 17.05 -
BLIGHTED OR SLUM PROPERTY OR LAND AREAS

17.05.010 PURPOSE

Blight conditions in neighborhoods can negatively impact property values, encourage crime and discourage other homeowners, business owners and tenants from maintaining their own properties.

17.05.020 GENERAL PROVISIONS:

- A. All land including exterior premises and vacant land, whether improved or unimproved, shall be maintained free from any hazard or accumulation of garbage, debris, rubble, hazardous waste, litter, rubbish, refuse, waste material, or blight, which includes, but is not limited to:
1. **Graffiti.** Graffiti on walls, fences, mail boxes, etc., bottles, papers, glass, cans, organic or inorganic material,
 2. **Display of Plastic.** the exterior visible use or display of tarps, plastic sheeting, or other similar materials as flexible or inflexible screening, fencing or wall covering upon a residential lot,
 3. **Accumulation of Junk.** An accumulation of inoperable vehicles, discarded, broken, or inoperable appliances, discarded or broken furniture, broken glass, discarded, broken or inoperable equipment, discarded or broken bicycles, an accumulation of vehicle, bicycle or appliance parts, piles of mixed materials, dry vegetation, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing straw, packing hay or other packing material, lumber not neatly piled, lumber stored in front yards,
- B. A single inoperable vehicle in combination with any of the above described conditions shall be deemed a violation of this subsection.
- C. It is an affirmative defense to a violation of this subsection based on the presence of an inoperable vehicle that the vehicle was registered to a resident of the property, that the vehicle was undergoing repair, and that the total period during which the vehicle was inoperable did not exceed **ten** days. This affirmative defense may not be raised more than three times in any combination of civil or criminal proceedings in any one calendar year.

1. *Streets, alleys, easements, and sidewalks abutting land.*

The owner and any responsible party in control of any land abutting a sidewalk, alley, easement or street shall maintain the sidewalk, alley, easement or street in the same manner as provided in subsections A and D of this section. The areas required to be maintained pursuant to this subsection are as follows:

- a) Any portion of a street, which has been opened for public use, between the curb line and the abutting property line including sidewalks; provided, that the owner, lessee, or other person in control of any land utilized for single-family or multifamily dwelling(s) shall only be required to maintain areas not within major streets as shown on the minimum right-of-way standards map and which are within 25 feet of the abutting property line.
- b) One-half of the width of abutting alleys from the property line to the centerline of the alley.
- c) Any portion of a street abutting the boundaries of a parcel of land, which street has not been opened for public use, shall be maintained by those persons who dedicated the street or their successors in interest, including lessees and other persons in control of the land abutting the street; provided, that if the abutting land on either side of such street is owned by different persons and each person has an obligation to maintain the street hereunder, then the owner, lessee or other person in control of the land shall only be required to maintain one-half of the width of the street abutting their land.

17.05.030 DEFINITION

- A. "**Area of operation**" means the City of Thorne Bay;
- B. "**Blighted areas**" means areas that, by reason of deterioration, faulty planning, inadequate or improper facilities, deleterious land use or the existence of unsafe structures, or any combination of these factors, are detrimental to the safety, health or welfare of the community.
- C. "**Dwelling**" means a building or structure or part of a building or structure used and occupied for human habitation or intended to be so used, and includes an appurtenance belonging to the building or structure or usually enjoyed with it;
- D. "**Governing Body**" means the Thorne Bay City Council;
- E. "**Real Property**" includes all land, including improvements and fixtures on it, and property of any nature appurtenant to it, or used in connection with it, and every estate, interest, and right, legal or equitable, in it, including a term for years, a lien, and indebtedness secured by a lien;
- F. "**Slum Area**" means an area where buildings predominate that, by reason of dilapidation, deterioration, age or overcrowding, lack of ventilation, light, air, sanitation, or the existence of conditions that endanger life or property by fire or other causes, or a combination of these factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, and is detrimental to the public health, safety, morals or welfare.

