



ORDINANCE NO. 28172

1 AN ORDINANCE relating to public nuisances; amending Title 8 of the Tacoma
2 Municipal Code by the addition thereto of a new Chapter 8.35, to be
3 known and designated as "Preventing Neglect of Historic Properties,"
consisting of seven sections to be numbered 8.35.010 through 8.35.070.

4 WHEREAS the City finds that the protection, enhancement,
5 perpetuation, and continued use of historically significant properties in the City
6 are important in the interest, prosperity, civic pride, ecological, and general
7 welfare of its citizens, and

8
9 WHEREAS the City encourages the maintenance, protection, use, and
10 enhancement of iconic historic and cultural assets, and

11 WHEREAS, when an owner fails to properly maintain a historical or
12 cultural asset, the public interest requires the City to take action to ensure the
13 protection of said asset, and

14
15 WHEREAS, under existing enforcement codes, if an owner is unwilling
16 or unable to maintain or repair a building, the City must wait until the building
17 can be classified as "dangerous" before taking any action; in many instances,
18 by the time this occurs, the neglected condition has continued for many years,
19 increasing the cost of repairs and diminishing the probability that the building
20 can be saved, and

21
22 WHEREAS it is the intention of the City to establish administrative
23 procedures to prevent an owner's failure to maintain a historically designated
24 property to the extent that the only option to abate the risks caused by such
25 deterioration is demolition, commonly known as "demolition by neglect," and
26



1 WHEREAS the proposed amendments to the Tacoma Municipal Code
2 ("TMC") will provide the City with additional enforcement tools to prevent
3 ongoing neglect of Tacoma's most iconic historic buildings by allowing the City
4 to intervene prior to the building becoming "derelict" or "dangerous," either
5 through civil penalties, where appropriate, or by seeking a warrant to enter and
6 repair a neglected condition, and
7

8 WHEREAS the City will continue to work collaboratively with responsible
9 property owners, and expand incentives, programs, and technical assistance,
10 where appropriate, to ensure protection and enhancement of historic assets,
11 including the establishment of an Emergency Preservation Subfund, utilizing
12 \$250,000 from the existing Dangerous Buildings Fund, to fund potential
13 abatement actions, and
14

15 WHEREAS the proposed amendments have been reviewed by members
16 of the preservation community, citizen commissions, and neighborhood groups
17 and property owners through informal and public presentations, and
18

19 WHEREAS, at its meeting of August 19, 2013, the Neighborhoods and
20 Housing Committee reviewed and recommended the proposed amendments
21 for consideration by the City Council; Now, Therefore,
22

23 **BE IT ORDAINED BY THE CITY OF TACOMA:**

24 That Title 8 of the Tacoma Municipal Code is hereby amended by the
25 addition thereto of a new Chapter 8.35, to be known and designated as
26



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

"Preventing Neglect of Historic Properties," consisting of seven sections to be numbered 8.35.010 through 8.35.070, as set forth in the attached Exhibit "A."

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Debra La...

Deputy City Attorney



EXHIBIT "A"

Chapter 8.35 PREVENTING NEGLECT OF HISTORIC PROPERTIES

1
2
3 Sections:

4 8.35.010 Intent and Purpose.

5 8.35.020 Neglect of Historic Properties is a Public Nuisance.

6 8.35.030 Scope and Applicability.

7 8.35.040 Definitions.

8 8.35.050 Neglected Historic Properties.

9 8.35.060 Penalties and Enforcement.

10 8.35.070 Emergencies.

11
12 **8.35.010 Intent and Purpose.**

13 A. The City of Tacoma finds that the protection, enhancement, perpetuation, and continued use
14 of historically significant properties located within the City are important in the interests of the
15 prosperity, civic pride, and the ecological and general welfare of its citizens. The City further
16 finds that the economic, cultural, and visual standing of the City cannot be maintained or
17 enhanced by disregarding the heritage of the City or by allowing the destruction, defacement,
18 and neglect of iconic historic and cultural assets; and that the neglect and deterioration of such
19 assets is harmful to the entire community.

