



City of Valdez
ALASKA

Department of Community
Development

FILE COPY

June 20, 2017

Misty Phillips
P.O. Box 2746
Valdez, AK 99686

ABATEMENT NOTICE AND ORDER
Lot 20 Block 3, Mineral Creek Subdivision
137 Gulkana Street

Dear Ms. Phillips-

The real property having the legal description as Lot 20, Block 3, Mineral Creek Subdivision, and located at 137 Gulkana Street, Valdez, Alaska ("Property"), is owned by you. As more specifically set forth below, you are committing, creating and maintain a public nuisance on the Property in violation of the Valdez Municipal Code by: (1) allowing several junk vehicles to occupy the Property; and (2) by housing tenants in a recreational vehicle ("RV") on the Property.

Section 8.20.040 of the Valdez Municipal Code relating to junk vehicles outlines the violations on the Property:

8.20.040 Junk vehicles.

A. It is unlawful for any person to place upon public property not set aside by law as a refuse disposal, or upon any private property, except licensed junk yards, any wrecked, junked or abandoned vehicle.

B. It is unlawful for any owner, lessee, agent, tenant or occupant to allow or permit to remain on any property owned or controlled by him, except licensed junk yards, any wrecked, junked or abandoned vehicle.

C. Any violation of subsection A or B of this section shall constitute a public nuisance. The costs of abatement may be charged or assessed by the city council as provided by Section [8.20.150\(B\)](#) against any or all of the following:

1. The vehicle;
2. The registered owner of the vehicle;
3. Any person who has acquired the right to possession of the vehicle from or through the registered owner;
4. Any person in violation of subsection A or B of this section;
5. The owner, lessee, agent, tenant or person in control of the property where the vehicle was situated at the time of the notice to abate.

D. As used in this section:

1. The term "abandoned" includes any vehicle which, at the time of the notice of abandonment, cannot be operated as a motor vehicle in compliance with the laws of the state because of mechanical failure or condition.
2. The term "vehicle" means any motor vehicle as defined in this code and includes any body or part of any such motor vehicle.

E. A person having upon his premises an abandoned vehicle which is in need only of reasonable repairs and is without available funds to obtain the required license or to make such repairs may apply to the city manager for a permit to keep the vehicle upon the premises. (Ord. 11-02 § 1 (part); prior code § 16-4)

In 1997 the property owner, then Ms. Christi Harris, was notified by the City of Valdez that the motor home which had been winterized and occupied on Lot 20, Block 3 Mineral Creek Subdivision was in violation of Chapter 17.22.020. We continue to receive complaints on the use of an RV to house tenants' on the Property.

In the residential mobile home district, only a single principal structure may be allowed on any single lot or tract. As such, you are in violation of the Valdez Municipal Code, as more specifically set forth below.

Section 17.20.020 (F) of the Valdez Municipal Code relating to the permitted principal uses and structures:

17.20.020 Permitted principal uses and structures.

In an R-R zone, the following uses and structures are permitted outright:

- A. Child care centers;
- B. Child care homes;
- C. Community buildings and halls;
- D. Parks, playgrounds, playfields, golf courses and open space for informal recreation;
- E. Public or private elementary and high schools and institutions of higher learning;
- F. Single-family and two-family dwellings, including single-family mobile homes (only a single principal dwelling may be allowed on any lot or tract);
- G. Utility installations, except solid waste disposal facilities;
- H. Group care facilities;
- I. Raising of livestock per Section [17.48.130](#).
- J. Truck gardening, tree nurseries, greenhouses and aquaculture operations. (Ord. 03-15 § 6 (part); Ord. 96-19 § 3; prior code § 30-17(b))

The City of Valdez has received numerous complaints from adjacent property owners about the potential devaluation of their property because of the nuisance violations on your Property.

As a side note, we have also received reports of the operation of a commercial auto repair shop on the Property. To the extent that such an operation is being maintained, we would like to inform you that permitted home occupations (such as auto repair shops) are allowed only after issuance of a permit. The City of Valdez does not show any record of a home occupation permit for the Property.

This notice will serve as a notice and order of abatement with regard to the above referenced junk vehicles and tenant occupied RV. **If corrective action (as outlined in the following Statement of Action) is not completed by July 5, 2017 the City of Valdez will file an application with the Court compelling you to take action to abate the nuisance and requesting such other relief as may be appropriate. Additionally, as provided by the Valdez Municipal Code, the City of Valdez will begin assessing allowable fines. Please be advised, the City may fine up to \$300 per day, per violation. All costs, including fines, court fees and legal expenses, associated with this abatement will be placed as a lien on Lot 12, Block 5, Mineral Creek Subdivision.**

STATEMENT OF ACTION

As the owner of record, Misty Phillips shall comply with the following actions:

- 1) No later than fifteen (15) days from the date of this letter, being **July 5th, 2017**, you must commence the removal and disposal (at an approved disposal site) of the junk vehicles on the Property.

- 2) No later than thirty (30) days from the date of this letter, being July 20th, 2017, you must complete the removal and disposal (at an approved disposal site) of junk vehicles on the Property.
- 3) No later than thirty-five (35) days from the date of this letter, being July 25th, 2017, you must either:
(a) remove the above referenced RV from the Property; or (b) have the RV on the Property vacated such that it is not occupied for residential purposes.
- 4) The City of Valdez has the right to assess a fine of not more than \$300 for each occurrence of a violation in the manner provided in the Valdez Municipal Code. Failure to act on this notice will invoke such action on the part of the City.
- 5) If this required abatements is not commenced or completed within the time specified, the Community Development Director will submit to the Court an application to enjoin the violation as provided for in Section 8.20.100(4)(b) of the Valdez Municipal Code and as provided by AS 29.25.070. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall grant the injunction.
- 6) The City may, but is not required to, proceed to cause the necessary abatement work to be done and to charge the cost thereof against the subject Property or its owner.
- 7) All costs associated with the abatement and court proceedings, and related fees shall be placed as a lien on the Property.

OPPORTUNITY TO APPEAL

Any person having record title or legal interests in the Property may appeal from this courtesy notice and order by filing with the City Clerk within fifteen days from the date of service of this notice and order. An appeal must be in writing and in accordance with the appeal procedure as provided in Sections 8.20.180 through 8.20.210 of the Valdez Municipal Code. Failure to appeal will constitute a waiver of all right to administrative hearing and determination of the order; and will result in the abatement official proceeding with the remedies provided in 8.20.100(4)(a) and (b).

Questions or comments may be direct to AnnMarie Lain, Acting Community Development Director, City of Valdez, P.O. Box 307, Valdez, Alaska 99686; alain@ci.valdez.ak.us; (907) 834-3450.

Sincerely,



AnnMarie Lain

Cc: Valdez Planning & Zoning Commission
Brena, Bell & Clarkson, P.C., Attorneys for the City of Valdez
Elke Doom, City Manager, City of Valdez

Encl: VMC Chapter 8.20 (Ordinance No. 11-02)