

## Athena Ordinances

## ORDINANCE NO. 810

## AN ORDINANCE CONCERNING THE ABATEMENT OF DANGEROUS AND NUISANCE BUILDINGS

The City of Athena, Oregon ordains as follows:

**Chapter 1. Repeal of Prior Ordinance**

Ordinance No. 255 is hereby repealed.

**Chapter 2. Enforcement**

**Section 201- General**

**201.1 Administration.** All references to the “building official” shall mean reference to a member of the City Council, the Mayor, or a designee of the City Council, acting pursuant to direction of the City Council.

**201.2 Inspections.** The building official is authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.

**201.3 Right of Entry.** When it is necessary to make an inspection to enforce the provisions of this code, or when the building official or the building official’s authorized representative has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this code, the building official and/or the building official’s authorized representatives may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied, credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official and/or the building official’s authorized representatives shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

“Authorized representative” as used herein shall include the building official and their authorized inspection personnel.

“This code” as used herein shall mean the entirety of this Ordinance.

**Section 202 – Abatement of dangerous Buildings**

All buildings or portions thereof which are determined after inspection by the building official to be in violation of this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified in Section 401 of this code.

## Athena Ordinance

**Section 203 - Violations**

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.

**Section 204 – Inspection of Work**

All buildings or structures within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with and in the manner provided by this code.

**Chapter 3 – Definitions****Section 302 – Dangerous and Nuisance Buildings**

For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous or nuisance building:

1. When any portion or member of the structure is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
2. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
3. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
4. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
5. Whenever the building or structure has become so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children.
6. Whenever a building or structure, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or presence of chemicals or chemical residue or otherwise, is determined by the building official to be unsanitary, unsafe, or unfit for human habitation or use, or in such a condition that it is likely to cause injury, sickness or disease, or to present the possibility of collapse.
7. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

## Athena Ordinance

8. Whenever for lack of proper repairs or maintenance, or because of age and dilapidated condition, or because of poorly installed electrical wiring or equipment, defective chimney, gas connection or heating apparatus, or for any other reason a building or structure is liable to cause fire, or which is situated or occupied in a manner that endangers other property or human life.
9. Whenever any building, its contents, or its yard areas are in a filthy or unsanitary condition.
10. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of one year so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

**Section 303 – Nuisance Declared**

Every building or structure found by the City Council to be a dangerous building, or otherwise in violation of this Ordinance, is hereby declared to create a condition tending to reduce the value of private property, to promote blight, deterioration and unsightliness, to invite plundering, to create fire hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the health, safety and general welfare of the inhabitants of the City. Therefore, the presence of any building or structure in violation of this Ordinance is hereby declared to constitute a public nuisance which may be abated in accordance with the provisions of this code.

**Chapter 4. Notices and Orders of Building Official****Section 401 – Notices and Orders of Building Official; General**

**401.1 – Commencement of Proceedings.** When the building official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair, vacation or demolition of the building.

**402.2 – Notice and Order.** The building official shall cause a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address or a legal description sufficient for identification of the premises upon which the building is located.
2. A statement that the building official has found the building to be dangerous and/or to constitute a nuisance, with a brief and concise description of the conditions found to render the building dangerous, or a nuisance, under the provisions of this code.
3. A statement of the action required to be taken as determined by the building official.
  - 3.1 If the building official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefore and the work physically commenced within such time (not to exceed sixty days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances. The notice given under

## Athena Ordinance

this paragraph shall contain a list of the items to be repaired which constitute violations of the code.

- 3.2 If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the building official to be reasonable. A notice given pursuant to this paragraph shall list the items that have caused the building official to determine that the building or structure must be vacated.
  - 3.3 If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed sixty days from the date of the order); that all required permits be secured therefore within sixty days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable. A notice given under this paragraph shall list the aspects of the structure that the building official has determined as justifying the demolition.
4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official (i) will order the building vacated and posted to prevent further occupancy until the work is completed, and (ii) may proceed to cause the work to be done and charge the cost thereof against the property or its owner.
  5. Statements advising (i) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the City Council, provided the appeal is made in writing as provided in this code and filed with the City Council within thirty days from the date of service of such notice and order, or if a notice to vacate is the subject of the appeal, then within ten days of service of the notice to vacate; and (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter, and shall also constitute a waiver of all judicial appellate rights.
- 401.3 Service of Notice and Order.** The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property; and one copy thereof shall be served on each of the following if known to the building official or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the building official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such other person from any duty or obligation imposed by the provisions of this section.

Athena Ordinance

**401.4 Method of Service.** Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last tax assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

**401.5 Proof of Service.** Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons affecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the building official.