20 B. It is the policy of the City to encourage the maintenance, protection, use and enhancement of
21 iconic historic and cultural assets, and to engage with responsible property owners to ensure
22 such protection and enhancement through ongoing collaboration, and through various
23 incentives, programs and technical assistance, where appropriate.

24 C. In certain cases where an owner fails to properly maintain a historic resource, the public
25 interest in historic resources requires the City to take specific measures to ensure the continued
26 protection of the resource. It is therefore the intent of the City Council to protect the general
welfare by establishing efficient administrative procedures to prevent the owner's failure to
maintain a historically designated property such that it deteriorates to the extent that the only
option to abate the health and safety risks caused by such deterioration is demolition,
commonly known as "demolition by neglect".

19 **8.35.020 Neglect of Historic Properties is a Public Nuisance.**

20 Neglect of a historic property as defined by this chapter is a detriment to the health, safety, and
21 welfare of the public, and is therefore declared to be a public nuisance.

22 **8.35.030 Scope and Applicability.**

23 The provisions of this chapter apply to the following types of properties:

24 A. Properties individually listed on the Tacoma Register of Historic Places and the National
25 Register of Historic Places

26 B. Contributing properties, excluding residential structures containing four or less units, within
in Historic Special Review Overlay Zones and National Register Historic Districts.



8.35.040 Definitions.

1 Where terms, phrases, and words are not defined herein, their definition shall be taken from
2 TMC 2.01, Minimum Building and Structures Code or the Building Code as currently adopted
3 and amended by TMC 2.02.

4 “Contributing property” means a property within a historic district listed on the Tacoma or
5 National Registers of Historic Places, which is included in the district building inventory as
6 “contributing” as adopted by the Landmarks Preservation Commission or by the National Park
7 Service.

8 “Historic District” means an Overlay Zone with a concentration of historic resources that has
9 been found to meet the criteria for designation as a Historic Special Review District under the
10 provisions of TMC 13.07 and has been so designated by City Council, OR a district which has
11 been added to the National Register of Historic Places by the National Park Service.

12 “Historic Property” means any building or structure that is listed on either the Tacoma Register
13 of Historic Places or the National Register of Historic Places, or is a contributing property
14 within a Historic Special Review District Overlay Zone or a National Register Historic District.

15 “Neglected Historic Property” means a historic property which has been found to exhibit one or
16 more of the conditions listed in this chapter.

17 “Owner” means any person, including any natural person, joint venture, partnership,
18 association, club, company, corporation, business trust, government entity, or organization, or
19 the manager, lessee, agent, officer, or employee of any of them, having any interest in the real
20 estate in question as indicated in the records of the office of the Pierce County Assessor, or who
21 establishes, under this chapter, his or her ownership interest therein.

22 **8.35.050 Neglected Historic Properties.**

23 A. The following deteriorated conditions are evidence that a historically designated property is
24 a “neglected historic property” in violation of this chapter, include but are not limited to:

25 1. Unstable or insecure architectural elements such as veneers, cornices, belt courses, corbels,
26 trim, wall facing and similar decorative elements or parts that may fall and cause injury to
27 persons or property.

28 2. Deteriorated, cracking, failing or otherwise inadequate foundation or one that is unable to
29 support loads.

30 3. Deteriorated or defective flooring or floor supports that causes leaning, sagging, splitting,
31 listing, buckling, or are otherwise insufficient to carry imposed loads.

32 4. Deteriorated or defective walls, partitions or supports that cause leaning, sagging, splitting,
33 listing, buckling, or are otherwise insufficient to carry imposed loads.

34 5. Ceilings, roofs, ceiling or roof supports, or other horizontal members which sag, split, or
35 buckle due to defect or deterioration or are insufficient to support the imposed loads.

36 6. Deteriorated or defective chimneys, smokestacks or fireplaces or other appurtenances that
37 cause leaning, sagging, splitting, listing, buckling, or are of insufficient size or strength to carry
38 the imposed loads.

39 7. Deteriorated, crumbling, or loose exterior stucco, plaster, or mortar, or loose or unstable
40 masonry.