17.05.040 SCOPE & DETERMINATION OF BLIGHT

A. Determining Blight

1. The City Planning Official, Code Enforcement Officer or other designee, may determine if a property is considered blighted. The officers make the decision based off of unsightly materials, and violations of city regulations.
2. A group of five citizens may petition to have a property considered blighted.

B. Designation of Blighted Premises (Residential & Nonresidential)

The designation of unsightly and blighted premises and elimination thereof shall be carried out in compliance with the following requirements.

1. The Code Enforcement Officer or City Council by a majority vote may determine, or

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2. Five citizens may petition in writing,
 - i. that if the appearance of a premise is not commensurate with the character of the properties in the neighborhood or otherwise constitutes a blight to the adjoining property or the neighborhood or the city for such reasons as, but not limited to:
 - 1) Unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof;
 - 2) Violation of any other law or regulations relating to the use of land and the use and occupancy of the buildings and improvements.
 - 3) Notice of Violation - Procedures as outlined in section 17.05.060 are applicable.

17.05.050 PROPERTY MAINTENANCE AND UPKEEP REQUIREMENTS:

A. EXTERIOR PREMISES AND VACANT LAND.

1. **Dumping.** Vacant lots or lands which have been subject to dumping on more than one occasion shall be secured to prevent future occurrences of dumping. Methods of securing vacant lots or lands may include the following: permanent fencing; ditch and berm; placing four-foot-high posts at four-foot intervals; and other equally effective methods. Signs stating "no dumping" shall be erected in accordance with applicable laws on vacant lots or lands which have been subject to dumping on more than one occasion.
2. **Excavations.** Excavations and other like or similar conditions must be filled with clean fill. On a temporary basis and no longer than one year, excavations shall be maintained in a secure manner so as to prevent a hazard. An excavation is considered secure when:
 - a) The excavation is protected by a permanent and complete five-foot minimum height enclosure that surrounds the excavation or property.
 - b) The excavation is completely and permanently covered, fenced securely or protected in an equivalent manner.
3. **Parking areas.** All parking will be off-street and on the premises. Dwelling units, including new apartments, duplex, triplex or multifamily completed after the

adoption of this title shall provide off-street parking as required in section 17.04.041

- a) Motor vehicles or trailers shall not be parked, or stored on a City, State or Federal owned Road Right-of-Way for longer than 48 hours.
 - b) Parking or maneuvering vehicles anywhere other than the designated areas is a violation of this code.
 - c) No more than 30 percent of the required front yard of a single family or duplex residential property may be used for parking or maneuvering
4. **Outdoor Storage:** The following outdoor storage on residential properties, which is visible from beyond the boundaries of the lot, is prohibited:
- a) Any building or landscaping materials.
 - b) Any machinery, appliances or parts.
 - c) Any inoperable vehicle visible from beyond the boundary of the property unless:
 - i. The vehicle is undergoing repair,
 - ii. The total period during which the vehicle is inoperable does not exceed 10 days, and
 - iii. No more than three incidences of inoperability of any vehicle may occur in any twelve-month period.
 - d) Any storage within the yard of personal property, including but not limited to any household goods, boxes, or furniture which is not placed for outdoor use, which is visible beyond the boundaries of the property. For purposes of this subsection only, yard does not include that portion of the yard behind the primary structure.

B. BUILDINGS, STRUCTURES, EXCAVATIONS CONSTITUTING A NUISANCE; VIOLATION; ABATEMENT.

1. There are or may in the future be buildings, structures or excavations that are so deteriorated, damaged, in such need of repair or left vacant or unsecured so as to present a threat to the health, safety and welfare of the community and constitute a nuisance.
2. All buildings, structures and excavations are to be maintained so as not to pose a hazard. The maintenance of a building, structure or excavation that meets any of

the following is a nuisance and constitutes a violation of this ordinance, and subjects the building, structure or excavation to demolition or other abatement measures upon expiration of required notice:

- a) The building's or structure's interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- b) The building or structure, exclusive of the foundation, has thirty-three percent or more damage or deterioration to the supporting member or members or structural assembly, or fifty percent damage or deterioration to the non-supporting enclosing or outside walls or covering.
- c) The building, structure or excavation exhibits conditions that present actual hazards or dangers.
- d) The building or structure has been vacant and unsecured for more than one year and has delinquent account status with the City.
- e) The building, structure or excavation or their contents represents an imminent hazard.
 - i. A building or structure or excavation in good repair or secured or which is actively being offered for sale or rent or is involved in legal proceedings prohibiting repair, sale or lease may be exempted by the Code Enforcement Officer, City Planning Official or designee if the property owner demonstrates that the building or structure or excavation does not pose a threat to the health or safety of any person.