**Section 403 – Repair, Vacation and Demolition**

The following standards shall be followed by the building official (and by the City Council if an appeal is taken) in ordering the repair or vacation of any dangerous or nuisance building or structure:

1. Any building declared a dangerous or nuisance building for which repairs are ordered under this Ordinance shall be repaired in accordance with any applicable current building code or other current code applicable to the type of substandard conditions requiring repair, or the building may be demolished at the option of the building owner.
2. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.

**Section 404 – Notice to Vacate**

**404.1 Posting.** Every notice to vacate shall in addition to being served as provided in Section 401.3, be posted at or upon each exit of the building and shall be substantially the following form:

**DO NOT ENTER  
UNSAFE TO OCCUPY**

It is a violation of City Ordinance to occupy  
This building, or to remove or deface this  
notice.

City of Athena

by: \_\_\_\_\_

## Athena Ordinance

**404.2 Compliance.** Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued under Section 401.2, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the applicable building code.

## Chapter 5. Appeal

### Section 501 – Appeal; General

**501.1 Form of Appeal.** Any person entitled to service under Section 401.3 may appeal any notice, order, or action of the building official under this code by filing at the office of the City Council a written appeal containing:

1. A heading in the words: “Before the City Council of the City of Athena.”
2. A caption reading: “Appeal of \_\_\_\_\_,” giving the names of all appellants participating in the appeal.”
3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
4. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
6. The signatures of all parties named as appellants and their official mailing addresses.
7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

The appeal shall be filed within thirty days from the date of the service of such order or action of the building official; provided, however, that if the building or structure is in such condition as to make it immediately dangerous to life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with Section 404, such appeal shall be filed within ten days from the date of the service of the notice and order of the building official.

**501.2 Processing of Appeal.** Upon receipt of any appeal filed pursuant to this section, the building official shall present it at the next regular or special meeting of the City Council.

## Athena Ordinance

**501.3 Scheduling and Noticing appeal for Hearing.** As soon as practicable after receiving the written appeal, the City Council shall fix a date, time and place for the hearing of the appeal by the City Council. Such date shall not be less than ten days nor more than sixty days from the date the appeal was filed with the building official. Written notice of the time and place of the hearing shall be given at least ten days prior to the date of the hearing to each appellant by the City Council either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal, by ordinary first-class mail.

**Section 502 – Effect of Failure to Appeal**

Failure of any person to file an appeal in accordance with the provisions of Section 501 shall constitute a waiver of the right to an administrative hearing before the City Council, and shall also constitute a waiver of the right to a judicial appeal.

**Section 503 – Scope of Hearing on Appeal**

Only those matters or issues specifically raised by the appellant in the written notice of appeal, filed pursuant to Section 501.1 shall be considered in the hearing of the appeal.

**Section 504 – Staying of Order Under Appeal**

Except for vacation orders made pursuant to Section 404, enforcement of any notice and order of the building official issued under this code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

## Chapter 6. Procedures for Conduct of Hearing Appeals

**Section 601 – General**

**601.1 Hearing Examiners.** The City Council shall hear all appeals, but may appoint one or more hearing examiners, or designate one of its own members, to serve as a hearing examiner to conduct the hearings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted to the City Council for decision. Only City Council members attending the hearing may participate in the decision once it is submitted to the council by the examiner.

**601.2 Record.** A record of the entire proceedings shall be made by tape recording.

**601.3 Continuances.** The City Council may grant continuances for good cause shown; however, when a hearing examiner has been assigned to such hearing, no continuances may be granted except by the examiner for good cause shown so long as the matter remains before the examiner.

**601.4 Oaths – Certification.** In any proceedings under this chapter, the City Council, any council member, or the hearing examiner has the power to administer oaths and affirmations.

**601.5 Reasonable Dispatch.** The City Council and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

## Athena Ordinance

**Section 602 – Form of Notice of Hearing**

The notice to appellant shall be substantially in the following form, but may include other information:

“You are hereby notified that a hearing will be held before (the City Council or name of hearing examiner) at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, at the hour of \_\_\_\_\_, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you.”

**Section 603 – Conduct of Hearing**

**603.1 Rules.** Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

**603.2 Oral Evidence.** Oral evidence shall be taken only on oath or affirmation.

**603.3 Hearsay Evidence.** Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions pursuant to the Rules of Civil Procedure applicable to the Circuit Courts for the State of Oregon.

**603.4 Admissibility of Evidence.** Any relevant evidence shall be admitted if it is of the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions pursuant to the Oregon Rules of Civil Procedure applicable in Circuit Court.

**603.5 Exclusion of Evidence.** Irrelevant and unduly repetitious evidence shall be excluded.

**603.6 Rights of the Parties.** Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called the witness to testify;
5. to rebut the evidence; and
6. To be represented by anyone who is lawfully permitted to do so.