1 8. Broken, missing, or rotted roofing materials or roof components, window glass, sashes, or
2 frames, or exterior doors or door frames.

3 9. Any fault, defect, or condition in the structure which renders it structurally unsafe or
4 unstable.

5 10. Defective protection or lack of weather protection for exterior wall and roof coverings,
6 including lack of paint, or weathering due to lack of paint (for surfaces that are designed to be
7 painted) or other protective covering or holes in weather protection.

8 11. Other visible signs of exterior deterioration that has a detrimental effect upon the character
9 of the building.

10 12. Deterioration or improper anchorage of exterior stairs, porches, handrails, window and door
11 frames, cornices, entablatures, wall facings, and architectural details that causes delamination,
12 instability, loss of shape and form, or crumbling.

13 13. Rotting, holes, and other forms of decay, including vegetation growing from or on
14 structures.

15 14. Other deterioration of any exterior feature so as to create or permit the creation of any
16 hazardous or unsafe conditions to life, health, or other property.

17 15. Open or unsecured vacant building that is accessible to trespass or evidence of unlawful
18 human occupation.

19 16. Other conditions causing deterioration of "character defining features" on the historic
20 property, such as veneers, cornices, belt courses, corbels, trim, wall facing and similar
21 decorative elements or parts, which may cause the building to lose its historic significance.

22 B. Building elements, configurations or construction techniques present in historic buildings
23 that are consistent with the applicable building codes at the time of construction do not
24 constitute neglect as defined by this chapter.

25 C. Normal signs of age commonly present in historic buildings, such as fading and crazing of
26 surface finishes, do not constitute neglect as defined by this chapter.

8.35.060 Penalties and Enforcement.

When the City determines that a neglected historic property exists within the City, it may:

A. Begin enforcement action pursuant to procedures outlined in TMC 8.30, including, but not
limited to, issuing a Notice of Violation and Abatement, or entering and repairing or correcting
any conditions that threaten the integrity of the building, including failing weather protection,
structural instability, failing masonry, or architectural elements in danger of falling off, and in
accordance with the requirements for design review TMC 13.05.047. Such repair should be
limited to that which is minimally necessary in order to stabilize a historic structure or to
prevent further significant deterioration, and may be considered temporary in nature.

B. A person to whom a Notice of Violation and Abatement or civil penalty has been issued, or
any other person with a legal or equitable interest in the property, may request an appeal
hearing pursuant to TMC 8.30.100. If any historic property covered by this chapter shall have
to be demolished as an unfit building or "dangerous building" per TMC 2.01 and the owner
thereof shall have received two (2) or more notices from the City that the property is a
"neglected historic property" in violation of this and other city ordinances, the following shall
apply:



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1. For a period of five (5) years from and after the date of such demolition, development of the site shall be limited to a replacement structure that reproduces the size, square footage and visual, aesthetic, architectural, and material character of the demolished building, and must be approved by the Landmarks Preservation Commission, prior to the issuance of any development permits. Additionally, no permits for the operation of surface parking lot shall be granted by the city during this period, nor shall a parking lot for vehicles be operated, whether for remuneration or not, on the site for a period of five (5) years from and after the date of such demolition.

2. This provision shall not apply to demolitions attributable to an act of God or other catastrophic occurrence that could not have been prevented by the exercise of foresight or caution

3. This provision may be lifted by the Director of Planning and Development Services in consultation with the Landmarks Preservation Commission if it can be demonstrated that there is a viable development project on the site that represents a substantial benefit to the public.

C. For historic properties that may be considered unfit according to RCW 35.80, the City may initiate the dangerous building procedures pursuant to TMC 2.01.060 or the City may initiate eminent domain procedures in accordance with RCW 35.80A.

8.35.070 Emergencies.

If a historic property is damaged and the Building Official determines that the historic property will suffer additional damage without immediate repair, the Historic Preservation Officer may act on behalf of the Landmarks Preservation Commission to work with the Building Official to authorize the property owner, or applicant on behalf of the property owner, to temporarily protect the historic property pursuant to 13.05.049.C.