17.05.060 NOTICE OF VIOLATIONS:

- A. Upon inspection, if the City finds a violation of this ordinance, the City may notify the owner, owner's agent, or responsible party through the issuance of a notice of violation. if a notice of violation is issued, it shall include:
 - 1. Identification of property in violation;
 - 2. Statement of violations in sufficient detail to allow an owner or responsible party to identify and correct the problem;
 - 3. Reinspection date;
 - 4. Address and phone number of a City representative to contact;
 - 5. City's authority to abate should owner or responsible party not correct the violation within thirty days, and to assess a lien against the property for the costs of abatement; and

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6. Appeal procedures.
- B. Any notice given for any purpose under this chapter shall be deemed effective on the date when written notice is hand-delivered, mailed certified and/or mailed regular, addressed to the property owner, owner's agent, or responsible party. If personal service or mailed service is not practicable, service of notice shall also be deemed effective upon notification through one-time public notice published in a newspaper of general circulation and by posting the property for a period of 30 days. Nothing herein shall preclude the City from giving additional verbal or written notice at its discretion. If the City does elect to give any additional notice in any instance, it shall not thereby become obligated to give such additional notice thereafter in the same or other situations.
 - C. Nothing in this section shall require the issuance of a notice of violation prior to the commencement of civil or criminal violation proceedings.
 - D. Thirty calendar days after service of the notice as provided herein, the owner or responsible party shall be jointly and severally liable for any and all reasonable charges incurred by reason of the Fire Department being required to respond to the property not abated as required by the notice. When incurred, such charges shall be treated in the same manner and be subject to the same rights of appeal as charges incurred in bringing the property into compliance.

17.05.070 REMEDIATION MEASURES – AUTHORITY TO ENFORCE

- A. The VPSO, Code Enforcement Officer or designee shall enforce the provisions of this ordinance. In addition, the Chief Administrator or designee is authorized to make safe any structure, in whole or part, which in the opinion of the Chief Administrator or designee, is an imminent threat to the health or safety of any person or persons due to the conditions of such structure.
- B. No person shall, by threat or use of violence or physical force, or by threatening to do or doing any other act that can be reasonably anticipated to cause physical harm to any person including the perpetrator, intentionally obstruct, impede, or interfere with any officer, employee, contractor or authorized representative of the City who is lawfully and constitutionally engaged in the enforcement or execution of the provisions of this chapter.

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- C. The City Planning Official or designee is authorized to make reasonable and necessary rules and regulations to carry out provisions of the ordinance. All such rules and regulations shall be approved by the City Council after a public hearing.

17.05.080 AUTHORITY, INSPECTIONS, FEES.

- A. The City may inspect property to determine compliance with this ordinance.
- B. The designated city inspector may expand the scope of any inspection to include other City Code violations noted during inspection.
- C. Exempted from the operation of this ordinance is large, remote acreage in its natural state, acreage impossible to service with large machinery due to its terrain, property used for governmental purposes, and industrially and commercially zoned areas to the extent zoning permits storage of material ordinarily prohibited by this ordinance. This exemption is not operable when actual and probable danger exists.
- D. If upon inspection, one or more violations of the Thorne Bay Municipal Code exists, the owner or responsible party will be required to correct all violations within a reasonable amount of time. If the building, dwelling or dwelling unit is unoccupied or becomes unoccupied, future occupancy will be prohibited until a compliance letter is issued by the City. It shall be incumbent upon the City to reinspect for the purpose of re-occupancy within two business days of the receipt of a written request by the owner.
- E. The City may charge reasonable fees to the owner and responsible party of a property for inspections, including their related activities and administrative functions, other than the initial inspection and the final inspection, conducted pursuant to this chapter.