## Athena Ordinance

**603.7 Official Notice.**

**603.7.1 That May be Noticed.** In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of this City.

**603.7.2 Parties to be Notified.** Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

**603.7.3 Opportunity to Refute.** Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the City Council or the hearing examiner.

**603.7.4 Inspection of the Premises.** The City Council or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing, provided that (i) notice of such inspection shall be given to the parties before the inspection is made, (ii) the parties are given an opportunity to be present during the inspection, and (iii) the City Council or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the city Council or hearing examiner. A request for an appeal before the City Council shall constitute irrevocable permission for any and all inspections deemed necessary or important by the City Council or hearing examiner.

**Section 604 – Method and Form of Decision**

**604.1 Hearing before the Council Itself.** When a contested case is heard before the City Council itself, a member thereof who did not hear the evidence shall not vote on or take part in the decision.

**604.2 Hearing Before Examiner.** If a contested case is heard by a hearing examiner alone, the examiner shall within a reasonable time (not to exceed forty-five days from the date the hearing is closed) submit a written report to the City Council. Such report shall contain a brief summary of the evidence considered and state the examiner's findings, conclusions and recommendations. The report also shall contain a proposed decision in such form that it may be adopted by the City Council as its decision in the case. All examiners' reports filed with the City Council shall be matters of public record. A copy of each such report and proposed decision shall be mailed to each party listed as an appellant on the notice of appeal on the date they are filed with the City Council. With the approval of the City Council, the examiner may have the assistance of the city attorney in drafting the report and other required documents.

## Athena Ordinance

- 604.3 Consideration of Report by Council – Notice.** The City Council shall fix the time, date and place to consider the examiner’s report and proposed decision. Notice thereof shall be mailed to each interested party not less than five days prior to the date fixed, unless it is otherwise stipulated by all of the parties. At such time as the examiner’s report is considered, there shall be no more evidence submitted, nor arguments made by any party except as provided in Section 604.4. The consideration of the examiner’s report, and the meeting called therefore, is solely for the opportunity of the City Council to deliberate.
- 604.4 Exceptions to Report.** Not later than two days before the date set to consider the report, any party may file written exceptions to any part or all of the examiner’s report and may attach thereto a proposed decision together with written argument in support of such decision.
- 604.5 Disposition by the Council.** The City council may adopt or reject the proposed decision in its entirety, or may modify the proposed decision.
- 604.6 Proposed Decision Not Adopted.** If the proposed decision is not adopted as provided in Section 605.5 the City Council may decide the case upon the entire record before it, or may refer the case to the same or another hearing examiner to take additional evidence. If the case is reassigned to a hearing examiner, the examiner shall prepare a report and propose decision as provided in Section 605.2 hereof after any additional evidence is submitted. Consideration of such proposed decision by the City Council shall comply with the provisions of this section.
- 604.7 Form of Decision.** The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant, or appellants, personally or sent by certified mail, postage prepaid, return receipt requested.
- 604.8 Effective Date of Decision.** The effective date of the decision shall be as stated therein.

**Section 605 – Judicial Review**

Any appellant may appeal to the Circuit Court of the State of Oregon for Umatilla County for judicial review of the City Council’s decision. The appeal shall be filed within thirty days from the effective date of the decision. The failure of any person to file a request for judicial review in accordance with the provisions of this section, and within the thirty days required, shall constitute a waiver of the right to judicial review, and the decision of the City Council shall then be final.

On judicial review to Circuit Court, all rules governing the form of pleadings, procedure, the taking of evidence, and such other matters as may affect the proceedings shall be governed by the Oregon Rules of Civil Procedure, the Oregon Evidence Code, and such other applicable rules and laws applicable to proceedings in Circuit Court.

## Athena Ordinance

**Chapter 7. Enforcement of the Order of the Building Official or City Council****Section 701 – Compliance**

**701.1 General.** After any order of the building official or the City Council made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order.

**701.2 Failure to Obey Order.** If, after any order of the building official or City Council made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect, or refuse to obey such order, the building official may institute any appropriate action to abate such building as a public nuisance.

**701.3 Failure to Commence Work.** Whenever the required repair or demolition does not commence within thirty days after any final notice and order issued under this code becomes effective:

1. The building official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice of the form set forth in Section 404.1 of this code.
2. No person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the building official, or the City Council as the case may be, have been completed.
3. The building official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order require demolition, to cause the building to be sold and demolished, or demolished and the materials, rubble, and debris thereof removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the costs thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto. Nothing stated herein shall prevent the building official from causing the building to be demolished by fire.

**Section 702 – Extension of Time to Perform Work**

Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the building official may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

## Athena Ordinance

**Section 703 – Interference with Repair or Demolition Work Prohibited**

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City of Athena or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code; or with any person to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of the City of Athena, a person having an interest or estate in such building or structure, or a purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.

**Chapter 8. Performance of Work of Repair or Demolition****Section 801 – General**

**801.1 Procedure.** When any work of repair or demolition is to be done pursuant to Subsection 701.3, Paragraph 3, of this code, the building official shall issue an order therefore to the City Council, and the work shall be accomplished by private contract under the direction of the City Council. Plans and specifications therefore may be prepared by City Council, or the City Council may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

**801.2 Costs.** The cost of such work shall be paid from the repair and demolition fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the City Council shall determine is appropriate.

**Section 802 – Repair and Demolition Fund**

**802.1 General.** If City funds are used for repairs or demolition, the City Council shall establish a special revolving fund to be designated as the repair and demolition fund. Payments shall be made out of said fund upon the demand of the City Council to defray the costs and expenses which may be incurred by the City of Athena in doing or causing to be done the necessary work of repair or demolition of dangerous buildings.

**802.2 Maintenance of Fund.** The City Council may at any time transfer to the repair and demolition fund, out of any money in the general fund of this jurisdiction, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sums so transferred shall be deemed a loan to the repair and demolition fund and shall be repaid out of the proceeds of the collections hereinafter provided for. All funds collected under the proceedings hereinafter

## Athena Ordinance

provided for shall be paid to the City of Athena, and credited to the repair and demolition fund. Nothing stated in this chapter shall require the City of Athena to at any time appropriate funds to the repair and demolition fund if no expenses are expected to be incurred in a given budget year.

**Chapter 9. Recovery of Cost of Repair or Demolition****Section 901 – Account of Expense, Filing of Report**

The City Council or building official shall keep an itemized account of the expense incurred by the City of Athena in the repair or demolition of any building done pursuant to provisions of this code. Upon the completion of the work of repair or demolition, the City Council or building official shall prepare and file with the clerk of the City Council a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 401.3.

**Section 902 – Notice of Hearing**

At the next regularly scheduled meeting of the City Council following the filing of the report referred to in Section 901 hereof, the City Council shall fix a time, date and place for hearing said report and any protest and objections thereto. The city Council, or its designee, shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in Umatilla County, and served by certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appears on the last tax assessment roll of the county, if such so appears, or as is known by the City Council, and to the other persons referred to in Section 401.3 of this code. Such notice shall be given at least ten days prior to the date set for the hearing and shall specify the day, hour and place when the City Council will hear and pass upon the report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

**Section 903 – Protests and Objections**

Any person interested in or affected by the proposed charge may file written protests or objections with the City Council at any time prior to the time set for the hearing on the report referred to in Section 901 hereof. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. Such protests or objections shall be considered by the City Council at the time set for the hearing, and no other protests or objections shall be considered.

**Section 904 – Hearing of Protests**

Upon the day and hour fixed for the hearing, the City Council shall hear and pass upon the report referred to in section 901 of this code together with any such objections or protests. The City Council may make such revision, correction or modification in the report or the charge as it may deem just; and when the City Council is satisfied with the

## Athena Ordinance

correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the City Council on the report and charge, and on all protests or objections, shall be final and conclusive except as state or federal law may otherwise require a right for judicial review.

**Section 905 – Personal Obligation or Special Assessment**

**905.1 General.** The City Council may thereupon order that said charge shall be made a personal obligation of the property owner and or may assess said charge against the property involved.

**905.2** If the City Council orders that the charge shall be a personal obligation of the property owner, it may use all appropriate legal remedies that may be reasonable under the circumstances given the amount to be recovered and the chances of actual payment.

**905.3 Special Assessment.** If the City Council orders that the charge shall be assessed against the property, it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

**Section 906 – Contest**

The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within thirty days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within thirty days after the entry of such judgment. Nothing stated within this section shall be construed as allowing an appeal from the decision set forth in Section 904 of this code.

**Section 907 – Authority for Installment Payment of Assessments With Interest**

The City Council of this jurisdiction, in its discretion, may determine that assessments in amounts of \$500.00 or more may be payable in not to exceed five equal annual payments. The City Council's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest, and the rate thereof shall be by a resolution.

**Section 908 – Lien of Assessment**

**908.1 Priority.** Immediately upon its being placed on the assessment roll, the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessment shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state, county and property taxes with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

Athena Ordinance

**908.2 Interest.** All such assessments remaining unpaid after thirty days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 9 percent per annum from and after said date.

**908.3 Enforcement.** The lien may be enforced, collected upon and foreclosed in accordance with the provisions of ORS 233.505 through 233.650 and by suit in equity or at law in Circuit Court.

Passed by the council and approved by the mayor on December 13, 1976  
Amended by the council and approved by the mayor on November 15, 2007