17.05.90 CORDING A NOTICE OF VIOLATION.

- A. The VPSO, Code Enforcement Officer or designee, shall record the notice of violation with the Office of the City Clerk. The City Clerk shall record the notice of violation with the Alaska Recorders Office, in the Ketchikan Recording District 102. A recorded notice of violation shall run with the land and shall constitute notice, for all purposes of this ordinance, to all persons or entities thereafter acquiring an interest in the property. Failure to record a notice of violation shall not affect the validity of the notice as to persons who receive the notice. when the property is brought into compliance, if a notice of violation was recorded, a satisfaction of notice of violation shall be recorded.

17.05.100 ENFORCEMENT INDEPENDENT OF OTHER OFFICIALS.

The authority of the City to enforce the provisions of this chapter is independent of and in addition to the authority of other City officials to enforce the provisions of any other chapter of the City Code.

17.05.110 VIOLATIONS AND PENALTIES.

- A. Any person violating any provision of this chapter is guilty of an infraction and shall be punished by the fine established in the Fine Schedule in 1.16.035 if the offense is listed in that fine schedule or by a fine of up to \$1,000 if the offense is not listed in 1.16.035.
- B. Each day a violation continues shall constitute an additional violation for purposes of assessing fines. An action to enjoin a violation of this chapter may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and the finding of an existing violation, the court shall grant injunctive relief to restrain the violation and attorney fees as provided by law.
- C. The owner of record, as recorded in Alaska Recorder's Office records, of the property upon which a violation of this Ordinance exists may be presumed to be a person having lawful control over any building, structure or parcel of land. If more than one person shall be recorded as the owner of the property, said persons may be jointly and severally presumed to be persons having lawful control over the building, structure or parcel of land. This presumption shall not prevent enforcement of the provisions of this Ordinance against any person specified in subsection C of this section.

17.05.120 ABATEMENT.

- A. If a property owner or responsible party is served a notice of violation pursuant to this ordinance and fails to comply with such notice within thirty days, the City may correct or abate the condition as described in the notice. The City shall pay the cost and expense of such abatement from any appropriation made available for that purpose and shall certify a statement of account to the City Clerk who shall collect the amount due, together with interest at the rate established by law.
- B. Upon commencement of action on the property or after mailing the statement of account to the owner or responsible party, the City shall assess the property for the cost of work performed, including actual costs of any additional inspection and other incidental connected costs, and for associated legal costs for abatement or injunction and pursue any or all means for recovery of cost if the assessment is not paid. If the assessment is paid, the City shall remove the assessment. In the event it is necessary to enforce the assessment by sale, the sale shall be made from a judgment of foreclosure and order of sale. The City shall have the right to enforce the assessment in the Superior Court of Maricopa County at any time after recording, but failure to enforce the assessment shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording. Prior assessments or liens for the purposes provided for in the ordinance shall not be a bar to a subsequent assessments or liens and any number of liens or assessments on the same parcel may be enforced in the same action.
- C. The assessment is prior and superior to all other liens, obligations, mortgages, or other encumbrances, except liens for general taxes.
- D. Any liens or assessments filed with the Alaska Records Office pursuant to previous provisions of this ordinance or any similar ordinance shall remain in effect under the same terms and conditions that existed at the time of recording.
- E. The City may dispose of any property or material removed from real property as a result of abatement in any manner, including but not limited to destruction.

17.05.130 TEMPORARY ABATEMENT.

- A. If it is determined that a nuisance as provided in Section 17.05.050 (b) is a hazard to the public safety and health, the Planning Official or duly authorized agent may declare such structure a hazard with great potential for actual and serious physical harm. After notice is communicated to any owner of record to secure the structure and the owner does not secure the structure to City specifications, the hazard may be summarily abated by the City through boarding. Any and all charges and costs arising from the City taking action to secure the structure shall be a lien filed against the real property containing such a structure.

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